



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
20 January 2025

Original: English  
English, French and Spanish only

## Committee on the Elimination of Racial Discrimination

### List of issues prior to submission of the initial report of Malawi\*

1. The State party is requested to submit in writing the information requested below (21,200 words maximum) by 13 December 2025. The State party's replies to the list of issues prior to reporting will constitute its initial report under article 9 of the International Covenant on the Elimination of Racial Discrimination.

#### General information

2. Please outline any significant developments of a legislative, institutional or policy nature that have taken place in the State party and that have contributed to the promotion and protection of human rights, in particular those rights covered by the Convention.

3. Please provide disaggregated data on the ethnic composition of the State party's population, including on ethnic minorities and on non-citizens such as asylum-seekers, refugees, stateless persons and migrants, taking into account the Committee's general recommendations No. 8 (1990) and No. 24 (1999) and paragraphs 10 and 12 of its reporting guidelines.<sup>1</sup>

4. Please indicate the status of the Convention in the domestic legal order and indicate, providing examples, whether it has been or can be directly invoked in domestic courts.

5. Please detail actions taken or planned by the State party to make the optional declaration provided for in article 14 of the Convention.

#### Article 1

6. Taking into account the fact that the State party has in its Constitution (article 20 (1)) a definition of racial discrimination that encompasses discrimination on the grounds of race, colour, descent and national or ethnic origin, please indicate if that includes direct and indirect discrimination. Please provide information on whether further legislation will be adopted that expressly prohibits racial discrimination, taking into account the Committee's general recommendations No. 1 (1972), No. 7 (1985) and No. 15 (1993), with regard to the preventive value of such legislation.

7. Please provide information on whether the legal system of the State party provides for differential treatment based on citizenship and migration status, and on the compliance of any such differentiation with article 1 (2) and (3) of the Convention.

\* Adopted by the Committee at its 114th session (25 November–13 December 2024).

<sup>1</sup> [CERD/C/2007/1](https://www.un.org/countries/cedr/cerdc/cerdc20071.pdf).



8. Please also provide information on whether the State party's legal system allows for the adoption of special measures to ensure adequate opportunities for individuals and groups protected by the Convention, including migrants, refugees and asylum-seekers.

## Article 2

9. Please outline the legal framework, policies, strategies and other measures in place to eliminate racial discrimination and to give effect to the provisions of article 2 of the Convention. Please also provide information on steps taken to enact comprehensive anti-discrimination legislation, including prohibiting and penalizing acts covered by the Convention.

10. Please detail cases in which the Convention has been applied or invoked before courts, tribunals or other relevant bodies in the State party. Please also include the number and nature of cases brought, investigations undertaken, convictions made and sentences imposed, and information on any reparation or other remedies provided to victims.

11. Please outline legislation, policies and other measures in place to protect the rights of asylum-seekers, refugees, migrants and stateless persons. Please indicate steps to bring national legislation, in particular, the Immigration Act and the Refugee Act, into conformity with international standards, the obligations of the State party and the Convention.

12. Please provide details of applicable provisions and procedures for the processing of asylum applications in domestic law and of the relevant criteria on which the State party bases its decision to accept or refuse them, in the light of applicable international agreements. Please provide an update on the status of adoption of the Migration Policy and the amendment to the Refugee Act. Please provide information on the implementation of the Refugee Act and Immigration Act, including their compliance with the Convention.

13. Please provide information on the State party's reservations to the Convention relating to the Status of Refugees, under which certain provisions are not deemed legally binding, including refugees' rights to freedom of movement, employment, property and public education. Please provide an update on progress in acceding to the Convention on the Reduction of Statelessness, to which the State party agreed during the third cycle of the universal periodic review. Please provide information on whether there are any proposals to review the Births and Deaths Registration Act to make birth registration mandatory for all children without any discrimination, as presently it is compulsory only for children of non-African origin.

14. Please provide information on the implementation of sections 137A, 153, 154 and 156 of the Penal Code, which criminalize homosexuality and consensual same-sex activities among adults, including statistics and the number of cases brought under these provisions, to help assess the situation of groups vulnerable on grounds prohibited by the Convention.

15. Please advise about the effectiveness of the implementation of the Trafficking in Persons Act (2015) and if there are plans to harmonize the punishment for the offence of trafficking in children under the Trafficking in Persons Act and the Childcare, Protection and Justice Act of 2010. Please provide information on the implementation of the National Plan of Action against Trafficking in Persons 2023–2028 and on the work of the National Coordination Committee against Trafficking in Persons.

16. Please provide details on progress with respect to the revision of the National Action Plan on Persons with Albinism. Please provide information on whether there are proposals to develop a national action plan on racism to support the State party in addressing related intolerances.

17. Please provide information on whether actions have been taken to review the mandate of the Malawi Human Rights Commission to include a specific mandate to combat racism and racial discrimination. Please describe the efforts made to ensure that the Commission enjoys full independence, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and has

sufficient human and financial resources for its operation. Please provide information on measures taken to inform the public of its work in both English and Chichewa.

## Article 4

18. Please provide information on whether the criminal legislation is fully in accordance with the provisions of article 4 of the Convention and covers all the grounds outlined in article 1 (1) of the Convention, in particular with regard to the criminalization of:

- (a) All dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination;
- (b) All acts of violence or incitement to such acts against any group of persons on the grounds of race, colour, descent or national or ethnic origin;
- (c) The provision of any assistance to racist activities, including the financing thereof;
- (d) Organizations that carry out organized propaganda activities or spread any other type of propaganda and that promote or incite racial discrimination, and participation in such organizations or activities;
- (e) Incitement to or encouragement of racial discrimination by public authorities or public institutions, whether national or local.

19. Please indicate steps taken to ensure that racial motives, including all grounds outlined in article 1 (1) of the Convention, are considered as an aggravating circumstance under domestic criminal legislation.

20. Please provide detailed statistics on complaints filed, investigations carried out, prosecutions undertaken, decisions taken and sentences passed by national tribunals and other State institutions regarding acts of racial discrimination, in particular offences covered under article 4 of the Convention. Please also provide information on any reparation or other remedies provided to victims of such acts.

21. Please describe the mechanisms established for monitoring and collecting data on racist incidents, including acts of racist violence and hate speech, including online, in the State party, and information on the data collected through such mechanisms.

## Article 5

22. Please provide information on the enjoyment of the rights enshrined in article 5 of the Convention by non-citizens residing in the territory of the State party, including migrants, refugees, asylum-seekers and stateless persons.

23. With regard to migrants, please provide information on:

- (a) Statistics, disaggregated by age, sex and nationality, on the number of migrants detained for violations of immigration laws;
- (b) Measures in place to effectively address irregular migration, including measures against exploitation that may result in the deaths of migrant workers, some of whose bodies have reportedly been found buried in forests. Please provide information on investigations into these deaths, including those of 26 Ethiopians found in a mass grave in 2022;
- (c) Actions taken to ensure that the administrative detention of migrant workers is used only as a last resort and that migrant workers detained for violations of immigration law are not detained for an indefinite time or with persons accused or convicted of a crime. Please provide specific information on the State party's implementation of the July 2024 High Court judgment stipulating 30 days to deport illegal migrants. Please advise on whether alternatives such as temporary permits, release on bonds or recognizance and self-repatriation may be considered by the State party.

24. Please detail efforts to prevent and combat trafficking in persons, in particular:

- (a) Measures to address the underfunding of the Social Rehabilitation Centre in Lilongwe for trafficked victims and, more broadly, measures on the implementation of section 45 (1) of the Trafficking in Persons Act to establish shelters or long-term accommodation;
- (b) Support provided for victims of trafficking in terms of rehabilitation, access to care and reintegration or repatriation;
- (c) Education and awareness-raising campaigns on the risks and the criminal nature of trafficking, aimed at migrant workers, among others, and trafficking-specific training provided to law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, healthcare providers and social services personnel;
- (d) Remedies provided and protection measures offered to victims of trafficking, including legal, medical and psychosocial assistance, and protection from retaliation;
- (e) Statistics on or the number of cases of trafficking that have been addressed by national or local authorities, including investigations, prosecutions, convictions and sentences handed down to those responsible, including officials complicit in trafficking crimes, and the remedies and protection offered to the victims.

25. Regarding asylum-seekers, refugees and stateless persons, please provide information on:

- (a) Steps taken to ensure respect for the right to seek asylum by enabling effective and unhindered access to the State party's territory and full compliance with the principle of non-refoulement. Please confirm that no refugee status has been granted since 2011 and clarify reports of denial of entry to persons in need of international protection;
- (b) Measures established to promote peaceful co-existence and relations between refugees and asylum-seekers and host communities, including in addressing eruptions of violence. Please also provide information on actions taken to resolve existing tensions and to prevent future occurrences of violence;
- (c) Efforts to address the excessive use of force by law enforcement officers and members of the military against refugees and asylum-seekers. Please provide specific information on the operation, mandated in a directive issued on 27 March 2023, to forcibly relocate refugees who had been living in host communities to Dzaleka camp, in Dowa District, on the grounds that they were taking jobs from nationals and ostensibly for security. Please provide further clarity on reports that the operation was marred by violations, including the rape of women, loss of property, unlawful detention of children and women, forced and unlawful deportations, extortion, xenophobic narratives by authorities, corruption and robberies targeting refugees and asylum-seekers. Please respond to reports that numerous individuals (202 males, 89 females and 117 children) were detained during that operation and kept in reportedly appalling conditions at Maula Prison, with children detained with adults. If verified, please indicate how victims were compensated for their goods and properties that were confiscated during the operation, and how the refugees' livelihoods were restored;
- (d) Whether there are plans to rescind the forced encampment policy for refugees and asylum-seekers. Please provide information on their access to economic, social and cultural rights, including to education and health, and provide specific information on the situation of asylum-seekers and refugees living in the Dzaleka camp. Please provide information on the protection of refugees in that camp from violence and trafficking, in particular measures to address incidents such as those of 11 March 2024, when violence erupted between Ethiopian and Congolese nationals at the camp and reportedly resulted in Ethiopian homes being vandalized and several Congolese nationals being wounded;
- (e) Efforts to address overcrowding in Dzaleka camp, which now holds more than 56,000 refugees despite only having a capacity for 12,000. Please detail how the State party is addressing reported challenges in the camp with regard to health services, water, shelter and sanitation facilities. Please provide an update on proposals to establish another refugee camp in Chitipa, in the north of the State party, and provide information on measures in place

to address the concerns of the host community, in view of the protests that took place against the establishment thereof;

(f) Whether refugees and asylum-seekers have benefited from public programmes, similarly to nationals of the State party. Please provide information on the actions taken to register all children born to refugee and asylum-seeking parents on the territory of the State party. In that vein, please indicate efforts taken to ensure that children born to stateless parents do not become stateless and can obtain citizenship at birth.

26. With regard to persons with albinism, please provide:

(a) Information on effective measures adopted to prevent killings, violence, mutilations, organ harvesting, kidnapping and other attacks against persons with albinism, in particular women and children;

(b) Statistics or the number of cases reported and received on violations against persons living with albinism and information on measures established for providing all necessary assistance to victims, including psychosocial, medical and legal assistance;

(c) Information on efforts to combat discrimination against persons with albinism, including in health and education settings, and the removal of institutional and social barriers to access.

27. Following the May 2023 High Court decision lifting the ban on access to public schools by Rastafari children unless they cut their hair, please provide information on additional measures to combat discrimination against Rastafari children and the Rastafari community in all settings.

28. Please provide information on measures established following the 2021 findings of the Malawi Human Rights Commission in the matter of alleged preferential coronavirus disease (COVID-19) vaccination treatment to the Asian and Indian communities by Malmed Healthcare Services Limited, that Malmed and State health officials acted in contravention of sections 20 (1), 30 (2) and 13 (c) of the Constitution and standards provided for in the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Please provide information on steps taken to prevent the reoccurrence of discrimination on the grounds of race and ethnic origin in the context of health services, including during health emergencies such as pandemics.

## Article 6

29. Please outline the legislative, judicial, administrative or other measures that give effect in the State party to the provisions of article 6 of the Convention. Please provide information about the steps taken by the State party to educate and inform the public about their rights under the Convention, the laws prohibiting racism and racial discrimination and the availability of redress mechanisms and remedies in relation to such acts.

30. With regard to cases relating to racial discrimination, please provide detailed information on any complaints received, investigations conducted and recommendations made by legislative, judicial and administrative bodies, including the Office of the Ombudsman and the Malawi Human Rights Commission. Please also provide information on the burden of proof required in civil proceedings in cases involving racial discrimination.

31. Please indicate measures taken to provide capacity-building for law enforcement, immigration and judicial officials to ensure respect and protection for human dignity without discrimination on the grounds of race, colour or national or ethnic origin in their work.

32. Please outline the training provided for judicial and law enforcement officials on the investigation and prosecution of cases of discrimination and violence, especially against persons with albinism, LGBTQ+ persons, women, migrants, refugees and asylum-seekers.

## **Article 7**

33. Please outline measures taken to implement article 7 of the Convention, in particular with regard to the dissemination of information to promote mutual understanding, tolerance, dialogue and friendship among the ethnic groups in the country and to combat superstitious practices and beliefs, including those related to the ritualization of people living with albinism, harmful practices against women, especially widows, and witchcraft associated with older persons.

34. Please detail actions taken to preserve minority cultures and languages, as well as measures taken to promote access to and participation in cultural heritage and creative expression, including by minorities, Indigenous Peoples, migrants and refugees.

35. Please provide information on human rights education in the State party, including in relation to the rights contained in the Convention, both as provided in school curricula and as made available to the population in general.

36. Please also provide information about actions taken to encourage awareness among media professionals of their particular responsibility to avoid prejudiced, racial, discriminatory or biased language and to avoid reporting on incidents involving members of groups protected by the Convention in a way that blames such groups as a whole.

---