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**ADVANCE UNEDITED VERSION**

Distr.: General  
13 December 2024

Original: English  
English, French and Spanish only

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**Committee on the Elimination of Racial Discrimination****List of issues prior to submission of the initial report of Malawi\***

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

**General information**

2. Please outline any significant developments of a legislative, institutional or policy nature that have taken place in the State party, that have contributed to the promotion and protection of human rights, in particular those rights covered by the Convention.
3. Please provide disaggregated statistics on the ethnic composition of the State party's population, including on ethnic minorities and on non-citizens such as asylum seekers, refugees, stateless persons, and migrants, taking into account the Committee's general recommendations No. 8 (1990) and No. 24 (1999) and paragraphs 10 and 12 of its reporting guidelines.<sup>1</sup>
4. Please indicate the status of the Convention in the domestic legal order and indicate, providing examples, whether it has been or can be directly invoked in domestic courts.
5. Please detail actions taken or planned by the State party to make the optional declaration provided for in article 14 of the Convention.

**Article 1**

6. Despite the fact that the State party has in its Constitution (article 20 (1)) a definition of racial discrimination that encompasses discrimination on the grounds of race, colour, descent, and national or ethnic origin, please indicate if that includes direct and indirect discrimination. Please provide information on whether further legislation will be adopted that expressly prohibits racial discrimination, taking into account the Committee's general recommendations No. 1, 7 and 15, on the preventive value of such legislation.
7. Please also provide information on whether the legal system of the State party provides for differential treatment based on citizenship and migration status, and on the compliance of any such differentiation with article 1 (2) and (3) of the Convention.
8. Please provide information on whether the State party's legal system allows for the adoption of special measures to ensure the adequate advancement of individuals and groups protected the Convention, including migrants, refugees, and asylum seekers.

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

<sup>1</sup> CERD/C/2007/1.

## Article 2

9. Please outline legal framework, policies, strategies, and other measures in place to eliminate racial discrimination and to give effect to the provisions of article 2 (1) and (2) of the Convention. Please also provide information on steps taken to enact comprehensive anti-discrimination legislation including prohibition and penalizing acts prohibited under the Convention.

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

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

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

13. Please provide information on the State party's reservations to the 1951 Refugee Convention, by which certain provisions are not deemed legally binding, including refugee's rights to freedom of movement, employment, property, and public education. Please update on progress in acceding to the Convention on the Reduction of Statelessness, which the State party agreed to during its 3rd cycle UPR review. Please inform whether there are proposals to review the Births and Deaths Registration Act to make birth registration mandatory for all children without any discrimination, as presently it is compulsory only for children of non-African origin.

14. With respect to Sections 137A, 153, 154 and 156 of the Penal Code that criminalize homosexuality and consensual same-sex activities amongst adults, please provide information on their implementation, including statistics and number of cases under these provisions to help assess the situation of groups vulnerable on grounds prohibited by the Convention.

15. Please advise on the effectiveness of the implementation of the Trafficking in Persons Act of 2017 (2015), and if there are plans to harmonize the punishment for the offence of child trafficking under the Trafficking in Persons Act and Childcare Protection and Justice Act. Please inform on implementation of the National Plan of Action Against Trafficking in Persons 2023-2028, and on work of the National Coordination Committee Against Trafficking in Persons.

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

17. Please provide information on whether actions have been taken to review the mandate of the National Human Rights Commission to include a specific mandate to combat racism, and racial discrimination. Please indicate efforts taken ensure the Commission enjoys full independence, in accordance with the Paris Principles, and has sufficient human and financial resources for its operation. Please advise of measures to inform the public of its work, both in English and in Chichewa.

## Article 4

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

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

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

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

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

## Article 5

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

23. On migrants, please provide information on:

- (a) Statistics, disaggregated by age, sex and nationality, on the number of migrants detained for violations of immigration laws;
- (b) Measures in place to effectively address irregular migration including against exploitation resulting in the deaths of migrant workers, some whose bodies have reportedly been found buried in forests. Please provide information on investigations into these migrant deaths, including of 26 Ethiopians found in a mass grave in 2022;
- (c) Actions taken to ensure that administrative detention of migrant workers is used only as a last resort, and that migrant workers detained for violations of immigration law are not detained for an indefinite time nor with persons accused or convicted of a crime. Please provide specific information on the State party's implementation of the July 2024 High Court judgement stipulating 30 days to deport illegal migrants. Please advise on whether alternatives such as temporary permits, release on bonds or recognisance and self-repatriation, can be considered by the State party.

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

- (a) Measures to address the underfunding of the Social Rehabilitation Centre in Lilongwe for trafficked victims, and more broadly on implementation of section 45(1) of the Trafficking in Persons Act to establish shelters or long-term accommodation; and inform on

support provided for victims of trafficking on rehabilitation, access to care and reintegration or repatriation;

(b) Education and awareness-raising campaigns on the risks and the criminal nature of trafficking, aimed at migrant workers, among others, and trafficking-specific training provided to law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, health-care providers, and social services personnel;

(c) Remedies provided and protection measures offered to victims of trafficking, including legal, medical, and psychosocial assistance, and protection from retaliation;

(d) Statistics or number of cases of trafficking that have been addressed by national or local authorities, including investigations, prosecutions, convictions, and sentences pronounced against those responsible, including officials complicit in trafficking crimes, and the remedies and protection offered to the victims.

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

(a) Steps taken to ensure respect for the right to seek asylum by enabling effective and unhindered access to the State party's territory and full compliance with the principle of non-refoulement. Please confirm that no refugee status has been granted since 2011 and clarify reports of denial of entry to persons in need of international protection;

(b) Measures established to promote peaceful co-existence relations between refugees and asylum-seekers and the host communities, including in addressing eruptions of violence. Please also provide information on actions taken to resolve existing tensions and to prevent future occurrence;

(c) Efforts to address the excessive use of force by law enforcement and the military against refugees and asylum-seekers. Please provide specific information on the forcible relocation on 27 March 2023 of refugees who were living amongst host communities, to Dzaleka camp, in Dowa District, on the grounds that they were taking jobs from nationals and ostensibly for security. Please provide further clarity on reports that the operation was marred by violations, including the rape of women, loss of property, unlawful detention of children and women, forced and unlawful deportations, extortions, xenophobic narratives by authorities, corruption, and robberies targeting refugees and asylum seekers. Please clarify on the reported 505 individuals, including 202 males, 89 females and 117 children, who were detained during said operation, and kept under reportedly appalling conditions at Maula Prison, wherein children were detained with adults. If verified, please indicate how victims were compensated for their goods and properties confiscated during the operation, and how the refugees' livelihoods were restored;

(d) Whether there are plans to rescind the forced encampment policy for refugees and asylum-seekers. Please provide information on their access to economic, social, and cultural rights, including to education and health, and provide specific information on the situation of asylum seekers and refugees living in the Dzaleka camp. Please inform on the protection of refugees in the camp from violence and trafficking, especially measures to address incidents such as of 11 March 2024, where violence erupted at the camp between Ethiopian and Congolese nationals and reportedly resulted in Ethiopian homes vandalised and several Congolese wounded;

(e) Efforts to address over-crowding in Dzaleka with now more than 56, 000 refugees against a capacity for 12,000. Please detail how the State party is addressing reported challenges in the camp on health services, water, shelter, and sanitation facilities. Please update on proposals to establish another refugee camp in Chitipa, north of the country, whilst informing on measures in place to address the concerns of the host community, in view of the protests that took place against its establishment;

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

26. On persons with albinism, please provide information on:

(a) Effective measures adopted to prevent killings, violence, mutilations, organ harvesting, kidnapping and other attacks against persons with albinism, particularly women and children;

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

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

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

28. Please provide information on measures established following the findings of the Malawi National Human Rights Commission of 2021 in the matter of Malmed Healthcare Services Limited Alleged Preferential Covid-19 Vaccination Treatment to Asian/Indian Community, that Malmed, and State health officials acted in contravention of Sections 20[1], 30[2], and 13(c) and standards provided for in the UDHR, ICERD, ICCPR, and ICESCR. Please inform especially on steps taken to prevent re-occurrence of discrimination on the grounds of race and ethnic origin in the context of health services including during health emergencies such as pandemics.

## Article 6

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

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

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

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

## Article 7

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

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

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

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

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