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19 August 2005

Excellency,

The Committee on the Elimination of Racial Discrimination reviewed, at its 67<sup>th</sup> session on 9 August 2005, the implementation of the Convention in Malawi in the absence of a report. As you know, the Committee had already examined the situation in Malawi without a report at its 63<sup>rd</sup> session held in August 2003 (see the Committee's previous concluding observations on Malawi, A/58/18, paras. 551-568).

The Committee deeply regrets the fact that Malawi is seriously overdue in the submission of its initial to fifth periodic reports to the Committee, due respectively from 1997 to 2005. In order to assist in the initiation of a dialogue on the measures adopted by Malawi to implement the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee decided to send to your Government a list of questions which I attach to this letter.

H.E. Mr. Isaac Chikwekwere Lamba  
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Permanent Representative  
Permanent Mission of the Republic of Malawi  
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I would be very grateful if written responses to this list of questions could be provided to the Committee at the latest by 31 January 2006. In the absence of any response from Malawi by that date, the Committee will proceed with the adoption of concluding observations on Malawi under its review procedure.

Yours sincerely,

Mario Yutzis  
Chairman, Committee on the  
Elimination of Racial Discrimination

**MALAWI**

**List of issues in connection with  
the initial to fifth overdue periodic reports,  
due from 1997 to 2005**

**Ethnic composition of the population**

1. Please provide detailed information on the ethnic composition of the population and the geographical location of the various ethnic groups within the country. Please also provide information about migrants and refugees residing in Malawi.

**General information**

2. In its 2003 concluding observations, adopted under its review procedure in the absence of a report from the State party, the Committee recalled that reporting is an obligation under article 9 of the Convention and that non-compliance in this regard creates serious obstacles to the effective functioning of the monitoring system set up by the Convention. Please report on the reasons why the State party has not yet reported to the Committee.
3. Has the State party considered requesting the assistance of the Office of the High Commissioner for Human Rights and of the United Nations Development Programme with the aim of drawing up and submitting as soon as possible a report, as strongly recommended by the Committee in its 2003 concluding observations?
4. Please inform the Committee on the involvement of civil society organizations in the implementation of the Convention. Is their participation envisaged in the elaboration of the periodic report due to the Committee?

**Articles 2, 3, 4 and 5**

5. What is the status of the Convention in domestic law? Can it be invoked directly before national courts? If so, please provide examples.
6. Has the State party adopted measures so as to enhance the effectiveness of the Malawi Human Rights Commission, in particular through adequate funding and raising-awareness campaigns about its mandate? (Previous conclusions, review procedure, § 12)

7. How has the State party reacted to the Malawi Human Rights Commission's 2003 report on "Public inquiry into the prevalence of human rights violations of discrimination, violence and related intolerance in Malawi"? Has it adopted steps to implement the recommendations contained in this report?
8. Please indicate in detail whether the State party has adopted further legislation in order to meet the requirements of articles 2, 3, 4 and 5 of the Convention, as recommended by the Committee in its 2003 concluding observations.
9. Has the State party reviewed the Births and Deaths Registration Act in order to make birth registration compulsory for all children without any discrimination? (Previous conclusions, review procedure, § 8)
10. Does the State party intend to amend the Refugee Act so that it address all aspects of refugee protection, and does it envisage withdrawing its reservations to the 1951 Convention relating to the Status of Refugees? Please indicate what steps the State party has taken to ensure that child refugees are, in practice, given access to education. (Previous conclusions, review procedure, § 9.) The Committee wishes to draw the attention of the State party to its General recommendation 30 (2004) on non-citizens in this regard.
11. According to some information, there have been cases of refoulement and deportation of persons seeking asylum in Malawi, in particular Somalis and Ethiopians, without proper examination of their claims. Please comment. In addition, please report on the number of pending asylum applications and on efforts made by the State party to reduce this backlog.
12. Please indicate the extent to which women suffer from discrimination based at the same time on gender on the one hand, and race, colour, descent, and national and ethnic origin on the other hand, in particular in matters of citizenship, marriage, and inheritance. (Previous conclusions, review procedure, § 10) The Committee wishes to draw the attention of the State party to its General recommendation 25 (2000) on gender-related dimensions of racial discrimination in this regard.
13. What is the status of the various ethnic groups' languages under domestic law? In particular, please provide information on the possibility for individuals to use their own national language in their dealings with the administration and courts. Are national languages taught in schools, and to what extent are TV and radio programmes broadcast in national languages?

### **Article 6**

14. Have cases of racial discrimination been brought before national courts, the Ombudsman and the Malawi Human Rights Commission? Please provide statistical data if possible, as well as examples. What was the outcome of such complaints?
15. Please report on any traditional institutions or justice fora which deal with cases of racial discrimination or ethnic tensions, and on the way they function. Please provide examples, if any.

### **Article 7**

16. To what extent does the current school curriculum include programmes to combat prejudice and to promote tolerance among ethnic groups? (Previous conclusions, review procedure, § 11)
17. Please provide information on specific training programmes and courses, if any, for members of the judiciary, law enforcement officials, teachers, social workers and other public officials on the provisions of the Convention and their application.
18. Please provide information on the dissemination of the Convention in the State party.

### **Article 14**

19. Please indicate whether the State party envisages making the declaration under Article 14 of the Convention for the Committee to receive individual complaints.

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