

## ADVANCE QUESTIONS TO MALAWI

### **DENMARK**

- Is Malawi considering ratifying outstanding core international human rights treaties, in particular the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?
- Denmark notes that Malawi has not outlawed homophobia and publication of anti-gay propaganda and hate speech. Which steps will the government of Malawi take to end incitement to discrimination, hostility or violence against individuals on the basis of their sexual orientation?

### **SWEDEN**

- Sweden would like to express its concern about homophobia and discrimination on the grounds of sexual orientation in Malawi, and recalls that the principle of non-discrimination is enshrined in the International Covenant on Civil and Political Rights, to which the Government of Malawi has been a party to since 1993. This basic principle of non-discrimination also underpins the African Charter on Human and Peoples' Rights and the Universal Declaration of Human Rights.

*Could the Government of Malawi elaborate on what measures are taken to effectively combat homophobia and end incitement to discrimination, hostility or violence against individuals on the basis of their sexual orientation?*

Sweden recommends the Government of Malawi to fulfill 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 notes that there are credible reports of incidents of torture and other forms of ill-treatment carried out against alleged criminals, especially in places of detention. Concerns have been expressed about the prevalent impunity enjoyed by police officers accused of committing these crimes, and about the unsatisfactory living conditions in prisons.

- *Sweden would like to ask the Government of Malawi to elaborate further on what strategy has been adopted to eradicate torture and other forms of ill-treatment in line with its commitments under the Convention against Torture and the International Covenant on Civil and Political Rights? Also, could the Government of Malawi elaborate on measures taken to bring prison conditions fully in line with the UN standards for the treatment of prisoners?*

Sweden recommends the Government of Malawi to take all measures necessary towards upholding the total prohibition against torture. In this regard, Sweden recommends the Government of Malawi to conduct thorough and impartial investigation 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. Furthermore, Sweden recommends the Government of Malawi to intensify its work on improving prison conditions and bring them fully in line with international standards.

## **UNITED KINGDOM**

- We welcome that freedom of the press is guaranteed in the Malawi constitution. In the light of complaints about intimidation by the Government, including threats to close newspapers. How are the authorities ensuring that the relevant constitutional provisions are properly implemented and adhered to?
- Malawi human rights organisations claim that incidents like the arrest of a clergyman following his speech at a funeral in August 2010 demonstrate an erosion of rights of freedom of expression, assembly and political demonstration in Malawi. How do you ensure that the ability of citizens to express their views and receive information is in line with Malawi's international obligations?
- What steps are being taken to review legal and policy restrictions on Lesbian, Gay, Bisexual and Transgender (LGBT) rights to make the law consistent with the constitution?
- We welcome the moratorium on executions that has been in existence since 1992 and would be grateful to know what plans there are to abolish the death penalty?
- Could you please tell us how the authorities ensure that the recently enacted Police law is properly implemented and that the Police powers to conduct searches without warrant do not lead to arbitrary or unlawful interference with privacy in line with Article 17 of the ICCPR?
- What steps are being taken to improve detention facilities and police treatment of criminal suspects? What mechanisms have been put in place to ensure that those responsible for mistreatment of suspects are held to account for their actions?
- What steps are being taken to improve prison conditions such as overcrowding, poor sanitation, inadequate food and medical supplies?
- The reports submitted for this review show high incidence of violence and abuse against women and girls. Can you please elaborate on steps being taken and plans to address this?

-----