



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

Distr.: General  
31 March 2010

Original: English

---

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

**Summary record of the 911th meeting**

Held at the Palais des Nations, Geneva, on Friday, 22 January 2010, at 10 a.m.

*Chairperson:* Ms. Gabr  
*later:* Ms. Pimentel

**Contents**

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

*Sixth periodic report of Malawi*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10.05 a.m.*

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

*Sixth periodic report of Malawi*  
(CEDAW/C/MWI/6; CEDAW/C/MWI/Q/6 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Malawi took places at the Committee table.*

2. **Ms. Chikankheni** (Malawi), introducing Malawi's sixth periodic report (CEDAW/C/MWI/6), said that her Government was committed to addressing gender inequalities and promoting women's empowerment. Malawi had adopted a number of gender-related acts and put in place policies and programmes to implement the Convention. One example was the National Programme on Promotion of Women into Politics, also known as the "50:50 campaign", whose objective was the participation of equal numbers of women and men in politics and public life. As a result of the programme, the proportion of female members of Parliament had risen from 14 per cent in 2004 to 22 percent in 2009. The Government planned to continue the Programme, focusing particularly on the 2010 local government elections and the presidential and parliamentary elections to be held in 2014. Recruitment agencies would also be given gender-awareness training.

3. In addition to measures related to universal education, women's economic empowerment and the elimination of harmful cultural practices, the Government had adopted the National Response to Combat Gender-based Violence, a guiding framework for all activities and programmes aimed at eradicating such violence. Plans were under way to map gender-based violence in Malawi in order to determine where the Government's intervention was most needed. In collaboration with civil society, the police, the judiciary, and health-care personnel were receiving training in the prevention of domestic violence. A recent study had also been conducted on commercial sex workers in view of developing a programme to address their needs and ameliorate their situation.

4. In an effort to reduce maternal mortality, Malawi had redefined the role of traditional birth attendants, encouraging them to refer pregnant women directly to a health facility rather than conduct deliveries

themselves. On the issue of abortion, no research had been conducted in Malawi that would establish a link between laws prohibiting abortion and the extent of unsafe abortion practices. The Government had nonetheless taken a holistic approach to the problem and adopted a series of measures to improve post-abortion care. The criminal justice reform programme to review the Penal Code and the Law Commission group for the development of a gender equality statute had studied the abortion issue at length and had recommended reviewing provisions on abortion. Lastly, youth-friendly sexual and reproductive health services and life skills education were being provided to youth both in and out of school; life skills education was available as early as primary school.

5. The capacity of the Ministry of Gender, Children and Community Development had been enhanced with the addition of a technical team. The Vice-President of Malawi was an advocate of early childhood development, which was a critical stage for a paradigm shift in the understanding of gender equality. Financial and technical support from the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA) and the United States Government contributed to strengthening the Ministry's work. There were other institutions for the enforcement of gender equality and empowerment of women as well.

6. Despite its achievements, Malawi continued to face a number of challenges in eliminating discrimination against women. They included harmful cultural practices, which were difficult to change in a short time; high levels of illiteracy; limited access to resources by women; and inadequate financing for gender equality and women's empowerment programmes.

*Articles 1 to 6*

7. **Ms. Patten** asked whether the Government of Malawi planned to ratify the Optional Protocol to the Convention, as doing so would send a strong signal of the Government's commitment to ensure the full and equal enjoyment by women of their rights as set forth in the Convention. She enquired as to the status of the Convention in Malawi, especially in light of the case considered by the Supreme Court of Appeal on the adoption of a second Malawian child by pop star Madonna, and wondered what priority the Government gave to domesticating the Convention through the

legislative process. It was surprising that none of the draft laws proposed by the Law Commission and detailed in the previous periodic report of Malawi had yet been adopted; further information on the difficulties encountered during the law review process and the expected time frame for the adoption of the legislation should be provided.

8. **Ms. Jaising** said it would be useful to learn whether courts in Malawi referred to the Convention when handing down judgments and whether they had the right to strike down laws that violated provisions of the Convention directly. It was difficult to understand why discrimination against women was not defined in Malawi, despite the existence of a Gender Equality Statute. She also requested clarification of the fact that no law passed prior to the adoption of the Constitution in Malawi could be tested on the touchstone of international treaties.

9. **Ms. Šimonović** asked whether Malawi was a monist or dualist State and, if the latter, how the Government planned to translate the Convention into domestic law. Specifically, she would like to know if the Ministry of Gender, Children and Community Development, the Ministry of Justice, and the Legal Affairs Parliamentary Committee would be called on to facilitate the process of domestication. Additional information on the content of the Gender Equality Statute as well as on the type of support received from United Nations agencies for implementation of the Convention would be welcome.

10. **Ms. Popescu** said she would like to know whether the domestication in Malawi of an international treaty necessitated the adoption of a sole act by Parliament, or if several acts were needed to reform existing legislation and bring it into line with the international treaty. She would be interested to hear other instances of domestication of international treaties and the procedures involved. She commended the Government's consultation of non-governmental organizations (NGOs) in drafting its report and requested further details on the Government's cooperation with NGOs in promoting implementation of the Convention and in following up on the concluding observations of the Committee in 2006.

11. According to information received by the Committee, high levels of poverty and illiteracy affected large numbers of women in Malawi. She wondered what measures the Government was taking

to ensure women's access to justice despite these social barriers. With regard to the Office of the Ombudsman, it would be interesting to learn whether any complaints involving violations of women's rights had been registered thus far and whether the Office had a gender department to deal with such complaints.

12. **Ms. Neubauer** said she would appreciate more information on the main weaknesses identified during the review of the National Gender Policy for the period 2005 to 2010. It was unclear whether the new National Gender Policy had already been approved by the Cabinet; if it had not, she wondered what role might be played by the Ministry of Gender, Children and Community Development in urging its approval. The mainstreaming of gender policies in the various Ministries, such as the Ministry of Economic Planning and Development, also needed clarification. She wondered if the reported decline in funding available to the Ministry of Gender, Children and Community Development was more significant than that experienced by other Ministries; if so, she called on the Minister to make gender issues a priority of the Government. Given that Malawi had ratified the Convention in 1987, she failed to understand that gender equality was a new concept in Malawi, as stated in the periodic report; instead, it seemed that there was insufficient awareness of gender focal points in the Government Ministries. She would like to know what capacity-building initiatives had been taken in Ministries other than the Ministry of Gender, Children and Community Development.

13. **Ms. Ameline** wished to know the underlying reasons for the Parliament's extraordinary delays in adopting draft legislation. Besides the complexity of procedures, were politicians aware of the absolute necessity of reforming laws? She wondered to what extent NGOs were involved in helping to promote bills. As for the Malawi Growth and Development Strategy, it was necessary to be more specific about its links to gender equality in light of Millennium Development Goal 3. She wondered whether budgetary provision had been made for gender equality measures, such as providing legal aid to women to ensure their access to information about their rights.

14. **Ms. Hayashi** commended the "50:50 campaign" that had led to an increase in women's participation in politics. She wondered whether political parties were also bound by the quota system to be introduced under the Gender Equality Statute and if so, what actions

were envisaged if they failed to meet the quotas. While applauding the Malawi Government for encouraging the private sector also to comply with the proposed quota of 40 per cent women, she drew attention to the Committee's general recommendation No. 25, which stated specifically that temporary special measures were aimed at accelerating achievement of de facto equality in both the private and public sectors.

15. **Ms. Jaising** requested clarification on the quotas introduced in the field of education, specifically whether they applied to both women and girl children and whether they, and the stated quotas in employment, already existed or had merely been proposed. She failed to understand the statement that the absence of specific legislation limited the constitutional guarantee of equality, since constitutional guarantees of equality were normally self-standing and could be invoked against any State action. The Committee would also welcome data on the percentage of people employed in the private and public sectors.

16. **The Chairperson**, speaking in her capacity as an expert, enquired as to the progress made towards acceptance of the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee.

17. **Mr. Nyirongo** (Malawi) said that as a dualist State, Malawi did not consider any international treaty as law until Parliament passed an act making it binding on the Republic. The process of domesticating international treaties involved a number of acts in addition to the first, which merely transposed the treaty into domestic law. Section 211 of the Constitution of Malawi did not imply that treaties adopted before 1994 became binding whether or not they had undergone the domestication process; an act of Parliament was still needed. The first significant step in domesticating the Convention had been the formulation of the bill of rights contained in section four of the Constitution, which took as its basis the language of the Convention. Nevertheless, specific legislation was needed to explain the broad principles set out in the Constitution. The proposed Gender Equality Statute, for instance, outlined a number of priority areas based on specific provisions of the Convention. Under section 202 of the Constitution, the Statute could be enforced and penal sanctions applied if the rights of a woman were violated. The Convention had been mainstreamed through the entire legal system: in fact, laws currently being developed automatically underwent a human

rights audit in which gender was a primary consideration.

18. The Madonna case had demonstrated that the courts did not necessarily wait for the ratification of international treaties in order to apply them. Despite the fact that the Convention on the Rights of the Child had not yet completed the domestication process, the Supreme Court of Appeal had based its decision on the principle of the best interests of the child. He conceded that there was indeed a major backlog in the draft legislation to be considered and adopted by Parliament; nevertheless, Parliament had made it a priority to expedite the process, and he hoped that some of the Law Commission's gender-based legislation would be adopted by the end of the Parliament year.

19. All the quota systems under the Gender Equality Statute were still in proposal form. Political parties would also be bound by the electoral quotas. The Law Commission had suggested that the quotas should be allowed to hover between 40 and 60 per cent so that the number of women represented in politics and public life could be ensured without the need for a sunset clause.

20. The Office of the Ombudsman was intended to serve when no other remedy was available in the courts. Although the Office did not deal specifically with gender, racial or ethnic issues, it was possible that such issues might be examined as part of a complaint that could not be settled in the courts.

21. **Ms. Kachale** (Malawi) said that the courts had the power to strike down any act of Parliament that was inconsistent with the Constitution. Most of the laws in Malawi had been passed before the Constitution was adopted in 1994; they were now being reviewed as part of the law reform process to bring them into line with the Constitution, including with the bill of rights. Although it was not possible to specify the time needed from the drafting to the enactment of a law, the policy was to do so as quickly as possible within the limited resources available. A memorandum outlining the procedures to be followed as part of the legislative process had been circulated by the office of the Attorney-General, but no time frame was specified. Awareness must be raised among parliamentarians regarding the need to reform laws on an ongoing basis: the Ministry of Justice had a working relationship with the Parliament and alerted it to the

laws to be tabled and the areas to be studied, but there was room for improvement.

22. **Ms. Chikankheni** (Malawi) said that new parliamentarians were receiving training from the Ministry of Justice and the Law Commission with funding from UNICEF and UNFPA.

23. **Mr. Chidengu-Gama** (Malawi) said that international development partners and civil society had contributed significantly to promoting implementation of the Convention by supporting, inter alia, the National Gender Policy in Malawi; measures to ensure better access to justice for women despite high levels of illiteracy and poverty; advocacy initiatives; capacity-building of enforcement officers, the police, the judiciary and parliamentarians in application of the Convention; and better social protection policies. In terms of gender mainstreaming, Malawi's partners had also supported the establishment of gender focal points in various Ministries to promote gender policies and to encourage the collection of gender-disaggregated data; provided institutional support for the "50:50 campaign"; and backed collaborative projects involving the Government and civil society. Civil society had in fact made a significant contribution to implementation of the Convention by translating it into one of the local languages; originally distributed in three districts of Malawi, the translation was being made available to 12 districts.

24. The Malawi Growth and Development Strategy considered gender equality as crucial to the achievement of its objectives. With the support of the United Nations, a gender assessment had been conducted, the findings of which were being used to promote gender mainstreaming in all the Government's policies and programmes. There was also a focus on the capacity-building of gender focal points, including through training and quarterly meetings. The focal points initiative had unfortunately not been as successful as hoped. It had been proposed that gender offices should be established in all the Ministries to ensure that the voice of gender was heard; an assessment was being carried out before the posts were established.

25. The Ministry of Education had already been audited for gender equality; other Ministries were currently undergoing similar audits. With regard to quotas in the field of education, girls continued to have

free access to school in theory; however, since in practice, completion rates for girls were still very low, a quota of 50 per cent had been introduced for all levels of schooling, including at university. Recognizing that one of the major challenges was space, the Government was building additional hostels for girls to facilitate access to schooling.

26. **Ms. Chikankheni** (Malawi) said that her Government would soon be considering adoption of the Optional Protocol to the Convention.

27. **Ms. Pimentel** commended the Law Commission for its proposal to outlaw polygamy, which led to economic disparities and social restrictions that the Committee considered barriers to women's equality with men. Nevertheless, she wondered whether education, rather than merely outlawing polygamy, might prove to be a more effective tool in bringing about that change. Additional information on the status of the Law Commission's proposal and on the involvement of civil society in discussions of the proposal would be welcome.

28. Recent studies had shown the adverse effects of corporal punishment in educational institutions on the emotional and cognitive development of children, especially girls. She would like an explanation of the position on corporal punishment, which continued to be lawful in the home and at school, and whether there was consideration of amending the law. Additional information on the sexual abuse to which girls were frequently exposed at home and at school should also be provided.

29. **Ms. Hayashi** said that according to an alternative source of information, one of the crimes women were frequently accused of was witchcraft. The women convicted on such grounds tended to be between the ages of 50 and 70 and usually owned more property than their neighbours. The findings were alarming, given that the Malawi Witchcraft Act prohibited such accusations. She would like to know whether the prisoners had been provided with legal aid and effectively defended by counsel in court. The failure of the Government to investigate and prosecute those who violated the Witchcraft Act could constitute a violation of women's human rights. She asked whether the Government would commence investigations into the alleged incidents referred to the Committee.

30. **The Chairperson**, speaking in her capacity as an expert, said that it was crucial for the Government to

combat negative stereotypes of women through educational initiatives and collaborative efforts with civil society and the mass media. Further details on the Government's plans in that regard would be useful. On the issue of domestic violence, those institutions responsible for the administration of justice needed to be well-informed in order to provide adequate assistance to women when they submitted complaints to the authorities.

31. **Ms. Chutikul** asked whether gender impact studies, especially any studies related to new investment or rural development projects, had been conducted by the Ministry of the Economic Planning and Development. Turning to the issue of human trafficking, she asked whether the study to assess the extent of human trafficking in Malawi mentioned in the report was the same study as that described in the delegation's introduction, on commercial sex workers. It would be useful to learn who was conducting the studies and when the results were expected to become available. Additional information on the content of the proposed legislation on trafficking in persons and its compliance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) would also be welcome.

32. It was unclear whether prostitution was legal or illegal. According to information she had received, although prostitution was not described as an offence in the Penal Code, and was therefore legal, sex workers had nevertheless been arrested and imprisoned. Meanwhile, the Penal Code did list as illegal the exploitation of sex workers and the acceptance of sexual services from prostitutes, but people engaged in those activities were not arrested. She wondered what steps the Government was taking to address such inconsistencies and also whether they were covered in the two previously mentioned studies on trafficking in persons and commercial sex workers.

33. Additional information on the measures taken by the Government to prevent and suppress sex tourism and the exploitative sex industry should be provided. Specifically, she would like to know whether the Government was participating in the NGO-led "Red Light Campaign" on the occasion of the World Cup, which would be held in South Africa in June 2010. She enquired as to what kind of formal or informal cooperation existed with regard to the trafficking of

girls and women to foreign countries, including rescue and repatriation services, as well as legal, financial and psycho-social assistance. On a related issue, it was unclear why shelters established for victims of trafficking were under the supervision of the police and of the Department of Immigration; it would be useful to learn what types of assistance and protection were provided to the victims at the shelters.

34. **Ms. Neubauer** said that while women engaged in prostitution clearly made up a vulnerable group, Malawi had provided information only on measures taken by the Government to suppress sexual exploitation of children. Further details on the measures developed to address the demand side of prostitution, especially as related to the HIV and AIDS epidemics, should also be provided. She would be grateful for clarification on whether the draft legislation on HIV and AIDS introduced mandatory testing for commercial sex workers, as alleged by alternative sources of information. Such testing would constitute discrimination against women, as it targeted only women, not their clients, who could continue to spread disease.

35. **Ms. Chikankheni** (Malawi) said that the Government worked closely with NGOs and the donor community to deal with issues like human trafficking; it had also established a forum on human trafficking, chaired by the office responsible for internal security, home affairs and the police. In addition to the police and immigration authorities, which played a role in apprehending perpetrators in human trafficking, the Ministry for Social Welfare and the Ministry of Gender, Children and Community Development had set up facilities for victims of trafficking and exploitation, who could be housed temporarily while receiving psycho-social treatment and assistance in finding alternative sources of income.

36. The HIV and AIDS bill did not discriminate against women; commercial sex workers constituted just one of four categories of persons for which the bill recommended compulsory testing. The Committee's alternative sources, rather than conveying incorrect information, should strive to work for the benefit of the people in Malawi, rather than against them, in the fight against the terrible HIV and AIDS epidemic.

37. **Mr. Nyirongo** (Malawi) said that the review process of the HIV and AIDS bill had been one of the most consultative efforts undertaken by the Law

Commission. The four categories of persons recommended for compulsory testing were commercial sex workers; pregnant women and their partners; sex offenders; and people planning on entering into polygamous unions. Clearly, the category of sex workers had been picked arbitrarily by the Committee's alternative sources of information; otherwise, it would have been obvious that the compulsory testing targeted men as well, particularly in the category of sex offenders. The categories had been chosen not to deny any particular group their rights, but as a public health initiative aimed at controlling the HIV and AIDS epidemic.

38. The Government of Malawi might be seen as providing conflicting information with regard to polygamy. While the Law Commission, in reviewing divorce and marriage laws, had recommended the outlawing of polygamy, it was impossible to deny that it was a deep-rooted cultural tradition. It was hoped that Parliament would soon enact the laws outlawing polygamy in order to evaluate the impact on society and progressively make similar changes in other laws. As for corporal punishment, there was no law in Malawi that prescribed corporal punishment in the home or at school; nevertheless, it remained common practice in Malawian society.

39. The Gender Equality Statute comprised an entire section on sexual harassment, thereby complementing the Penal Code, which dealt more generally with sexually related offences. Turning to the issue of witchcraft, he said that the Witchcraft Act did not recognize the existence of witchcraft. Under the Act, accusing a person of witchcraft was an offence, as was claiming to practice witchcraft, since it was not recognized by the law. While people were sometimes tried for witchcraft without legal grounds, the elderly women referred to by the alternative sources had undoubtedly been imprisoned for other reasons. He hoped that the review and consultations process regarding the Witchcraft Act would be completed in June of 2010.

40. The Trafficking in Persons bill would shortly be submitted to the Ministry of Justice. There were already a number of programmes aimed at raising awareness about human trafficking in Malawi; a network of NGOs dealt specifically with child rights in relation to human trafficking. Pending adoption of the Trafficking in Persons bill, the Government was spearheading a mechanism to deal with human

trafficking, which it hoped would receive funding from institutional partners. The Palermo Protocol had been domesticated and the definition of trafficking in persons, as well as cooperation between States, had been integrated into Malawian law; in fact, the Government had gone a step further by including a list of aggravating circumstances in human trafficking offences.

41. Prostitution was not prohibited in Malawi. The alleged arrests for prostitution cited by the Committee's alternative sources of information were in fact arrests for offences such as loitering or disorderly conduct. In the draft law on Trafficking in Persons, both the supply and the demand sides of prostitution would be dealt with, with both clients and persons engaged in prostitution subject to penalties.

42. **Ms. Kachale** said that enforcement of the Witchcraft Act was a major challenge. To deal with reports of women being found guilty of witchcraft, the Government had begun giving training to the lay prosecutors in the districts of Malawi that had no regional office of the Ministry of Justice. Contributing to the difficulty was the popular perception of the Act as a foreign law that was being imposed on local communities. The Law Commission would review the Act and popular misconceptions with regard to witchcraft to prevent mixed messages to the people.

43. Sexual abuse was also an enormous challenge in Malawi. While the necessary laws to prosecute violations of women's rights existed, in many homes, girls were told to keep silent about violations in cases where the perpetrator was a breadwinner and the whole family might be penalized if he was prosecuted. Although improvements of the law were not out of the question, the problem remained that popular beliefs and practices acted against the Government's efforts to protect women.

44. **Mr. Chidengu-Gama** (Malawi) said that in addition to victim support units in all police stations, community support units had been established in order to help women find solutions at the community level; all such units provided psycho-social support. Temporary shelter, psycho-social support and financial assistance were also available from other types of institutional shelters. The Voluntary Services Organization had conducted the study on commercial sex workers with support from the Joint United Nations Programme on HIV/AIDS (UNAIDS). The findings of

the study would inform programmes to address the needs of sex workers in Malawi. Civil society also contributed counselling and access to female condoms.

45. **Mr. Flinterman** asked the delegation to clarify whether the reliance on international treaties in the so-called “Madonna case” implied that the judiciary in Malawi could apply provisions of the Convention in appropriate cases if invoked by private parties, despite the fact that the Convention had not been fully domesticated.

46. **Ms. Awori** requested further information on the Legal Aid Department, including the adequacy of its resources and any statistics on the number of women it had assisted. She urged the Ministry of Gender to work closely with civil society to lobby aggressively in favour of bills such as the Gender Equality Statute, which otherwise would be delayed even further.

47. **Ms. Neubauer**, noting that prostitution in Malawi was neither criminalized nor regulated, said that the legislation nevertheless recognized prostitution as work, since sex workers were defined as one of the four categories of people recommended for compulsory testing for HIV and AIDS. She appealed to the Government to develop better policies to examine so-called voluntary prostitution, which was anything but voluntary, since it was poverty that drove women into prostitution, and to address the demand side of prostitution as well.

*Ms. Pimentel, Vice-Chairperson, took the Chair.*

48. **Ms. Chutikul** asked whether there was a law covering children under the age of 18 who engaged in prostitution. Noting that the law criminalized the operation of brothels, she requested more information on the laws governing the exploitation of sex workers. She remained concerned about the fact that women’s shelters were under police supervision and asked the delegation to clarify the type of supervision exercised and whether female police officers were also involved.

49. **Mr. Bruun**, noting that judgements relating to witchcraft were often handed down by local courts which had only lay prosecutors, said that he wished to know whether such decisions could be appealed. According to information received by the Committee, elderly women were often sentenced to six to ten years’ imprisonment; he wondered what steps the Government was taking to reduce such exaggerated sentences.

50. **Ms. Coker-Appiah** said that she failed to understand how, in the absence of a law against witchcraft, anyone could even be brought to court on charges of witchcraft. Lay magistrates, even if they were not professional lawyers, still must operate under the law.

51. **Ms. Šimonović**, noting that Malawi did not have a law prescribing corporal punishment, asked whether it had passed a law specifically prohibiting it. With regard to witchcraft, if there continued to be convictions on such grounds despite the absence of a law recognizing witchcraft as an offence, the Government must consider legislation to prohibit the practice.

52. **Ms. Chikankheni** (Malawi) said that the Government continued to train lay magistrates in the law, warning them against influence by local opinion. Recognizing the Parliament’s delays in enacting bills, she said that the current Government was nevertheless eager to expedite the legislative process and that the Ministry of Gender was working closely with civil society to lobby effectively in favour of laws to ensure women’s rights. Turning to the victim support units, she said that police officers were not only trusted by local communities, they were also seen as an integral part of the reform process. It was important to note that police officers assigned to victim support units, both women and men, underwent specific training on issues such as gender-based violence. Several members of the community were also called on to work with the support unit and to assist with non-criminal complaints. The units themselves strove to ensure a welcoming environment for the women who came to report violations.

53. **Mr. Nyirongo** (Malawi) said that the decision of the Supreme Court in the so-called Madonna case was more significant for its implications for residence requirements for adoption than for its findings on the applicability of international laws in Malawi. In fact, the Court had based its final decision not so much on international treaties as on national legislation to argue the principle of the best interests of the child. Malawi courts would treat the Convention in much the same way as any other treaty ratified by Malawi, as they were obliged by the Constitution to take them into account when making decisions; therefore, the Madonna case itself did not change the status of the Convention.

54. The activities of pimps and others involved in the exploitation of prostitution were indeed criminalized. As for children under 18 who engaged in prostitution, Malawi considered the age of sexual debut with respect to the Penal Code to be 13; however there was a parliamentary initiative to raise it to 16. It was hoped that the Legal Affairs Committee had already examined the initiative and that it could be considered by Parliament in its January 2010 sitting. The age of marriage had also been discussed in Parliament; unfortunately, the President had not signed a bill proposing to raise the age of marriage from 15 to 16; consultations were therefore being continued. The proposed law on marriage and divorce proposed to change the required age for any type of marriage to 18 under a unified scheme.

55. Section 19 of the Constitution of Malawi provided that “no person shall be subject to corporal punishment in connexion with any judicial proceedings or in any other proceedings before any organ of the State”. By virtue of that provision, any law that allowed corporal punishment was invalid and any act of corporal punishment could be prosecuted under criminal law.

56. **Ms. Kachale** (Malawi) said it was regrettable that despite the fact that the law did not recognize witchcraft, people had been convicted on such grounds. Based on the recent finding that lay prosecutors were ignorant of many aspects of the law, including with respect to witchcraft, the Director of Public Prosecutions had mandated training for prosecutors in all the districts of Malawi. It was nevertheless unfortunate that despite much collaborative effort between the Government and civil society, some members of the NGO community chose not to convey information to the Government but instead relayed it only to the international community. The Government would commit to consulting with the prisons upon the delegation’s return to Malawi in order to expedite the appeal process of any women wrongfully imprisoned. She hoped that the Committee’s alternative sources would, in future, report their information to the Government as well as to the Committee. The Government had taken steps to bolster the capacity of the Legal Aid Department, but there was still room for improvement.

57. **Ms. Chikankheni** (Malawi) said that the Government had relied on the capacity of the Legal

Aid Department to assist women struggling to make their voice heard in the 50:50 campaign.

#### *Articles 7 to 9*

58. **Ms. Murillo de la Vega** said that the participation of women in politics was not dependent so much on their economic situation as on the Government’s political will. While the report referred to the need for resources in order to change cultural values and stereotypes, the fact that power was exercised by men over women and girls was not a question of culture. She would like more information on the findings of the National Programme launched by the Ministry of Gender in July 2008 and wondered whether that Ministry was working with the Ministry of Education to prevent girls from dropping out of school and facing handicaps later in life with regard to their political participation.

59. **Ms. Rasekh** acknowledged the Government’s accomplishments in the inclusion of women in political life and decision-making positions, especially the appointment of the country’s first female Vice-President. However, the number of women working in the public sector remained low: she would like to know the reasons for such paltry numbers, especially given the highly educated women in Malawi. It would also be useful to learn how many women worked in diplomatic and other international posts.

60. **Mr. Flinterman** said that despite relevant constitutional provisions and the Government’s obligations under the Convention, the Citizenship Act had not been changed since the Committee’s concluding observations in 2006. It continued to discriminate against women by providing that upon marrying a foreign man, the Malawian woman lost her right to Malawian citizenship, and that she could not pass her nationality on to her children. He wished to know the reasons for the delay, including any political and cultural obstacles to adoption of changes to the proposed Act, especially in light of the claim that any act existing prior to the adoption of the Constitution in 1994 could be challenged. Given that one of the Citizenship Act’s potential consequences was the statelessness of women, and in light of the fact that Malawi was not a party to international treaties on statelessness, he would like to know what measures the Government was taking to address the issue of stateless persons, especially with regard to women.

61. Noting that Malawi was working with the International Organization for Migration to finalize the Capacity-building for Migration Management Programme, he requested additional information on the Programme's content, particularly with regard to discriminatory aspects of immigration policy and legislation, and the expected time frame for its completion.

62. **Ms. Chikankheni** (Malawi) said that studies had shown that women needed more education and professional training in order to enter the public sector. In addition, persons applying for public sector positions above a certain grade were required to hold a degree in their profession. Clearly there was a need to train more women to enable them to qualify for higher posts. In terms of statistics, women filled just 20 per cent of key decision-making posts. The Government was working to improve the skills of its public servants in general; specifically, a policy had been established to grant publicly funded scholarships to equal numbers of women and men.

63. **Mr. Nyirongo** (Malawi) said that proposed changes to the Citizenship Act, together with the Immigration Act, would be reviewed shortly.

64. **Mr. Chidengu-Gama** said that the Government was indeed working with the Ministry of Education to ensure that girl children stayed in school. A number of initiatives had been launched to address the issues of forced marriages and dropping out of school, including the introduction of quota systems, life skills education and girl-friendly facilities.

*The meeting rose at 1 p.m.*