



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
14 November 2023

Original: English

Committee on the Elimination of Discrimination against Women

Concluding observations on the eighth periodic report of Malawi*

1. The Committee considered the eighth periodic report of Malawi (CEDAW/C/MWI/8) at its 2015th and 2016th meetings (see CEDAW/C/SR.2015 and CEDAW/C/SR.2016), held on 19 October 2023. The list of issues and questions raised by the pre-sessional working group is contained in CEDAW/C/MWI/Q/8 and the responses of Malawi are contained in CEDAW/C/MWI/RQ/8.

A. Introduction

2. The Committee appreciates the submission by the State party of its eighth periodic report. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group. It welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the Minister of Gender, Community Development and Social Welfare of Malawi, Jean Muonaouza Sendeza, and included representatives of the Ministry of Gender, Community Development and Social Welfare, the Ministry of Education, the Ministry of Justice, the Ministry of Health, the Office of the Ombudsman of Malawi and the Permanent Mission of Malawi to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2015 of the State party's seventh periodic report (CEDAW/C/MWI/7) in undertaking constitutional and legislative reforms, in particular the adoption of the following:

(a) Penal Code (Amendment) Bill, enhancing the protection of girls from sexual assault by imposing penalties up to life imprisonment for threatening sexual intercourse with a child, in 2022;

* Adopted by the Committee at its eighty-sixth session (9–27 October 2023).



(b) Malawi Citizenship (Amendment) Act, providing for dual citizenship and repealing the provision that restricted women from conferring citizenship on their foreign spouses, in 2019;

(c) Constitution (Amendment) (No. 3) Act, raising the minimum age of marriage from 15 to 18 years for both women and men, in 2017.

5. The Committee welcomes the State party's efforts to improve its institutional and policy frameworks aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption or establishment of the following:

(a) National male engagement strategy on gender equality, gender-based violence, HIV and sexual and reproductive health rights for the period 2023–2030;

(b) National plans of action against trafficking in persons for the periods 2017–2022 and 2023–2028;

(c) Gender Equality Act implementation and monitoring plan for the period 2016–2020;

(d) National plan of action to combat gender-based violence for the period 2016–2021.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international and regional instruments:

(a) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2022;

(b) International Convention for the Protection of All Persons from Enforced Disappearance, in 2017.

C. Sustainable Development Goals

7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of *de jure* (legal) and *de facto* (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the State party and to adopt relevant policies and strategies to that effect.

D. Parliament

8. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see [A/65/38](#), part two, annex VI). It invites the National Assembly, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.

E. Principal areas of concern and recommendations

Constitutional and legislative framework and visibility of the Convention and the Optional Protocol to the Convention

9. The Committee welcomes the developments in the constitutional and legislative framework since the consideration of the seventh periodic report, in particular with respect to the prohibition of child marriage and the protection of women's right to nationality. However, it notes with concern:

(a) That some statutory and customary laws and regulations still contain discriminatory provisions that are incompatible with the Convention, in particular the Witchcraft Act, Police Service Standing Order 31, section 137A of the Penal Code and the Marriage, Divorce and Family Relations Act;

(b) That awareness of the Convention and the Committee's general recommendations is limited among the judiciary, law enforcement officials, government officials and the general public;

(c) That the State party has not yet ratified the Optional Protocol.

10. **The Committee reiterates its previous recommendations (CEDAW/C/MWI/CO/7, para. 11) and recommends that the State party:**

(a) **Expedite the amendment of the laws and regulations that discriminate against women, in particular the Witchcraft Act and Police Service Standing Order 31, as well as section 137A of the Penal Code, amend the Marriage, Divorce and Family Relations Act, which is under review, to ensure that the provisions for eligibility and procedures for entering into marriage, the grounds for divorce and regulations regarding the relationship between spouses and between unmarried couples, their welfare and custody of their children are in conformity with the Convention, and adopt the Prevention of Domestic Violence Act after review, within a clear time frame;**

(b) **Conduct awareness-raising campaigns on the Convention and the Committee's general recommendations in cooperation with the media;**

(c) **Ratify the Optional Protocol to the Convention and train members of the judiciary, legal professionals and law enforcement officers on the Committee's jurisprudence under the Optional Protocol.**

Access to justice and legal aid

11. The Committee notes measures taken by the State party to strengthen its judiciary, including the creation of specialized High Court divisions, regional offices and mobile courts, the increase in the number of judges, and the establishment of a committee to address outstanding court judgments. It also notes the measures taken to promote women's access to justice, in particular the provision of free legal services through the Malawi Legal Aid Bureau, the implementation of the Pro Bono Scheme in 2019 and the launch of the Nationwide Pro Bono Legal Services Scheme in 2023, in partnership with the Malawi Law Society, to ensure access to private lawyers' services at no cost for disadvantaged women, including rural women, women in remote areas and women with disabilities. However, the Committee notes with concern remaining barriers to women's access to justice, in particular:

(a) The limited awareness of women of their rights under the Convention and the remedies available to claim them, in particular among rural women, and high legal fees;

(b) The limited knowledge and capacity of the judiciary and law enforcement officials to apply the Convention directly in legal proceedings or to interpret national legislation in conformity with the Convention;

(c) The lack of assessment of the effectiveness of the measures taken to increase the accessibility of courts, especially the creation of mobile courts;

(d) The absence of legislation to regulate the relationship between the formal and customary justice systems and to ensure that customary courts are gender-sensitive and free from any gender bias.

12. The Committee recommends that the State party:

(a) **Enhance women's awareness of their rights under the Convention and the remedies available to them to claim violations of such rights, and ensure that legal fees are affordable or, if the interests of justice so require, waived;**

(b) **Ensure that the Convention and the Committee's general recommendations are made an integral part of systematic capacity-building for all judges, with a view to enabling them to directly apply the provisions of the Convention, interpret national legal provisions in the light of the Convention, and provide regular training for prosecutors, lawyers, police officers and other law enforcement officials, as well as government officials, on women's rights and gender-sensitive investigation and interrogation methods;**

(c) **Assess the effectiveness of the measures taken to increase the accessibility of courts and access to legal representation;**

(d) **Adopt legislation to regulate the relationship between formal and customary justice systems and ensure that customary laws and court proceedings are in conformity with the Convention, including by providing capacity-building for customary judicial authorities, as recommended in the Committee's previous concluding observations (ibid., para. 13 (b)).**

National machinery for the advancement of women and gender mainstreaming

13. The Committee welcomes the efforts of the State party to establish a national task force committee to draft an amendment bill to the Gender Equality Act to make it more effective in promoting and protecting women's rights. However, the Committee notes with concern:

(a) The lack of an assessment of the Gender Equality Act implementation and monitoring plan (2016–2020) due to funding constraints and the delay in the adoption of a new plan;

(b) The limited capacity of the Ministry of Gender, Community Development and Social Welfare to effectively coordinate gender mainstreaming across all government departments;

(c) The unsustainability of policies, programmes and activities aimed at the elimination of discrimination against women and the advancement of women due to the high level of dependency on external funding and absence of sufficient measures for realizing gender equality targets in national development priorities under the Malawi implementation plan;

(d) The inadequate allocation of resources to undertake gender mainstreaming, close sectoral gender gaps and implement in full the gender-responsive budget guidelines and the Malawi budget by-laws to achieve substantive results.

14. The Committee recommends that the State party:

(a) Expedite the assessment of the Gender Equality Act implementation and monitoring plan (2016–2020) and its renewal;

(b) Strengthen the national machinery for the advancement of women, define the mandate and responsibilities of its various components, enhance cooperation and coordination with the Malawi Human Rights Commission and civil society, and provide it with adequate human, technical and financial resources to advance women's rights and gender equality throughout the State party, especially in rural and remote areas, as recommended in the Committee's previous concluding observations (*ibid.*, para. 15 (b) and (c));

(c) Ensure the sustainability of policies, programmes and activities aimed at the elimination of discrimination against women and the advancement of women by mobilizing domestic resources, integrating gender equality targets into the Malawi implementation plan and gradually reducing the dependence on external funding;

(d) Strengthen implementation of the gender-responsive budget guidelines and the Malawi budget by-laws by increasing the percentage of the budget allocation to gender equality to enable the provision of adequate monitoring, compliance and regulatory systems for effective coordination and accountability monitoring of substantive results across sectors.

National human rights institution

15. The Committee notes with appreciation that the Malawi Human Rights Commission has, since 2000, been accredited with "A" status by the Global Alliance of National Human Rights Institutions, which was reviewed and confirmed in 2016, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles; see General Assembly resolution 48/134, annex). However, the Committee remains concerned that the Commission lacks sufficient human, technical and financial resources to discharge its mandate to implement and enforce compliance with the Gender Equality Act effectively and independently.

16. Reiterating its previous recommendation ([CEDAW/C/MWI/CO/7](#), para. 17), the Committee recommends that the State party ensure that the Malawi Human Rights Commission is provided with adequate human, technical and financial resources to carry out its mandate effectively and independently, according to its priorities, and in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights.

Temporary special measures

17. The Committee is concerned that the 60 to 40 quota of either sex for appointment to and promotion in public service, as established in the Gender Equality Act, has not been met and that the quota system applies only to the public service and tertiary education sectors but not to political participation, public procurement or the private sector.

18. The Committee reiterates its previous recommendation (*ibid.*, para. 19) that the State party increase the use of temporary special measures, including quotas, in all areas covered by the Convention in which women are underrepresented or disadvantaged, including in Parliament, local legislative bodies and ministerial positions. Such measures should include specific targets and time frames, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special

measures, to ensure the achievement of substantive equality of women and men in all areas where women are underrepresented or disadvantaged.

Stereotypes and harmful practices

19. The Committee notes the legislative and administrative measures taken by the State party to protect women and girls from deep-rooted stereotypes and harmful practices, including the adoption of the Electronic Transactions and Cyber Security Act in 2016, which criminalizes child pornography, harassment, offensive communication and stalking in the digital space. The Committee notes with concern, however, that such legislation is not effectively enforced and the persistence of harmful practices against women and girls in the State party, including child and forced marriage, polygamy, “widow cleansing”, female genital mutilation, the “Fisi” tradition and other initiation rites and ceremonies, as well as the practice of prescribing sex with women and girls with albinism as a cure for HIV.

20. The Committee recommends that the State party develop and implement a comprehensive strategy, including in the digital space, including awareness-raising and education campaigns, targeting local communities and religious leaders, teachers, girls and boys, and women and men to eliminate discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society. The Committee also recommends that the State party introduce a set of targets and indicators to systematically measure the impact of the strategic interventions undertaken. It urges the State party to enhance its efforts to combat harmful practices against women and girls and ensure that perpetrators of harmful practices are investigated, prosecuted and adequately punished, and that victims have access to effective remedies and adequate protection.

Gender-based violence against women

21. The Committee notes the measures taken by the State party to combat gender-based violence against women, including the adoption and implementation of the national plan of action to combat gender-based violence (2016–2021) and the national male engagement strategy on gender equality, gender-based violence, HIV and sexual and reproductive health rights (2023–2030) as well as the establishment of victim support units within the police. However, the Committee remains deeply concerned about the prevalence of various forms of gender-based violence in the State party, including domestic and sexual violence and gender-based violence against women in politics. In particular, the Committee notes with concern:

(a) The absence of legislation specifically criminalizing marital rape and of legal procedural guidelines for the repeal of the “corroboration rule”, whereby the testimony of a witness is required in addition to a victim’s testimony in cases of rape;

(b) Reported delays in the investigation and prosecution of cases of gender-based violence, as exemplified by the case *the State v. Inspector General of Police, Clerk of the National Assembly & Minister of Finance ex-parte M.M & Ors (Msundwe sexual assault case)*, due, among other factors, to the lack of adequate funding for the Independent Complaints Commission.

22. The Committee recommends that the State party:

(a) **Amend its legislation to specifically criminalize marital rape and adopt legal procedural guidelines for the repeal of the “corroboration rule” in rape cases;**

(b) **Provide the Independent Police Complaints Commission with adequate human, technical and financial resources to ensure that all cases of**

gender-based violence against women, including the *Msundwe* sexual assault case, are effectively investigated, that perpetrators are prosecuted *ex officio* and adequately punished and that victims have access to remedies and adequate support services, including psychosocial rehabilitation and reintegration programmes.

Trafficking and exploitation of prostitution

23. The Committee welcomes the adoption of the national plan of action against trafficking in persons (2023–2028) and the efforts of the State party to combat trafficking in women and girls and prosecute perpetrators. However, the Committee is deeply concerned about:

(a) The continued prevalence of internal and cross-border trafficking in women and girls in the State party, with victims being lured with fraudulent job offers and forced into domestic service or prostitution in private premises out of reach for labour inspectors;

(b) The lack of shelters for victims of trafficking in persons, who are often detained in police cells during criminal investigations, and the lack of measures to prevent the retraumatization of trafficking victims during criminal proceedings;

(c) The corruption among the police and the judiciary involved in trafficking.

24. **The Committee recommends the State party:**

(a) **Conduct awareness-raising campaigns, with a particular focus on women and girls at risk of being trafficked, strengthen the early identification and referral of victims of trafficking to gender-responsive support services and protection, provide systematic capacity-building for front-line responders to identify victims of trafficking, facilitate the issuance of court orders authorizing labour inspectors to gain access to private homes and ensure that victims have access to adequate reparation, including compensation for lost wages, and temporary residence permits irrespective of their ability or willingness to cooperate with the prosecution authorities;**

(b) **Provide victims of trafficking in persons with adequate shelter and adopt gender-sensitive interrogation and interviewing methods to enable women and girl victims to testify in criminal proceedings without being subjected to retraumatization, including by establishing child-friendly interviewing spaces;**

(c) **Ensure that police and judicial corruption in trafficking cases is duly investigated and that perpetrators are prosecuted and adequately punished.**

25. The Committee notes with concern the lack of measures to protect women and girls in prostitution and to disseminate the decision of the High Court on the unconstitutionality of section 184 (1) (c) of the Penal Code on loitering and the lack of training for the police to refrain from using this provision to arrest women in prostitution, in line with the Committee's previous recommendation ([CEDAW/C/MWI/CO/7](#), para. 25).

26. **The Committee recommends that the State party disseminate the decision of the High Court on the unconstitutionality of section 184 (1) (c) of the Penal Code and provide capacity-building to the judiciary and police so that women and girls in prostitution are not criminalized or arrested, and ensure adequate protection for women and girls exploited in prostitution, as well as access to exit programmes, including alternative income-generating opportunities, for women and girls who wish to leave prostitution.**

Participation in political and public life

27. The Committee commends the State party for the election of the State party's first woman Speaker of Parliament in 2019. The Committee notes the increase of the representation of women in the National Assembly (to 22.7 per cent) and in ministerial positions (to 41 per cent). It also notes the appointment of women to the positions of Director of the Anti-Corruption Bureau, Ombudsperson, Head of the Law Commission, Head of the Human Rights Commission and Inspector General of the Malawi Police Service. However, the Committee notes with concern:

(a) The persistence of patriarchal attitudes and discriminatory stereotypes hampering women's participation in political and public life in the State party and the limited support of women candidates by political parties;

(b) The low representation of women in decision-making positions in the civil service, with women occupying 33 per cent of the positions at the head of public service level;

(c) The persistence of gender-based violence against women in elections and politics.

28. The Committee recommends that the State party eliminate the barriers to women's equal participation in political and public life, including by:

(a) **Conducting public awareness campaigns on the need for women's equal participation in political and public life as a necessary condition for political stability and sustainable development, providing capacity-building on political leadership skills and on campaigning and campaign financing to women candidates, and adopting quotas for women candidates on electoral lists and in the executive structures of political parties, including sanctions for non-compliance with such quotas, as recommended in the Committee's previous concluding observations (ibid., para. 27 (a));**

(b) **Enforce the 60 to 40 quota for either sex in public appointments and recruitments, as prescribed under the Gender Equality Act;**

(c) **Eliminate gender-based violence against women in politics, including hate speech and defamation in public and political discourse, online inclusive, to create an enabling environment for women to stand for election and participate in political life.**

Nationality

29. The Committee welcomes that the Malawi Citizenship (Amendment) Act of 2019 and the Marriage, Divorce and Family Relations Act of 2015 have removed the barriers that restricted women from conferring citizenship on their foreign spouses, granting a spouse the right to retain double nationality during the subsistence of marriage. The Committee is concerned, however, at the scarce public awareness and limited application of these laws by State agents, given that non-Malawian women who are married to Malawian men still face challenges to acquire Malawian nationality or change nationality. The Committee is also concerned that, notwithstanding the fact that the National Registration Act of 2010 makes birth registration compulsory, registration is available only to documented applicants, which excludes asylum-seeking women and girls.

30. The Committee recommends the State party conduct awareness-raising campaigns and systematic capacity-building for State agents on the application of the Malawi Citizenship (Amendment) Act of 2019 and the Marriage, Divorce and Family Relations Act of 2015. It also recommends that the State party ratify

the Convention on the Reduction of Statelessness and eliminate all barriers to birth registration faced by asylum-seeking women and girls.

Education

31. The Committee welcomes the various policies and initiatives of the State party to ensure equal access to education, including the national education policy of 2016, the 60 to 40 recruitment quota in public universities, the national girls' education strategy (2014–2018), the national education sector plan (2008–2017), the education sector implementation plan (2014–2018), the national girls' education communication strategy (2014–2017) and the readmission policy for primary and secondary schools (2018). It notes the progress made in the implementation of distance learning programmes, the reduction in the gender gap in access to secondary education and the introduction of a comprehensive sexuality education for young persons through various programmes and projects. However, the Committee notes with concern:

(a) The high dropout rates among young women and girls owing to child marriage and early pregnancy, even after readmission, and that young women and girls are not allowed to remain in school during pregnancy and may be readmitted only one year after giving birth;

(b) The gender-based violence against young women and girls at home, on the way to school and at school, and the increasing number of cases of corporal punishment in private and public schools, notwithstanding its express prohibition in section 19 (3) of the Constitution, which adversely affects girls' school performance and contributes to dropout and absenteeism;

(c) The reported cases of illegal surveillance of schoolgirls by private providers of online learning platforms, which track activities on the Internet during and outside school hours, and the risk of misuse of the collected data;

(d) The limited access to education for young women and girls with disabilities in the State party, including inaccessible education infrastructures, the lack of trained teachers, inadequate teaching and learning materials, and insufficient assistive and mobile devices;

(e) The lack of effective monitoring of sexual and reproductive health education programmes and projects with public health services;

(f) That the State party has not ratified the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education.

32. Recalling its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party promote the importance of young women's and girls' education at all levels as a basis for their empowerment. Moreover, the Committee recommends that the State party:

(a) **Encourage the enrolment, attendance and retention of young women and girls in school, including during pregnancy and following childbirth, and their reintegration if they drop out, take measures to retain readmitted young women and girls in school and strengthen support services to pregnant women and girls and young mothers following childbirth, including reasonable accommodation for breast-feeding, flexibility in class schedules to reconcile care responsibilities and access to nurseries close to school facilities;**

(b) **Eliminate and redress gender-based violence against young women and girls in educational contexts, including the revision of the Education Act of 1962 to expressly prohibit corporal punishment in all learning institutions, and adopt measures to facilitate reporting, provide psychological support to victims**

and train teachers systematically on how to manage school-related gender-based violence;

(c) Take measures to protect schoolgirls from illegal online surveillance, profiling and targeting for commercial and other purposes, including by amending and strengthening the national legal and policy frameworks, in particular the data protection law, and ensure that any such cases are effectively investigated, that perpetrators are prosecuted and adequately punished and that victims have access to adequate remedies;

(d) Allocate adequate human, technical and financial resources for the education of young women and girls with disabilities, including by increasing the number of schools offering inclusive education throughout the State party, and take measures to ensure accessibility and reasonable accommodation for young women and girls with disabilities in schools;

(e) Introduce age-appropriate sexual and reproductive health education and services to prevent early and unintended pregnancies and provide support to young mothers to continue their studies;

(f) Ratify the Convention against Discrimination in Education.

Employment

33. The Committee welcomes the amendment to the Employment Act in 2000 to ensure the right to maternity leave to women working in the formal economy, as well as flexible or shorter working hours for pregnant women and breastfeeding women without a reduction in pay and benefits. It also notes the adoption of the national job creation strategy in 2022, which prioritizes women and persons with disabilities and envisages financial schemes and capacity-building programmes to redress inequalities in the labour market. The Committee further notes that the public service workplace anti-sexual harassment policy and guidelines are pending approval. However, the Committee notes with concern:

(a) The high unemployment rate among women, especially women with disabilities, and women's limited access to the formal labour market;

(b) The disproportionate burden of household and childcare responsibilities on women and that the legal maternity leave, currently at 90 days, falls behind the International Labour Organization (ILO) minimum standard of 14 weeks, and that some private companies neither allow maternity leave nor provide any maternity benefits;

(c) The persistent gender pay gap and the lower productivity of women in agriculture, due to women's unequal access to inputs and technology and their limited participation in cash crop value chains, women's limited access to higher-paying sectors, occupational segregation and the undervaluation of women's work in the State party;

(d) The prevalence of sexual harassment in the workplace and in business places and its underreporting due to insufficient information on reporting mechanisms;

(e) The lack of labour inspectors to conduct regular inspections, enforce labour law standards and ensure that workplaces have policies to address sexual harassment.

34. **The Committee recommends that the State party:**

- (a) **Adopt targeted measures to increase women's access to formal employment, including temporary special measures for women with disabilities, and extend social protection to women in the informal sector;**
- (b) **Amend the Employment Act to increase the duration of maternity leave in accordance with ILO standards and introduce paternity leave, and ensure that public and private companies comply in full with their obligation to respect maternity leave and provide maternity benefits;**
- (c) **Reduce the gender pay gap, enforce the principle of equal pay for work of equal value, regularly review wages in sectors where women are concentrated, adopt measures to close the gender pay gap, including through gender-inclusive job classification and evaluation methods and regular pay surveys, and ensure that women farmers have equal access to agricultural inputs, technology and cash crop and export crop value chains;**
- (d) **Provide mandatory training for employers and employees on the criminal nature of sexual harassment and on employers' responsibility to apply a zero-tolerance approach and prevent and report incidents, and ratify the ILO Convention of 2019 (No. 190) concerning the elimination of violence and harassment in the world of work;**
- (e) **Provide adequate human, technical and financial resources for labour inspectorates to monitor, report and impose fines for discriminatory practices against women in the workplace, including in the private sector and the informal economy, as recommended in the Committee's previous concluding observations (ibid., para. 33 (c)).**

Health

35. The Committee welcomes the decrease in the maternal mortality rate in the State party and the fact that 95 per cent of women aged 15 to 49 receive antenatal care from a skilled provider and that more than 9 in 10 births occur in a health facility. It also welcomes the adoption and implementation of the national sexual and reproductive health and rights policy (2017–2022) and the amendment of the HIV and AIDS (Prevention and Management) Act in 2018 (Act No. 9 of 2018), which comprehensively addresses HIV and AIDS prevention, treatment, care, support and management, and prohibits discrimination against persons living with HIV. However, the Committee remains concerned about:

- (a) The persistence of high maternal and infant mortality rates in the State party;
- (b) The criminalization of abortion in all cases, punishable by up to 14 years of imprisonment, except when the life of the pregnant woman or girl is in danger, the lack of clarity surrounding the law on abortion and the restrictive understanding of the criteria to determine that a life is in danger, notwithstanding the High Court ruling in 2021 that encompasses risks to physical and mental health;
- (c) The increase in the number of early pregnancies, the high prevalence of HIV among adolescent girls and the lack of age-appropriate education on sexual and reproductive health and rights, including family planning;
- (d) The failure of the National Sexual and Reproductive Health and Rights Policy to reflect intersectionality.

36. **The Committee recommends that the State party:**

- (a) **Reduce maternal and infant mortality rates by improving women's access to antenatal, perinatal and postnatal health services and training midwives and other relevant health professionals, especially in rural areas;**
- (b) **Immediately implement the recommendation of the Law Commission to legalize abortion in cases of rape, incest or defilement, risks to the life or health of the pregnant woman and severe foetal impairment, and consider the decriminalization of abortion in all other cases;**
- (c) **Integrate comprehensive age-appropriate education on sexual and reproductive health and rights, including family planning, for girls and boys in curricula at all levels of education, focused on the prevention of early pregnancy, HIV and other sexually transmitted infections and ensure that women and girls, including rural women and girls, unmarried women and women and girls with disabilities, have adequate access to sexual and reproductive health services;**
- (d) **Ensure that all women's rights are covered by the national sexual and reproductive health and rights policy.**

Economic empowerment and participation of women in sports

37. The Committee notes the adoption of the Malawi growth and development strategy III and Malawi 2063, and the implementation of the social cash transfer programme and initiatives such as village saving groups. However, the Committee notes with concern:

- (a) The limited access of women to land ownership and control, which undermines their access to loans owing to a lack of collateral;
- (b) The lack of participation of women, including women with disabilities and migrant women, in the formulation and implementation of economic empowerment strategies;
- (c) The lack of measures to combat gender-based violence and discrimination against women in sports.

38. The Committee recommends that the State party:

- (a) **Strengthen the facilitation of women's increased access to financial services, including the removal of collateral requirements for loans and credit, support for low-interest loans, the provision of financial literacy skills and training, the establishment of affirmative measures for women to gain access to bank accounts, loans and credit, the introduction of alternative chattel credit systems and the provision of national identification to women for loan and credit verification purposes when required;**
- (b) **Ensure the meaningful participation of women, including women with disabilities and migrant women, in the formulation and implementation of economic empowerment strategies;**
- (c) **Ensure that women and girls can participate in sports free from gender-based violence and discrimination, and that cases of abuse are duly investigated, that perpetrators are prosecuted and adequately punished, and that victims have access to adequate reparation.**

Rural women

39. The Committee welcomes the adoption of the Customary Land Act in 2016, which allows women to own customary land and provides for their equal participation in village land committees allocating land. It notes the measures taken by the State party to reduce poverty and address food insecurity and malnutrition among rural

women, including the adoption of targeted social protection programmes and measures under the national multi-sector nutrition policy and the national multi-sector nutrition strategic plan (2018–2022). It also notes the implementation of the Mobile Money for the Poor initiative, funded by the United Nations Capital Development Fund, which is intended to increase access to mobile financial services in rural areas. However, the Committee notes with concern:

(a) The limited access of rural women and girls to justice, education, land ownership, labour-saving technologies, markets, employment and services to reduce their disproportionate burden of unpaid domestic, care and community work;

(b) The lack of support for women to establish cooperatives aimed at sharing resources to improve productivity;

(c) The lack of information about the Mobile Money for the Poor initiative and its impact on rural women.

40. Recalling its general recommendation No. 34 (2016) on the rights of rural women and target 5.a of the Sustainable Development Goals to undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws, the Committee recommends that the State party:

(a) **Strengthen rural women's access to justice, education, land ownership, labour-saving technologies, markets, employment and services to reduce their disproportionate burden of unpaid domestic and community work, and improve access to low-interest loans without collateral and other forms of financial credit;**

(b) **Encourage and support entrepreneurship among rural women, including by providing training on how to gain access to markets and facilitating the establishment of women's cooperatives aimed at sharing resources to improve productivity;**

(c) **Collect data about the Mobile Money for the Poor initiative and assess its impact on rural women.**

Impact of climate change and natural disasters on women

41. The Committee welcomes the adoption and implementation of the national disaster risk management policy of 2015, which incorporates gender-sensitive responses to disaster management and the involvement and participation of women and girls in decision-making processes at the district and community levels through mothers' groups and faith groups. The Committee, however, expresses its concern about the vulnerability of women, in particular rural women, in the event of natural disasters.

42. The Committee reiterates its recommendation (ibid., para. 41) and general recommendation 37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate to ensure that a gender perspective is integrated into the development and implementation of policies and programmes on disaster preparedness and response and other emergencies in order to guarantee that women, in particular rural women, benefit in full from such measures according to their needs. The State party should also ensure the involvement of women, in particular rural women, in decision-making in relation to disaster management and disaster risk reduction.

Disadvantaged and marginalized groups of women*Women with albinism*

43. The Committee welcomes the measures taken by the State party to address discrimination against women with albinism, in particular the adoption of the national action plan on persons with albinism (2018–2022), the development of the handbook for investigators, prosecutors and magistrates regarding offences against persons with albinism (2016) and the enactment of the Anatomy (Amendment) Act (2016), which broadened the scope of the Penal Code with respect to acts of violence against persons with albinism and increased the penalties. However, the Committee remains deeply concerned at:

- (a) The persistence of gender-based violence against women with albinism;
- (b) The insufficient capacity of the judiciary and the police to investigate such cases;
- (c) The delay in reviewing, revising and renewing the national action plan on persons with albinism;
- (d) The lack of human, technical and financial resources for the implementation of the national plan and the poor coordination among implementing institutions and partners and the lack of inclusion of women with albinism in the implementation of the national plan.

44. The Committee recommends that the State party:

- (a) **Enhance measures to prevent and protect women and girls with albinism from all forms of gender-based violence and discrimination, including by conducting awareness-raising campaigns to combat superstitious practices and beliefs, as recommended in the Committee's previous concluding observations (ibid., para. 45);**
- (b) **Promote systematic capacity-building for the judiciary and the police on the investigation and prosecution of cases of gender-based violence and discrimination against women and girls with albinism;**
- (c) **Expedite the revision, review and renewal of the national action plan on persons with albinism;**
- (d) **Allocate adequate human, technical and financial resources to the implementation of the national action plan on persons with albinism and establish a national committee to coordinate the implementing institutions and partners and ensure the involvement of women with albinism in the implementation of the national plan.**

Older women

45. The Committee is concerned that older women in the State party are sometimes subjected to gender-based violence for being suspected of practising witchcraft and teaching it to children.

46. **The Committee reiterates its previous recommendation (ibid., para. 47) and urges the State party to resolve the challenges pertaining to laws and policies on witchcraft, bring the Witchcraft Law into line with the Convention and other international human rights standards, and take all measures necessary to protect older women from gender-based violence triggered by accusations of witchcraft.**

Refugee women

47. The Committee notes with concern the delay in amending the Refugee Act, in particular provisions imposing barriers to refugee women and girls to gain access to basic services.

48. **The Committee reiterates its previous recommendation (ibid., para. 49) and recommends that the State party expedite the revision of the Refugee Act to ensure that refugee women and girls have adequate access to education, health care and other basic services in line with the Convention, the Committee's general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, and the related international human rights standards. It also recommends that the State party withdraw its reservations to the 1951 Convention relating to the Status of Refugees.**

Equality in marriage and family relations

49. The Committee welcomes the Constitution (Amendment) (No. 3) Act of 2017, which raised the minimum age of marriage from 15 years to 18 years for both women and men, thereby banning child marriages. However, the Committee is concerned about:

(a) The limited enforcement of the constitutional ban on child marriage and the lack of specific measures to combat its root causes, such as poverty, limited access to education, stereotypes and patriarchal attitudes, and insufficient support services to girls in forced unions;

(b) The limited enforcement of child maintenance payments following divorce;

(c) The high costs for refugees and asylum-seekers to obtain birth certificates and other civil documentation for marriage;

(d) The lack of economic protection of women in polygamous unions;

(e) The lack of recognition by the State party of the right of all women to family life.

50. **The Committee recommends that the State party:**

(a) **Adopt and implement a national strategy to combat child marriage, coordinate efforts among all relevant government departments in collaboration with civil society, conduct public awareness campaigns and provide support services to girls in forced unions, including legal aid, shelter and psychosocial support;**

(b) **Strengthen mechanisms to enforce the payment of child maintenance following divorce or separation of the parents, ensure public economic support to single mothers and their children and establish a State mechanism to redeem the funds from the father;**

(c) **Ensure that refugee women and asylum-seeking women have affordable and unbureaucratic access to birth certificates and other documents necessary for them to enter into marriage;**

(d) **Ensure that the rights of women in polygamous unions are protected in accordance with the Committee's general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on article 16 of the Convention (Economic consequences of marriage, family relations and their**

dissolution), as recommended in the Committee's previous concluding observations (*ibid.*, para. 51);

- (e) **Recognize the right of all women to family life.**

Data collection and analysis

51. The Committee is concerned about the insufficient generation and availability of sex-disaggregated data across various sectors, including education, health, employment and violence against women, as well as statistical data on the achievement of the Sustainable Development Goals. These data are fundamental to informing evidence-based policymaking, programme planning and monitoring of progress made towards achieving gender equality goals.

52. **The Committee recommends that the State party strengthen its data collection system, including by allocating adequate human, technical and financial resources to the National Statistical Office to ensure its effective functioning.**

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

53. **The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

Beijing Declaration and Platform for Action

54. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action and to further evaluate the realization of the rights enshrined in the Convention in order to achieve substantive equality between women and men.**

Dissemination

55. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, Parliament and the judiciary, to enable their full implementation.**

Technical assistance

56. **The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.**

Follow-up to the concluding observations

57. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 14 (a), 44 (c), 46 and 50 (a) above.**

Preparation of the next report

58. **The Committee will establish and communicate the due date of the ninth periodic report of the State party in line with a future predictable reporting calendar based on an eight-year review cycle and following the adoption of a list**

of issues and questions prior to reporting, if applicable, for the State party. The report should cover the entire period up to the time of its submission.

59. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents ([HRI/GEN/2/Rev.6](#), chap. I).
