

Responses to Recommendations

MALAWI

Review in the Working Group: 1 November 2010
 Adoption in the Plenary: 16 March 2011

Malawi's responses to recommendations (as of 07.07.2011):

In the Report of the Working Group:	In the Addendum:	During the plenary:	Summary:
65 REC accepted (among which the first part of REC 102.3 is considered as already implemented); 39 rejected; 23 pending	No addendum	Out of the 23 pending, the delegation commented 20 REC without giving a clear position and rejected 3 (104.1, 104.7, 104.10). But in its concluding remarks, it stated accepting a total of 82 REC and rejecting a total of 45. However, it is not possible to know which are the 17 accepted and the 6 rejected out of the 23 pending. The written statement clearly indicates that 4 REC are accepted (104.2, 104.3, 104.4, 104.5), 3 are rejected (104.1, 104.7, 104.10), 2 have some parts accepted and some rejected (104.8 and 104.9). We therefore decided to follow the written statement ¹	Accepted: 71 Rejected: 44 No clear position: 14 Pending: 0

List of recommendations contained in Section II of the Report of the Working Group A/HRC/16/4:

102. The recommendations formulated during the interactive dialogue and listed below have been examined by Malawi and enjoy its support:

A - 102.1. Expedite the repeal and reform of discriminatory legislation, with a focus on the adoption of outstanding bills, particularly those affecting women and children (Canada);

A - 102.2. Adopt and implement expeditiously the Prisons Bill and Legal Aid Bill and other measures needed towards humanization of its penitentiary system (Slovakia);

¹ The total number of recommendations is now 129 as two were split into two.

A - 102.3. Enact the Legal Education and Legal Practitioners Amendment Bill and the Legal Aid Bill currently pending before Parliament (Austria);

A - 102.4. Make every effort to ensure that the Deceased Estates Bill and the Marriage, Divorce and Family Relations Bills, particularly in relation to the rights of women, enter into force as soon as possible (Ireland);

A - 102.5. Comprehensively amend or repeal, as a matter of urgency, the Witchcraft Act (Ireland);

A - 102.6. Continue to strengthen human rights institutions to ensure the continued promotion and protection of human rights, and raise public awareness around human rights issues nationwide (South Africa);

A - 102.7. Strengthen efforts to implement the socio-economic development strategy for the period until 2020 (Algeria);

A - 102.8. Continue efforts to implement the aims of the 2020 Development Plan (Libyan Arab Jamahiriya);

A - 102.9. Strengthen the use of modern means of awareness-raising and dissemination with regard to a culture of human rights, notably the rights of vulnerable groups, and the role of institutions for the protection and promotion of human rights (Morocco);

A - 102.10. Continue to attach particular priority to the strengthening of national capacities, both legislative and institutional, in the area of human rights, with the support of the international community (Morocco);

A - 102.11. Finalize and implement the draft National Action Plan for Children, and put in place effective national legislation and policies to protect the rights of children (Australia);

A - 102.12. Pay particular attention to the rights of the child, especially in combating trafficking and exploitation (Egypt);

A - 102.13. Consider continuing to work towards strengthening Government institutions (Zimbabwe);

A - 102.14. Consider consolidating the gains on human rights promotion and protection through the public awareness programme (Zimbabwe);

A - 102.15. Strengthen cooperation with regional and international human rights mechanisms, and avail itself of international technical assistance and support, as appropriate, by relevant bodies in order to mitigate the insufficiency of human and financial resources (Algeria);

A - 102.16. Strengthen its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Population Fund, the United Nations Children's Fund, the Joint United Nations Programme on HIV/AIDS and the Office of the United Nations High Commissioner for Human Rights (Azerbaijan);

A - 102.17. Follow-up on the recommendations of CEDAW, by renewing national efforts for gender equality, including through educational and sensitization campaigns (Mexico);

A - 102.18. Implement further policies to ensure gender equality throughout society and the promotion of the rights of women and children (South Africa);

A - 102.19. Take measures, including through legislation, to ensure equality of women, particularly in decision-making processes and access to basic services and infrastructure (Australia);

A - 102.20. Amend or derogate legislation that discriminates against women, and adopt measures to expedite the enactment of outstanding bills in this regard, such as the Gender Equality Bill, the Deceased Estates (Wills, Inheritance and Protections) Bill and the Marriage, Divorce and Family Relations Bill (Spain);

A - 102.21. Adopt and implement appropriate measures, in compliance with international standards, to eliminate reported torture, ill-treatment and other excessive force by law enforcement personnel against suspects, and ensure due accountability for such misconduct, as stipulated in the country's Constitution, and promptly establish the Police Complaint Commission, as provided in the Police Act (Slovakia);

A - 102.22. Take all necessary measures towards upholding the total prohibition against torture and, in this regard, conduct thorough and impartial investigations into all allegations of torture and physical abuse and bring to justice anyone suspected of having committed excessive use of force, torture and other human rights violations (Sweden);

A - 102.23. Develop and adopt measures to prevent, prosecute and punish acts of torture and ill-treatment of prisoners or criminal suspects (United Kingdom of Great Britain and Northern Ireland);

A - 102.24. Intensify its work on improving prison conditions and bring them fully into line with international standards (Sweden);

A - 102.25. Ensure that legislative measures are taken in order to improve the protection of the human rights of inmates and detainees, including passing the Malawi Prison Bill into law (Norway);

A - 102.26. Take measures to significantly improve prison conditions such as overcrowding, substandard sanitation and poor health facilities (Austria);

A - 102.27. Conduct a public awareness campaign, with engagement at the highest political levels, to strengthen the implementation of the 2006 Prevention of Domestic Violence Act, and highlight the unacceptability of violence against women and address the attitudes and stereotypes that perpetuate discriminatory practices that are harmful and violent towards women (Canada);

A - 102.28. Undertake more effective measures to address the problems of impunity and violence against women and girls, including through the strengthening of law enforcement and the judicial system and intensive media and education programmes aimed at increasing public awareness and sensitivities on the rights of women (Malaysia);

A - 102.29. Develop and adopt measures to tackle gender-based violence by increasing women's access to justice and widening coverage of community policy and victim support units in rural areas (United Kingdom of Great Britain and Northern Ireland);

A - 102.30. Strengthen efforts to address violence against women and protection for victims (Bangladesh);

A - 102.31. Address the legal gaps in national legislation on human trafficking and ensure that cases of trafficking are investigated effectively at the earliest possible date with a view to bringing to justice those responsible, and ensure that victims benefit from full reparation (Switzerland);

A - 102.32. Include the effective prosecution and punishment of traffickers in legislation (Slovenia);

A - 102.33. Adopt practical measures to counteract any form of child labour and human trafficking that stunts and deeply wounds the innate dignity of children (Holy See);

A - 102.34. Continue efforts to promote access to justice, with a view to ensuring legal protection in the enjoyment of human rights by all citizens on an equal basis (Morocco);

A - 102.35. Take measures to ensure for victims effective recourse against any act of torture, particularly those committed in detention centres (France);

A - 102.36. Take measures to guarantee effective access for women victims of gender-based violence to justice, reparation and to rehabilitation (Brazil);

A - 102.37. Actively implement existing legislation and strategies on violence against children and arrange an adequate juvenile justice system, with emphasis on raising the minimum age of criminal responsibility (Slovenia);

- A - 102.38. Ensure that no one is detained for long periods without trial (Ireland);
- A - 102.39. Ensure that freedom of religion and of religious practice continue to be guaranteed to all citizens, as the country's Constitution provides (Holy See);
- A - 102.40. Take the steps necessary to ensure that laws protecting freedoms of expression, press, assembly and association are implemented and adhered to (Norway);
- A - 102.41. Ensure the relevant constitutional provisions relating to freedom of the press are properly implemented and adhered to and that a free press, freedom of speech and assembly are allowed to thrive without undue interference (United Kingdom of Great Britain and Northern Ireland);
- A - 102.42. Ensure that rural women participate in the decision-making process and have equal access to health services at the primary care level (Luxembourg);
- A - 102.43. Strengthen efforts aimed at increasing the representation of women in decision-making processes (Ghana);
- A - 102.44. Strengthen efforts to combat poverty, discrimination and the promotion of the status of women and children (Morocco);
- A - 102.45. Continue implementing socio-economic development strategies and plans designed to reduce poverty (Cuba);
- A - 102.46. Take the measures necessary for the implementation of the MDGs, including the strategy paper for poverty eradication and the Malawi strategy for economic development (Libyan Arab Jamahiriya);
- A - 102.47. Continue to fight poverty with cooperation from the international community (Bangladesh);
- A - 102.48. Undertake more effective measures to ensure the accessibility of crucial public services such as education, health care and social benefits to the population living in rural areas, in particular rural women and children (Malaysia);
- A - 102.49. Continue implementing programmes and measures aimed at guaranteeing educational and quality health-care services to all the population (Cuba);
- A - 102.50. Continue its efforts in the health sector to implement the 2020 Government vision, in order to reach the goal of free health care for all Malawians (Sudan);
- A - 102.51. Adopt a school feeding programme and integrate it with local agricultural production (Brazil);
- A - 102.52. Focus on priorities set by the Government to strengthen human rights, especially agriculture and food security and the development of the green belt for irrigation and water, as well as education and technology (Libyan Arab Jamahiriya);
- A - 102.53. Improve conditions in hospitals in order to ensure the provision of appropriate health-care services (Libyan Arab Jamahiriya);
- A - 102.54. Pay attention to maternal and child health, and reduce child mortality (Libyan Arab Jamahiriya);
- A - 102.55. Redouble efforts to save mother and child by pursuing the education of young girls, increasing the preparation of birth assistants and accelerating the development of public health structures, especially in rural areas (Holy See);
- A - 102.56. Strengthen efforts aimed at eliminating HIV/AIDS, and cooperate with WHO in this regard (Libyan Arab Jamahiriya);
- A - 102.57. Continue to fight HIV/AIDS with the support of the international community (Bangladesh);

A - 102.58. Continue efforts to promote human rights, particularly in the areas of education and professional training (Morocco);

A - 102.59. Integrate human rights concepts into the curricula for university education (Libyan Arab Jamahiriya);

A - 102.60. Make education one of its top priorities, and reinforce “equitable access to higher education” based on academic and educational standards (Holy See);

A - 102.61. Consider promoting and strengthening vocational education and training opportunities to reduce the high number of school dropouts (Mauritius);

A - 102.62. Strengthen Malawi’s cooperation with the international community, in particular specialized agencies and programmes of the United Nations system, with a view to building capacity and obtaining technical assistance in crucial areas such as poverty eradication, education, health care and social security (Malaysia);

A - 102.63. Seek international assistance in order to address the challenges of extreme poverty and HIV/AIDS, in particular to ensure the supply of antiretroviral drugs (Egypt);

A - 102.64. To call on Malawi to appeal to the international community to fully understand the many challenges faced by the Government of Malawi and consequently provide the necessary technical assistance (Sudan);¹

A - 102.65. Consider seeking assistance to build adequate capacity to develop and retain appropriate human resources to eradicate poverty (Zimbabwe).

103. Malawi considers that the first part of recommendation 3 above has already been implemented.

104. The following recommendations will be examined by Malawi, which will provide responses in due course, but no later than the 16th session of the Human Rights Council, in March 2011. The response of Malawi to these recommendations will be included in the outcome report adopted by the Human Rights Council at its 16th session.

R - 104.1. Consolidate the legal framework for the promotion and protection of human rights, through the ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Algeria);

A - 104.2. Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (France);

A - 104.3. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Azerbaijan);

A - 104.4. Consider ratifying all outstanding international human rights instruments, and update domestic legislation to bring it into line with their provisions (South Africa);

A - 104.5. Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide (Brazil);

N/C - 104.6. Expedite the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Turkey);

R - 104.7. Ratify the Second Optional Protocol of the ICCPR with a view to fully abolishing capital punishment (Italy);

104.8. Adhere to the following international instruments:

R - the Second Optional Protocol to the International Covenant on Civil and Political Rights;

A - the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to CEDAW;

R - the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);

104.9. Sign and ratify

A - the Optional Protocol to the Convention against Torture;

R - the International Convention for the Protection of All Persons from Enforced Disappearance;

A - the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Spain);

R - 104.10. Ratify the Second Optional Protocol to the ICCPR (Switzerland);

N/C - 104.11. Pursue efforts to harmonize national legislation with the commitments undertaken at the international level (Algeria);

N/C - 104.12. Ensure that domestic laws are in conformity with international human rights obligations (Australia);

N/C - 104.13. Harmonize national laws with international treaties to which Malawi has acceded (Libyan Arab Jamahiriya);

N/C - 104.14. Ensure that all human rights treaties are given full legal effect in domestic laws (Norway);

N/C - 104.15. Take immediate steps to ensure that CEDAW is given full legal effect in its domestic laws (Azerbaijan);

N/C - 104.16. That CEDAW be incorporated into domestic law and that efforts are also directed towards the need for the passing of all other pending bills that affect the women in Malawi (Norway);

N/C - 104.17. Increase significantly, in conformity with international standards, the minimum age of criminal responsibility of children, which is currently 10 years (Mexico);

N/C - 104.18. Increase the age of minimum criminal responsibility to at least 12 years, as recommended by the CRC (Austria);

N/C - 104.19. Create a comprehensive policy to improve the rights of the child, which is essential in this situation, in parallel with the ratification of OP-CRC-AC (Hungary);

N/C - 104.20. Consider extending a standing invitation to all special procedures of the Human Rights Council (Latvia);

N/C - 104.21. Promote equality between men and women, and to this end reinforce its cooperation with international and regional mechanisms, especially special procedures (France);

N/C - 104.22. Develop and strengthen appropriate legislative measures to address the issue of sexual abuse and exploitation, ensure prompt prosecution of perpetrators, guarantee that no person under the age of 14 is admitted to employment or work, amend the Constitution to raise the minimum age for engaging in hazardous work to 18 years, and enact and implement legislation to ensure the complete prohibition of corporal punishment (Italy);

N/C - 104.23. Adopt the necessary measures to guarantee that, in accordance with national legislation, children under 14 years of age do not work, and amend the Constitution so as to raise to 18 years the minimum age for engaging in work that is likely to be harmful (Spain).

105. The recommendations below did not enjoy the support of Malawi:

R - 105.1. Completely overhaul the legal system to ensure the compliance of the Constitution and all other domestic legislation with international human rights obligations and standards and, in this

regard, amend and/or derogate all legal provisions, including customary law, which result in discrimination, especially on the basis of sexual orientation (Mexico);

R - 105.2. Consider revising its national legislation in order to prevent situations of statelessness (Brazil);

R - 105.3. Present the constitutive documents for the establishment of the Malawi Human Rights Commission to the International Coordination Committee of National Human Rights Institutions so that they can be disseminated and their status determined in accordance with the Paris Principles (Libyan Arab Jamahiriya);

R - 105.4. Ensure that clear targets and indicators are developed with civil society in the next Growth and Development Strategy to protect and monitor human rights, particularly the rights of women and girls (Canada);

R - 105.5. Continue to implement its national laws in accordance with the universally agreed human rights norms and principles (Egypt);

R - 105.6. Design policies and programmes aimed at combating harmful traditional practices, in particular female genital mutilation (Egypt);

R - 105.7. Take further action towards gender equality, including a legal provision on the minimum age for marriage (Hungary);

R - 105.8. Repeal legislation that causes Malawian women to lose their citizenship when marrying a foreign national (Austria);

R - 105.9. In accordance with recommendations made by CEDAW, take all appropriate measures in order to eliminate all forms of discrimination against rural women and harmful traditional practices (Luxembourg);

R - 105.10. Ensure that discriminatory laws are amended or repealed, adopt a comprehensive strategy to modify or eliminate negative cultural practices and stereotypes, and strengthen efforts to implement existing legislative measures regarding violence against women, including assistance and protection for victims (Slovenia);

R - 105.11. Strengthen efforts to eliminate discrimination against girls and vulnerable groups such as children with disabilities and orphans (Bangladesh);

R - 105.12. Proceed to a de jure moratorium on the death penalty at the earliest possible date, with a view to its final abolition and, in this regard, sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Spain);

R - 105.13. Abolish the death penalty (Switzerland);

R - 105.14. Take all necessary social, education and legal measures towards the complete elimination of female genital mutilation (Italy);

R - 105.15. Adopt legal measures to prohibit, sanction and effectively prevent the practice of female genital mutilation (Argentina);

R - 105.16. Recognize the equality of women and, if it is needed, reinforce the prohibition of female genital mutilation (Holy See);

R - 105.17. Put in place a moratorium on convictions for same-sex relationships and, over time, decriminalize homosexuality in order to fully apply the principle of equality and non-discrimination among all persons (France);

R - 105.18. Put in place effective measures to prevent discrimination, prosecution and punishment on the basis of sexual orientation or gender identity (Canada);

- R - 105.19. Reform the penal code and abolish discrimination against people based on their sexual orientation (Germany);
- R - 105.20. Fulfil its obligations under international human rights law and review its national legislation, as a matter of urgency, to decriminalize same-sex relationships and prohibit discrimination on any grounds, including sexual orientation (Sweden);
- R - 105.21. Repeal legislation discriminating against individuals on the basis of their sexual orientation or gender identity (Australia);
- R - 105.22. Review penal code provisions that discriminate against individuals on the basis of sexual orientation or gender identity, in order to ensure an end to hostility or violence against such groups (United Kingdom of Great Britain and Northern Ireland);
- R - 105.23. Review national legislation with the aim of decriminalizing homosexuality between consenting adults and prohibiting discrimination on the grounds of sexual orientation and gender identity (Italy);
- R - 105.24. Repeal legislation criminalizing homosexuality and introduce policies aimed at ending discrimination against LGBT people (Austria);
- R - 105.25. Decriminalize homosexual activity (United States of America);
- R - 105.26. Derogate legislation that criminalizes same-sex activities between consenting adults and adopt measures to combat incitement to hatred for reasons of sexual orientation or gender identity, and allow the registration of NGOs that defend matters of sexual orientation and gender identity without discrimination (Spain);
- R - 105.27. Review domestic legislation with a view to decriminalizing homosexual relations and prohibiting all forms of discrimination, in compliance with Malawi's international commitments. Release immediately and unconditionally all persons currently deprived of their liberty only for this reason (Switzerland);
- R - 105.28. Renew its efforts to combat ongoing discrimination on a de facto and de jure basis concerning sexual orientation, and decriminalize same-sex relations (Luxembourg);
- R - 105.29. Decriminalize same-sex relations (Ireland);
- R - 105.30. Adopt and implement measures to provide for independent media free from any intimidation and suppression, in accordance with its international obligations (Slovakia);
- R - 105.31. Introduce measures to ensure equal rights for women in the area of employment, in order to ensure equal pay for equal work and better enforcement of laws to protect women from discrimination (Ghana);
- R - 105.32. Intensify measures to address the problems of maternal mortality and unsafe abortions, reviewing punitive provisions regarding the latter (Austria);
- R - 105.33. Make primary education compulsory, in conformity with article 28 of the Convention on the Rights of the Child (Mexico);
- R - 105.34. Strengthen the education system by making it mandatory and free of cost (Hungary);
- R - 105.35. Adopt a comprehensive social security system and the HIV Bill (Hungary);
- R - 105.36. Take all necessary measures for the realization of effective compulsory and free-of-cost primary education for all (Italy);
- R - 105.37. Continue efforts to ensure that all children finish primary school and make primary education compulsory (Austria);

R - 105.38. Consider making primary education compulsory, in accordance with article 28 of the Convention on the Rights of the Child (Mauritius);

R - 105.39. On the question of the rights of sexual minorities, review laws in order to ensure that legislation is brought into line with international human rights norms (Norway).

Notes

1 The recommendation as read during the interactive dialogue: “Appeals to the international community to fully understand the many challenges faced by the Government of Malawi and consequently provide the necessary technical assistance” (Sudan).

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