



Convention on the Elimination of All Forms of Discrimination against Women

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Summary record of the 2016th meeting

Held at the Palais des Nations, Geneva, on Thursday, 19 October 2023, at 3 p.m.

Chair: Ms. Bethel (Rapporteur)

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In the absence of Ms. Peláez Narváez, Ms. Bethel (Rapporteur) took the Chair.

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

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

Eighth periodic report of Malawi (continued) (CEDAW/C/MWI/8; CEDAW/C/MWI/Q/8; CEDAW/C/MWI/RQ/8)

1. *At the invitation of the Chair, the delegation of Malawi joined the meeting.*
2. **Ms. Malera** (Malawi Human Rights Commission, Malawi) said that she wished to commend the Government for the strides it had made in ensuring the advancement of women through implementation of the Malawi 2063 development plan. However, she was concerned that the Malawi Human Rights Commission had not received government funding to help implement the Gender Equality Act Implementation and Monitoring Plan (2016–2020). In order to help women realize their rights, it was also important to roll out and put into operation structures established by amendments to legislation. Such legislation included the Marriage, Divorce and Family Relations Act, the Penal Code and land laws.
3. Although mechanisms such as the Legal Aid Bureau, mobile courts and camp courts had been put in place to ensure women's access to justice, women still faced challenges. There was a lack of awareness of their rights and the law; courts, particularly in remote areas, were inadequate; legal costs were high; and court proceedings were often prolonged. Sufficient funding needed to be provided to front-line providers of justice, including the Legal Aid Bureau, the Malawi Human Rights Commission, the police and the judiciary. The Government was also urged to adequately fund the Malawi Independent Complaints Commission to ensure that the rape cases of the 18 women from Msundwe would be investigated and the perpetrators prosecuted.
4. Effective evidence-based strategies needed to be put in place to eliminate child marriage and reduce teenage pregnancies, which had increased during the coronavirus disease (COVID-19) pandemic. Action was also needed to develop and apply measures to combat sexual harassment in the workplace in both the public and private sectors, as required by law. She encouraged the Government to adopt a model policy against sexual harassment.
5. Measures needed to be put in place to repatriate female victims of trafficking in persons and exploitation from countries such as Oman, South Africa and the United Arab Emirates. Within Malawi, more work needed to be done to address the underrepresentation of women in public life; to combat the continued marginalization of women with disabilities, women living in rural areas, women in prisons and refugee women; and to put in place gender and social inclusion strategies.
6. **Ms. Sendeza** (Malawi) said that the Social Cash Transfer Programme was intended to improve the health, education and nutrition of beneficiaries and could, for example, be used to help families with children to buy educational materials. As Malawi had a system of universal health coverage, women's access to health care was not subject to any conditions.
7. Work was under way with the Electoral Commission and other stakeholders to improve access to information about elections for all persons with disabilities. The relevant materials were provided in Braille. The country's public broadcaster used sign language interpreters, and training had begun as part of efforts to extend the provision of sign language interpreters in courts and hospitals as well, so that more persons with disabilities would have access to those services. Persons with intellectual disabilities possessed legal capacity and therefore had the right to vote and to hold public office.
8. **Ms. Stott Despoja** said that she would like to know when the parliament was expected to debate changes to the country's abortion legislation.
9. **Ms. Sendeza** (Malawi) said that the bill on termination of pregnancy would be submitted to the National Assembly as soon as all of the necessary procedures had been completed.

10. **Ms. Haidar** said that she wished to know what measures, including temporary special measures, the State party intended to take to address the high unemployment rate of women, to boost women's participation in the formal labour force and to facilitate their transition from informal to formal employment. She would like to know what measures were in place to address occupational segregation and whether they included the provision of vocational training programmes and apprenticeship programmes, as well as an expansion of childcare facilities, especially in rural areas. She wondered whether the State party collected gender-disaggregated data on employment and data relating to the gender pay gap and, if so, if it could provide the Committee with updated statistics. It would be interesting to learn about any measures, including actions to counter stereotypes, that were being taken to encourage the sharing of household and childcare responsibilities between men and women and any plans to increase the length of both maternity leave, which currently fell short of International Labour Organization standards, and paternity leave. The Committee would welcome information about how the State party recognized the invisible and undervalued work performed by women in rural areas, including unpaid farm work and family care. It would also be helpful to know whether the State party intended to ratify the ILO Violence and Harassment Convention, 2019 (No. 190).

11. Lastly, she wished to know which measures, including temporary special measures such as quotas, the State party intended to take to improve access to formal employment for women with disabilities, and whether the State party intended to adopt further economic empowerment programmes and vocational training programmes for members of that group.

12. **Ms. Sendeza** (Malawi) said that the National Policy on Equalisation of Opportunities for Persons with Disabilities recognized the need for the public sector to set an example in terms of employing persons with disabilities. The Gender Equality Act stipulated that both males and females must account for between 40 and 60 per cent of employees in all public sector departments. That legislation and the National Gender Policy were being reviewed with a view to extending the scope of the Act to cover private sector employers as well. The Skills for a Vibrant Economy Project was being implemented in universities and the colleges of the Technical, Entrepreneurial and Vocational Education and Training Authority in order to help empower women with skills in traditionally male-dominated professions, such as electrical engineering.

13. **A representative of Malawi** said that measures taken to address gender stereotypes included the HeForShe solidarity movement, which was being implemented in collaboration with stakeholders, including the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), and had brought together male leaders in different fields to show support for women. The Men for Gender Equality Now network had since 2003 been working with civil society organizations to help promote women's rights and encourage men to assist in the many roles performed by women in the home, especially the provision of care, which was of particular importance in the era of HIV/AIDS and the COVID-19 pandemic.

14. **Ms. Sendeza** (Malawi) said that very little progress had been made in the implementation of steps to increase the employment rate of persons with disabilities and that she hoped that legislation designed to address current shortcomings in that area would be considered by the parliament at its next session. The Financial Inclusion and Entrepreneurship Scaling project was open to all women, not only women with disabilities.

15. The delegation's replies to the follow-up questions on maternity and paternity leave would be submitted in writing.

16. **Ms. Akia** said that, as the State party acknowledged, women and girls in Malawi remained disproportionately affected by discrimination, poverty and challenges in accessing, controlling and owning land and property. That in turn undermined equality of access to loans and credit, as women lacked collateral. Inequitable allocation of production factors limited women's decision-making power and their ability to participate in the labour market, leaving them vulnerable to poverty or obliging them to work in the informal sector, where they lacked benefits and protection, and wages were low. The State party also acknowledged that women with disabilities faced additional challenges.

17. She would be interested to know what specific measures the State party had taken to improve the implementation of existing legal and policy frameworks and projects such as the Social Cash Transfer Programme and FINCA Malawi. What had it done to remove barriers to women's equal access to financial services and loans, such as financial illiteracy and the lack of a national identification system? What affirmative measures were in place, and how did the State party plan to facilitate removal of the requirement for collateral or introduce alternative credit systems to increase access to loans and credit?

18. She would be interested to know what measures the State party had taken to ensure that all women and girls, including women with disabilities and migrant women, enjoyed meaningful participation in the formulation and implementation of economic empowerment projects. She also wondered whether a comprehensive impact assessment of the cash transfer initiatives for women had been conducted and what improvements needed to be made.

19. Commending the State party for the place given to sports in Malawi Vision 2063 and the Malawi Olympic Committee for its policy protecting athletes against abuse, she said that she would like to know what steps the Government had taken to ensure an environment free of violence and abuse for women in sports and, where abuse occurred, to investigate the incidents, hold abusers accountable and provide legal redress, including for women with disabilities.

20. **Ms. Mikko**, noting that the Government was implementing the Mobile Money for the Poor initiative, funded by the United Nations Capital Development Fund, said that she would appreciate it if the delegation would provide statistics, disaggregated by gender, to show the initial results of the initiative and to describe its advantages and disadvantages for women.

21. Could the State party confirm that there had recently been an increase in women's access to new technology services intended to reduce their workload in productive and domestic activities? Given that women's economic empowerment was a priority for the Government and that Malawi invested a greater proportion of its budget in agriculture than any other African country, she wondered what steps had been taken to empower women to establish cooperatives with a view to better sharing resources and increasing productivity. How did Malawi ensure the protection and realization of women's land rights in rural areas, where customary practices often limited their access to and ownership of land?

22. She would be interested in the delegation's opinion on the measures that were needed in the immediate future to ensure the accessibility of education, the labour market and justice for girls and women with disabilities in rural areas. Lastly, noting that one in four households was headed by a woman, she asked how many women were village headmen.

23. **Ms. Sendeza** (Malawi) said that, in order to remove the barriers impeding women's access to funds, the Government and financial institutions were in consultations over the easing of requirements for women seeking loans, for example by removing the obligation to provide collateral. In addition, the 2016–2021 National Action Plan for Women Economic Empowerment provided women's groups with loans that could be used as security by women seeking further credit from financial institutions.

24. Women in rural areas were encouraged to join village savings and loan groups, which had proved very effective in increasing the value of women's households. They were also encouraged to save their cash transfer funds by investing for instance in livestock and decent housing, which constituted lasting assets that would retain their value when they left the social cash transfer scheme. Such investments allowed them for example to continue sending their children to school.

25. Female athletes were fully protected against abuse under the domestic legislation. In accordance with the National Plan of Action to Combat Gender-based Violence and the National Action Plan on Security Council resolution 1325 (2000), on women and peace and security, the Government was disseminating information about women's legal rights and conducting awareness-raising campaigns, including for rural women.

26. **A representative of Malawi** said that numerous cooperatives had been established throughout the country under an agricultural commercialization project; some specialized in mixed farming, others in livestock rearing or crop cultivation, and others in product transformation. Men were often employed to operate the machinery the cooperatives invested

in, but women accounted for the majority of members and of cooperative chairs. In many cases members were able to run individual businesses using money they had made through the cooperatives. The cooperatives were regulated by the Ministry of Agriculture, and the Ministry of Trade and Industry was responsible for registration. Unfortunately, the delegation was unable to provide statistics on the cooperatives.

27. **Ms. Sendeza** (Malawi) said that she did not have figures to show how many village headmen were women. The Customary Land Act was now bearing fruit and more women now owned land in their own right. As to access to technology, mobile banking was available for women in rural areas, which made it possible for them to deposit savings securely rather than to keep cash at home. The Government accepted that there were many challenges in respect of technological development in rural areas, notably poor coverage of the electricity grid and a lack of infrastructure in general.

28. **Ms. Akia** asked the delegation if it could provide statistics on women with disabilities and women migrants who had benefited from the loan financing system. The cash transfer programmes and FINCA were very significant initiatives, and she would like to know whether the Government had taken any steps to scale up such credit and financial services to all women in Malawi. At the twenty-seventh Conference of the Parties to the United Nations Framework Convention on Climate Change, she had heard about a solar backpack invented in Malawi that could generate electricity to enable children to do their homework and families to light their homes. She wondered whether the Government had considered partnering with the inventors in order to use the backpack to scale up the provision of solar power in the country.

29. **Ms. Sendeza** (Malawi) said that solar backpacks were in use in Malawi, but only on a small scale. She would provide statistics on migrant women's access to loans in writing.

30. **Ms. Mikko** said that she wished to know why women heads of companies were obliged to hire men to operate machinery. Was it because women were considered to be incapable of operating the machinery themselves, or because there was gender segregation in the labour market?

31. **Ms. Sendeza** (Malawi) said that the machines in question were manually operated and were used for tilling land. Considerable physical strength was required to operate them, particularly when the land was wet. Most women would not be strong enough for the task.

Articles 15 and 16

32. **Ms. Hacker** said that she would welcome statistical data on the relative proportion of women with and without legal representation in criminal and civil legal proceedings. In particular, she would be grateful for information on the proportion of women who had undergone divorce proceedings without representation in each legal district over the past three years. She wondered what steps were taken to educate women, especially those from remote areas, about their legal rights, including their right to bring proceedings before a court.

33. The Committee wished to know what measures were taken to guarantee access to court facilities for women with physical disabilities, whether sign-language interpretation was made available for deaf women and whether any adjustments were made to facilitate access to legal proceedings for women with psychosocial disabilities. She would be grateful for gender-disaggregated data on persons granted presidential pardons from the death penalty. It would be interesting to know whether the gender perspective was applied to the determination of pardons. For example, she would like to know whether the possibility that an act had been committed in self-defence against gender-based violence was taken into account. The delegation might describe any measures taken to guarantee women prisoners' rights to dignity, safety and a minimum standard of living and to ensure that customary justice mechanisms did not discriminate against women.

34. She would be grateful to learn what measures the State party was taking to eradicate cultural practices that reinforced unequal power relationships between men and women during marriage and when marriages dissolved, including with regard to the control of family resources. The State party might provide statistics on how property was divided during divorce proceedings and describe any measures taken to ensure that men and women received

an equal share of matrimonial property. She wondered how child custody was determined, what weight was given to the division of labour within the family prior to the divorce or separation and what measures were taken to secure adequate child support from unmarried or divorced fathers.

35. It would be interesting to know the purpose of the family counselling panels mentioned in the Marriage, Divorce and Family Relations Act and the reasons why they had not yet been established. The Committee would be interested to learn whether the grounds on which a person could file for divorce were the same for men and women. She wondered whether polygamy was practised in Malawi and, if so, what the State party's policy was towards it. Lastly, she asked whether the State party respected the right of lesbian, bisexual and transgender women and intersex persons to family life, including as partners and parents.

36. **Ms. Sendeza** (Malawi) said that women continued to face difficulties in reporting violations of their rights and seeking legal redress, including in cases of property rights violations and those involving gender-based violence and discrimination. Access to justice for women in Malawi was constrained by various factors, including cultural attitudes, lack of awareness and lack of income. In order to address those issues, the judiciary had introduced specialized high court divisions, including a family and probate division. Legal officers had received training on women's rights in the workplace, including their right to be protected against sexual harassment. There were plans to increase the number of mobile courts to improve access to justice for women living in remote areas.

37. Same-sex marriages were not permitted in law, and the validity of such marriages under customary law was currently being challenged in the courts. For cultural reasons, polygamy was permitted, but it was practised only within the Muslim community. The Government acknowledged that it would be necessary to improve the collection of data relating to gender issues.

38. **A representative of Malawi** said that the courts determined how matrimonial property should be divided in divorce proceedings. Decisions relating to child custody were based on an inquiry mandated by the court, which took into account the child's age, safety and best interests. Social workers provided mediation services to couples contemplating divorce. Women undergoing a divorce were offered counselling and advice.

39. **A representative of Malawi** said that, on 13 October 2023, the Legal Aid Bureau, in conjunction with the Malawi Law Society, had launched a national pro bono scheme to increase the number of lawyers available to support persons on low incomes. The lawyers acting under the scheme would supplement the lawyers attached to the Bureau.

40. **Ms. Hacker** said that she wished to know whether any family courts were governed by sharia law and, if so, whether those courts afforded women and men an equal right to marital property in divorce proceedings. She wondered whether a woman who obtained a divorce through a sharia family court and subsequently remarried would lose custody of her children from her first marriage.

41. **Ms. Gbedemah** said that she wished to know whether a dual legal system existed in Malawi and whether, for instance, persons who married under customary law were permitted to practise polygamy, but persons who married under civil law were not.

42. **Ms. Sendeza** (Malawi) said that sharia law was not applied by the courts in Malawi. The family courts applied the Marriage, Divorce and Family Relations Act.

43. **A representative of Malawi** said that couples in Malawi could marry under customary or civil law or in a religious ceremony. Under the Marriage, Divorce and Family Relations Act, all married persons had equal rights and obligations, irrespective of the regime under which they married. Gaps continued to exist between law and practice, but the Malawi Human Rights Commission and the Ministry of Gender, Children, Disability and Social Welfare were working hard to close those gaps. A person who had contracted a civil marriage would be committing the offence of bigamy if he or she subsequently married another person. The system of inheritance was now governed by law rather than by custom. As with marriage, however, gaps continued to exist between the law and practice.

44. **Ms. Sendeza** (Malawi) said that she wished to thank the Committee for the valuable questions posed and insights shared. The dialogue had indeed proven to be very constructive. The Government looked forward to receiving the concluding observations, which would help it to improve its implementation of the Convention through the adoption of appropriate laws and policies. She reiterated her country's commitment to implementing the Convention as fully as possible in order to improve the lives of women in Malawi.

The meeting rose at 4.25 p.m.