



**Convention on the Rights
of Persons with Disabilities**

Distr.: General
8 March 2019

Original: English
English, Russian and Spanish only

Committee on the Rights of Persons with Disabilities

**Combined initial and second periodic reports
submitted by Malawi under article 35 of the
Convention, due in 2016^{*}, ^{**}**

[Date received: 16 February 2017]

* The present document is being issued without formal editing.

** The annexes to the present document are on file with the Secretariat and are available for consultation.
They may also be accessed from the Committee's web page.

GE.19-03904(E)



* 1 9 0 3 9 0 4 *

Please recycle 



Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
APAM	Association of Persons with Albinism in Malawi
AU	African Union
CBR	Community-Based Rehabilitation
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
DoDEA	Department of Disability and Elderly Affairs
DPO	Disabled Peoples Organization
ECD	Early Childhood Development
ECE	Early Childhood Education
EMIS	Education Management Information System
FEDOMA	Federation of Disability Organizations in Malawi
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IEC	Information Education Communication
MACOHA	Malawi Council for the Handicapped
MANAD	Malawi National Association of the Deaf
MAP	Malawi Against Physical disabilities
MEC	Malawi Electoral Commission
MoFEPD	Ministry of Finance, Economic Planning and Development
MoGCDSW	Ministry of Gender, Children, Disability and Social Welfare
MGDS	Malawi Growth and Development Strategy II
MoHAIS	Ministry of Home Affairs and Internal Security
MoEST	Ministry of Education, Science and Technology
MoJCA	Ministry of Justice and Constitutional Affairs
MoH	Ministry of Health
MOU	Memorandum of Understanding
MUB	Malawi Union of the Blind
NACCODI	National Advisory and Coordinating Committee on Disability Issues
NICE	National Initiative for Civic Education
NGO	Non-governmental Organization
NRB	National Registration Bureau
NSO	National Statistical Office
PODCAM	Parents of Disabled Children Association of Malawi

SADPD	Secretariat of the African Decade for Persons with Disabilities
SEN	Special Educational Needs
SNE	Special Needs Education
TEVET	Technical, Entrepreneurial, Vocational Education and Training
UDHR	Universal Declaration of Human Rights
WASH	Water, Sanitation and Hygiene

List of tables

Table 1	List of Schools in Phalombe made Accessible
Table 2	Disaster Relief Distribution to Flood Victims
Table 3	List of Cases on Albino in Eastern Region Judicial District
Table 4	MACOHA List of Distributed Assisted Devices
Table 5	Total Number of Special Needs Education Enrolment in Primary and Secondary Schools
Table 6	Special Needs Education Budget
Table 7	MACOHA Referrals for 2013
Table 8	Disability prevalence rate, proportion of persons with Disabilities and proportion of total population by residence, 2008
Table 9	Disability prevalence rate, percentage of persons with disabilities and total persons with disabilities by sex and place of residence, 2008
Table 10	Prevalence rate, proportion of persons with disabilities by age and sex, 2008
Table 11	Prevalence rate by age groups, 2008
Table 12	Development Partner Support to MACOHA
Table 13	Budget for Ministry of Gender from 2006–2015

I. Introduction

1. The Republic of Malawi is pleased to present to the Committee on the Rights of Persons with Disabilities, Malawi's combined initial and second state party report under the Convention on the Rights of Persons with Disabilities (hereinafter referred to as the 'Convention' or 'CRPD'). Malawi signed the Convention on the Rights of Persons with Disabilities in 2007 and ratified on 27th August 2009. This affirmed Malawi's commitment to improve the situation of persons with disabilities in the country. The combined report is submitted under Article 35 of the Convention. This report should be read in conjunction with the Malawi Common Core Document which provides an overview of the Malawi Government structure, political landscape, economy, policy and legislative framework as well as its international obligations.

A. Preparation and structure of report

2. The report sets out the progress made, including the measures that have been taken in a wide range of areas within the different government ministries, as well as to identify challenges and obstacles that hinder the full participation of persons with disabilities in Malawi. The report reflects in detail the progress of implementation of Articles 1 to 33 under the Convention.

3. The report also refers to the Malawi's Growth and Development Strategy (MGDS) I and II, the Millennium Development Goals (MDGs), other national policies and legislation on disability related matters. Further references have been made to the Malawi Government's submitted reports on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) which offer more information on some of the fundamental rights affecting those with disabilities.

B. Consultation with stakeholders

4. The consultation process for this report commenced in July, 2014 and was spearheaded by the Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW) through a task force which was composed of persons with and without disabilities from government ministries and departments, human rights institutions, Non-Governmental Organizations (NGOs) and Disabled Peoples Organizations (DPOs) which steered the development of the report. They undertook consultations in a sample of nine (9) districts¹ across the three regions of Malawi, through questionnaires as well as in-depth interviews and focus group discussions with disability-focused groups and those without disabilities as well as service providers and NGOs.

5. Two national consultative workshops were held with Government ministries and departments, NGOs, the private sector and persons with and without disabilities, parents of persons with disabilities, community members as well as development partners. The first workshop was held on 14th August, 2014 briefed stakeholders on the details of the requirements of the Convention as well as soliciting their first reactions and feedback on various issues. The second workshop to discuss the draft combined report was held on 26th November, 2014 and provided feedback on areas for improvement.

6. A list of organizations consulted in the preparation of this report is available at the end of the report.

¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje.

C. Policies on Disability

7. In 2006, the National Policy on Equalisation of Opportunities for Persons with Disabilities (hereinafter referred to as the “Disability Policy”) was adopted by the Government of Malawi. The policy was developed through a process of intensive and thorough consultations with persons with disabilities, organisations of and for persons with disabilities, the relevant stakeholders in the public and private sectors.

8. The policy was developed to promote the rights of persons with disabilities and to promote mainstreaming and inclusion in order to enable them play a full and participatory role in society. The policy aims to ensure that persons with disabilities have access to the same fundamental rights and responsibilities as any other Malawian and that they are included in all political, social, cultural and economic development initiatives in Malawi.

9. The Disability Policy reflects a paradigm shift on Government’s commitment on how to tackle disability as a human rights and development issue. This follows Malawi’s being a member of the United Nations as well as other international and sub-regional bodies requiring commitment to implement and follow certain actions and norms of importance for persons with disabilities in the country.

10. At national level, the Disability Policy is based on the aspirations of the Constitution of Malawi and other national policies, such as the Vision 2020, the Malawi Poverty Reduction Strategy Paper (MPRSP) and the Malawi Growth and Development Strategy (MGDS), all of which aim to reduce poverty.

11. The overall goal of the Disability Policy is to fully integrate persons with disabilities in all aspects of life thereby equalizing their opportunities in order to enhance their dignity and well-being so that they have essentials of life.

12. The Disability Policy objectives are to:

(a) Formulate strategies towards disability prevention, rehabilitation and equalization of opportunities for persons with disabilities;

(b) Support community-based service delivery, in collaboration with local and international development agencies and organizations;

(c) Promote efforts that encourage positive attitudes towards children, youth, women and adults with disabilities;

(d) Develop programmes that alleviate poverty amongst persons with disabilities and their families;

(e) Put in place programmes that create greater awareness and conscientiousness of communities and government relating to disability;

(f) Strengthen the National Advisory and Coordination Committee on Disability Issues (NACCODI) by, among other things, ensuring the effective representation of disabled persons and other stakeholder organisations; and

(g) Mainstream disability on the social, economic and political agenda of development programmes.

13. The Government’s expectation and focus since the adoption of the Disability Policy is that all government ministries and government agencies implement the aforementioned objectives. However, in reality the policy has not been localised.

14. It is acknowledged that disability issues previously were coordinated by various departments in various ministries such as Ministries of Gender, Labour and Community Development. From December 1998 until June 2014 Malawi had a line ministry specifically responsible for disability issues. Since June 2014, due to reforms within Government, the Ministry of Disability was merged into the Ministry of Gender, Children, Disability and Social Welfare and is now a Department dealing with disability and elderly affairs.

15. The Ministry's mandate is to promote the quality of life of persons with disabilities and older persons and ensure that they participate fully in all spheres of socio-economic development of the country. The Ministry's functions are to provide policy direction on disability and elderly issues; promote the rights of persons with disabilities and the elderly; facilitate mainstreaming of disability issues into sectoral plans, policies and programmes; empower persons with disabilities and the elderly economically; raise awareness about the rights, needs and the potentials of persons with disabilities and the elderly; coordinate, monitor and evaluate implementation of disability and elderly programmes; and facilitate capacity building of key stakeholders in the disability and elderly sectors. The Ministry has since its inception promoted the rights of persons with disabilities through the adoption of the Disability Policy as well as the enactment of the Disability Act in 2012.

16. A Special Needs Education Department was also created within the Ministry of Education, Science and Technology which also provides a basis for mainstreaming disability in education. It is through this process that disability issues in education have come to the fore in Malawi.

17. This new shift from a Ministry to a Department notably can create some challenges in terms of roles as envisaged in the Disability Policy, including the issue of political and government responsibility on disability issues. For instance who shall be responsible for policy formulation and review; and overseeing of the policy implementation. There are also concerns over the issue of disability mainstreaming as the Ministry of Gender, Children, Disability and Social Welfare has a wide range of sectors to work on, most of which require a lot of resources. However, the Government of Malawi is mindful that the shift is only in designation but not functionality as envisaged by the policy. Therefore, the Ministry of Gender, Children, Disability and Social Welfare shall now be fully responsible for the implementation of the Disability Policy.

18. Since the development of the Disability Policy, Malawi has noted closer working relationships between Government, International organisations and NGOs/DPOs. Significantly a number of programmes and projects have been undertaken by NGOs, international organisations and Government agencies, for instance:

(a) The Policy has helped Malawi Council for the Handicapped (MACOHA) and Federation of Disability Organizations in Malawi (FEDOMA) to have more working partners;

(b) Disability rights organizations are promoting awareness and advocacy on the rights of persons with disabilities at national and community level;

(c) The Government of Malawi entered into a partnership with African Disability Alliance which was formerly called Secretariat of the African Decade for Persons with Disabilities (SADPD), CBM International Organization for Disability and Development (formerly known as Christian Blind Mission International) and the Norwegian Association of the Disabled (NAD) to develop a National Disability Mainstreaming Plan for the Government of Malawi. This ongoing process is being done in collaboration with FEDOMA; and

(d) NGO's like FEDOMA lobbied and proved very instrumental in ensuring the enactment of the Disability Act in 2012.

19. The Disability Policy included a five (5) year Plan of Action which lays out appropriate and responsible government agencies as well as NGO mechanisms to implement relevant objectives of the Policy. It also identified the types of activities that each government ministry or NGO groups are to carry out. It identified various risks in implementing the said policy, which are challenges that need to be alleviated so that persons with disabilities and their issues are promoted, understood and recognised by everyone in the country. However, this budgeted implementation plan remained unimplemented.

20. Malawi intends that policies be operational for five (5) years and thereafter be subjected to review, taking into account the success and constraints experienced during its initial period of operation as well as new developments in the internal and external environment. As such, the Disability Policy is currently under review.

D. Other Relevant National Policies

21. The Malawi Growth and Development Strategy (MGDS) currently in its second edition is an overall development agenda for Malawi. The MGDS II aims at creating wealth through sustainable economic growth and infrastructure development as a means of achieving poverty reduction. Although it is generally accepted that disability issues are cross-cutting, the MGDS II has not prioritised disability and there are no indicators as well as specific interventions on disability in the MGDS II.

E. Regional Commitment

22. Malawi has taken part in the Africa Decade of Persons with Disabilities (ADDP) 2000–2009. This is an initiative of the non-governmental community of Africa in cooperation with member States and Governments of the African Union to further equalization of opportunities of persons with disabilities on the African Continent. The country has also worked closely with the African Disability Alliance (then Secretariat of the African Decade of Persons with disabilities) in championing disability mainstreaming initiatives across the public sector.

23. Malawi is also committed to the work of the Africa Rehabilitation Institute (ARI), a Pan African Network program for manpower development and research in the field of rehabilitation and disability. Key areas of collaboration have been in capacity for advocacy and research in economic empowerment for youths with disabilities.

F. Disability in Malawi

24. The Malawi Government has recognised and witnessed that in the last two decades, the approach to disability has moved from a ‘charity’ or welfare approach, to a human rights based approach. However, the reality on the ground and in practice is that, most people still consider disability as a charity issue. Notably, though disability issues are implicitly provided for on a number of Malawian policies and legislative documents, persons with disabilities in Malawi still experience challenges in social exclusion from mainstream society. They continue to be discriminated against and are socially marginalised. They have limited or no access to basic social services such as education, health care and employment opportunities. For instance, the constant unavailability of sunscreen lotion in public health facilities in the country which is expensive on the private market such that most persons with albinism cannot afford is one such issue that can be highlighted. It has become evident that persons with disabilities still do not receive the disability related services that they require especially essential social services.

25. In 1971 the Handicapped Persons’ Act was adopted,² which established MACOHA, a government agency responsible for promoting the welfare of persons with disabilities, providing rehabilitation and welfare services; and administering vocational and special training centres for persons with disabilities. The Act also provided guidance to organisations that provide rehabilitation programmes and services to persons with disabilities in Malawi. It has been noted that the Act is based on charity as such it falls short of Malawi’s current Constitutional order and on this basis the Handicapped Persons Act is currently under review.

26. In 2012, the Disability Act³ was promulgated although it does not replace/repeal the Handicapped Persons Act. The Disability Act offers Malawi a human rights centred piece of legislation as it provides for prohibition against discrimination based on disability; access to quality education and other social services for persons with disabilities; it also provides for equal opportunities for persons with disabilities to develop their skills. The Act

² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 33:02 of the Laws of Malawi.

³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. 8 of 2012.

further criminalizes certain practices like the denial of persons with disabilities for admission by any learning institution.

G. Statistics

27. Malawi acknowledges that there is limited national research that is disability specific or focuses on the implementation of the Disability Policy in Government's work or other programs. As such, there are gaps in collection of data on disability. However, strides have been made when it comes to the national census, as noted in the 2008 Population and Housing Census Report which included a Disability and Elderly Analytical Report.

28. Malawi recognizes that despite the inclusion of disability in the national census, there remain concerns in terms of the lack of depth of the data gathered as well as the analysis of the data collected. The Government through the National Statistical Office is working on addressing these concerns with input from international and local non-governmental organizations.

II. General provisions of the Convention (articles 1–4)

Article 2 – Definitions

29. The Malawi Government is committed to the principles of the Convention as well as the human rights model of disability. The Convention is legally binding in domestic law in Malawi as it has been given effect through the comprehensive range of existing and developing legislation, policies and programs that are collectively delivering the Government's vision of equality.

30. The common core document describes the robust legal framework through which human rights are promoted and protected in Malawi as well as the systems and processes for redress where it is claimed that rights are breached. This legislative framework promotes equality and equity for all.

31. Malawi having ratified the Convention is committed to progressive realization as provided in Article 4 (2). The Disability Act means that public authorities must have regard to the impact of new policies on persons with disabilities.

32. The Disability Act has defined disability in section 2 as a long-term physical, mental, intellectual or sensory impairment,⁴ which in interaction with various barriers may hinder the full and effective participation in society of a person on equal basis with others.

33. The Republic of Malawi Constitution⁵ has also classified disability as a status as well as a basis for classification which no one should be discriminated against in Malawi. Section 20 provides that:

Equality

(a) Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition;

(b) Legislation may be passed addressing inequalities in society and prohibiting discriminatory practices and the propagation of such practices and may render such practices criminally punishable by the courts.

⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje. The National Policy on Equalisation of Opportunities for Persons with disability has further defined impairment as any loss or limitations of psychological, physiological or anatomical structure or function.

⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 1:01 of the Laws of Malawi.

34. This report, however, acknowledges that the definition of disability is narrow to the extent that it has the likelihood of excluding others who have disabilities that are for example, short term. There may, therefore, be a need to review the definition.

35. The Disability Act has further defined in section 2, reasonable accommodation as provided for in the Convention but the definition under the Act adds a further component, that is, it should ensure that it should not impose disproportionality or undue burden on other persons.

36. The Disability Act has not defined the terms communication, language or universal design, however, it does make provision for the concepts in various sections under it. For instance, section 25 on the right to information and communication technologies. Therefore the Act does sufficiently provide for the said concepts in its provisions.

Article 3 – Principles

37. The principles pronounced in Article 3 have been covered by the Disability Act through section 3 on adoption of policies and legislation, and Part IV on rights of persons with disabilities which caters for a wide range of issues from accessibility⁶ to the right of association and representation.⁷

38. Malawi is committed to the obligations set under Article 4(3) that persons with disabilities should be involved in implementation of the Convention as well as decision-making processes on issues that relate to them so that their views, experiences and expectations are taken into account in policy development and delivery. This approach already informs the development of most Malawian policy, because Malawi recognized that development could only be achieved if every member of society is involved including persons with disabilities.

39. The Disability Act further provides for lodging of complaints and gives the Minister special powers to investigate complaints or to some degree violation and the said Minister can direct and implement administrative penalties as well as ordering compliance in institutions on issues of access.⁸ Non-compliance with the administrative penalties constitutes a criminal offence whose punishment upon conviction is K100, 000 (\$200.00)⁹ and imprisonment for twelve months in the case of a natural person and K1, 000, 000 (\$2,000.00) in the case of a corporate person. However to date, no person or institution has been fined or imprisoned for non-compliance.

40. The Disability Act in Part IV prohibits discrimination on the basis of disability in the following areas – healthcare services, social services, work and employment, political and public life, cultural and sporting activities and recreational services, housing, association and representation.¹⁰

⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 8 of the Disability Act.

⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 15 of the Disability Act.

⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 31 and 32 of the Disability Act.

⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Forex Exchange Rate Used being K500 to the US Dollar.

¹⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 20 of the Republic of Malawi Constitution: “Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status. Legislation may be passed addressing inequalities in society and prohibiting discriminatory practices and the propagation of such practices and may render such practices criminally punishable by the courts ...”.

Article 4 –General obligations

41. Malawi has taken other policy and legislative measures to promote the full realization of all human rights and fundamental freedoms for all persons with disabilities. This has been done through the promulgation of the Gender Equality Act,¹¹ Child Care, Protection and Justice Act,¹² Employment Act¹³ and Technical Vocation Education Act¹⁴ so as to further rights of persons with disabilities.

42. The Disability Act promotes disability mainstreaming¹⁵ to ensure that disability issues are an integral dimension of the design, implementation, monitoring and evaluation of public policies and programmes. The development of the disability mainstreaming strategy is in its final stages.

43. Section 4 of the Disability Act obligates the Government of Malawi to ensure that it consults with relevant stakeholders representing persons with disabilities and with any other such organisations or individuals.¹⁶ Furthermore, according to the Disability Act, NACCODI shall be responsible for making recommendations to the Government regarding effective implementation of disability friendly policies, legislation and programmes.¹⁷

44. Notably, the Minister has the powers to investigate any violation of the Disability Act and to periodically review compliance of the Act by all relevant authorities or institutions. More specifically, the Minister has been given powers to impose administrative penalties where a person or an institution has contravened the provisions of the Disability Act.

45. The Disability Policy affirms disability as a human rights and development issue with the recognition that persons with disabilities are equal citizens of Malawi. As such, they should have the same rights and obligations as all other citizens. It is now widely accepted in Malawi that persons with disabilities have a right to live a dignified and independent life-style within the community. They have right to take an active part in the general, social and economic development of the country. They also have a right to receive education, medical care and social services within the ordinary structures of their societies. The new approach emphasises on abilities not disabilities. It promotes rights, freedom of choice and equal opportunities among persons with disabilities. It seeks to adapt the environment to meet the needs of persons with disabilities and above all it encourages

¹¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. of 2013.

¹² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. 22 of 2010.

¹³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 55:02 of the Laws of Malawi.

¹⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and NsanjeCap. 55:06 of the Laws of Malawi.

¹⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje “disability mainstreaming” means a strategy for making the needs, concerns and experiences of persons with disability an integral dimension of the design, implementation, monitoring, and evaluation of policies and programmes in the political, economic and societal spheres to ensure that persons with disability benefit equally.

¹⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje The Minister shall be responsible for the proper administration of this Act, including – (a) coordinating policy formulation and review; (b) implementing, monitoring and evaluating programmes; (c) promoting disability mainstreaming in all sectors; (d) mobilizing resources, both from within and outside Malawi, for policy development and implementation; and (e) strengthening the capacity of persons with disability as well as organizations of and organizations for persons with disability, in order to enhance advocacy and facilitate the effective and efficient implementation of policies, programmes and services.

¹⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje provide a forum for all key stakeholders on disability issues to receive, discuss and review reports from Government ministries and departments and other relevant stakeholders on disability mainstreaming; make recommendations to Government on best practices regarding the formulation of policies, legislation and programmes, with respect to disability; and (c) oversee the implementation, monitoring and evaluation of disability-related programmes.

society to positively change its attitudes towards persons with disabilities and assist them in assuming full responsibility as active members of society.

46. The Disability Policy further states that all Government Ministries, Departments and statutory bodies are responsible for the mainstreaming of disability issues within their sectoral mandates to ensure persons with disabilities have equal access to services they provide.

47. The reality, however, is that persons with disabilities are yet to be afforded the dignity as envisaged in the Convention or in the Disability Act. Almost three quarters of persons with disabilities have no access to affordable and accessible housing as the Ministry of Lands, Housing and Urban Development as well as the Malawi Housing Corporation have not provided this for them.¹⁸

48. The Disability Act further requires the Government to adopt policies and legislation in order to promote and protect the rights of persons with disabilities and fully include them in all aspects of life, to enhance their dignity and well-being.¹⁹ The Government is also obliged under section 3(2) of the Disability Act to recognise the role of the private sector and civil society organizations in promoting and protecting the rights of persons with disabilities and encourage partnerships in programmes that address the needs and concerns of persons with disabilities by advocating removal of social, cultural, economic, environmental and attitudinal barriers and facilitating the inclusion of persons with disabilities. Malawi believes this approach ensures that there is a holistic and inclusive strategy in addressing matters concerning persons with disabilities.

49. The Malawi National Education Sector Plan (NESP) for the period 2008–2017 outlines strategic interventions that will be implemented in Malawi within the education sector. This is the basis for investments in the education sector by Government of Malawi and Development Partners. One of the major areas of emphasis in the Plan is that students with special education needs have equal access to quality and relevant education.

50. Section 25 of the Malawi Constitution provides mandatory primary education to all children including those with disabilities.²⁰ Malawi also ratified Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, African Charter on Human and Peoples Rights, the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child which also provide that primary education, shall be mandatory to all children. Despite these developments, there continue to be major challenges such as lack of disability friendly schools, that is, physical access, water and sanitation, learning materials, teachers' attitudes, long distance and road infrastructure to access the said schools, human, material and financial resources.

51. The 2009 implementation guidelines for Special Needs Education (SNE) aims at promoting inclusive education, however enforcement of education in Malawi is constrained by the lack of enabling legislation as it is still using the Education Act²¹ although reviewed but not yet promulgated. Malawi recognizes that there is a need for more to be done in the

¹⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Chavuta p 10.

¹⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 3 of the Act.

²⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 25 – Education.

1. All persons are entitled to education.

2. Primary education shall consist of at least five years of education.

3. Private schools and other private institutions of higher learning shall be permissible, provided that:

(a) Such schools or institutions are registered with a State department in accordance with the law;

(b) The standards maintained by such schools or institutions are not inferior to official standards in State schools.

²¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 30:01.

education sector to allow persons with disabilities to be mainstreamed in the school system. Government needs to increase budgetary allocation to progress and implement the above said guidelines.

52. The Government of Malawi provides MoGCDSW with an annual budget towards implementation of policy and programme interventions for persons with disabilities and activities in the disability sector. Further budgets are provided to MACOHA and Malawi Against Physical disabilities (MAP). It has been noted throughout the last five (5) years from 2009 to 2014, that these budgetary allocations to MoGCDSW, MAP and MACOHA are inadequate and this has affected effectiveness on the delivery of disability services.

53. Notably in Malawi, there are a number of NGOs and Civil Society Organisations (CSOs) that carry out programmes for persons with disabilities. These organizations are funded by various Development Partners and significantly contribute to Government's efforts in the realisation of rights of persons with disabilities like FEDOMA, Malawi Union of the Blind (MUB), Malawi National Association of the Deaf (MANAD), Parents of Disabled Children Association of Malawi (PODCAM) to name a few. Their efforts have significantly contributed to the implementation of the Disability Policy as well as the enforcement of the Disability Act.

III. Specific Provisions

Article 5: Equality and non-discrimination

54. Section 20 of the Constitution outlaws discrimination, harassment and victimization against persons with disabilities by those exercising public functions, those providing goods, facilities or services to the public, housing providers, employers, education providers (schools, further and higher education colleges and universities), associations and public transport providers. Notably, the same Constitution allows for persons with disabilities to challenge their discrimination especially of public officers or bodies through the courts or quasi-judicial bodies.

55. Section 12 of the Constitution of Malawi guarantees that all individuals regardless of their physical characteristics, personal beliefs or any other distinguishing features are equal before the law and have equal protection of the law. It states in part that the inherent dignity and worth of each human being requires that the State and all persons recognize and protect human rights and afford the fullest protection to the rights and views of all individuals, groups and minorities whether or not they are entitled to vote. It further provides that as all persons have equal status before the law, the only justifiable limitations to lawful rights are those necessary to ensure peaceful human interaction in an open and democratic society.²²

56. The Constitution in section 20 apart from prohibiting discrimination, goes further to categorically state that legislation may be passed addressing inequalities in society and prohibiting discriminatory practices and the propagation of such practices and may render such practices criminally punishable by the courts. Malawi in fulfilment of this provision has promulgated the Deceased Estates (Wills, Inheritance and Protection) Act²³ as well as the Gender Equality Act to eradicate cultural practices that are discriminatory. Furthermore, the Disability Act guarantees that every person with a disability shall be entitled to the same rights and privileges as all other people and in particular, those rights enshrined in the Constitution of Malawi.²⁴

57. Section 41 of the Constitution provides that every person with a disability shall be entitled to the same constitutional rights, privileges and legal remedies before the law as all

²² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 12 (d) (e) of the Constitution.

²³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. 14 of 2011.

²⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See Part IV of the Disability Act 2012.

other people. Further every person shall have a right to recognition as a person before the law, access to any Court of law or any other tribunal with jurisdiction for final settlements of legal issues. Additionally, every person has a right to an effective remedy by a court of law or tribunal for acts violating the rights and freedoms granted to him or her by the Constitution or any other law. It has to be stated that no person with disability has been refused remedies before a Court of law in Malawi because of his or her disability. For instance, in the case of *The Republic v. Evance Edison*,²⁵ the court convicted the said Mr Edison of defilement of a girl with disability and sentenced him to fourteen (14) years imprisonment.

58. The Constitution further recognises that the rights of persons with disabilities are in line with international instruments, which Malawi has ratified. Notably, section 20 explicitly guarantees the protection of children with disabilities from discrimination. These children are also implicitly catered for in section 13(g), which requires that persons with disabilities be supported through promoting greater access to public places; offering equal opportunities for employment; and ensuring the fullest possible participation in all spheres of Malawi society.

59. Malawi's Constitution, thus, adequately provides for persons with disabilities, including children. However, enforcement of these constitutional provisions has been lacking due to inadequate resources. Furthermore, in Malawian jurisdiction, the enforceability of most human rights requires, under section 15 of the Constitution that only a person or group of persons with sufficient interest in particular human rights violations can challenge the same in a court of law.²⁶ There is little evidence on reported cases which have been taken to court by persons with disabilities or organizations representing them in terms of enforcement of their constitutional rights in the context of discrimination or violation of their rights under Malawian laws. It should be noted that this does not mean there are no violations taking place in Malawi, as such, Government needs to take measures to address this.

Article 8: Awareness raising

60. The Malawi Government recognizes awareness raising on the rights of persons with disabilities nationwide as a crucial step towards achieving equality. Malawi is yet to undertake a public poll to establish the extent to which the general population is aware of the Disability Act or disability issues. Nonetheless, persons with disabilities are aware of their Constitutional rights despite that information on the recently enacted Disability Act is still trickling down to them. Malawi recognizes that the Convention reinforces a wide range of existing activities aimed at raising awareness of disability issues, promoting positive images of persons with disabilities, the use of appropriate language and combating stereotypes.

61. As one way of raising awareness, the Government, through the Office of the President together with the Special Olympics International in February, 2014 hosted an African Leaders Forum on Disability. Through the Forum, the Government was able to uniquely raise awareness on the issues of disability, especially intellectual disabilities in an effort to boost the rights of persons with disabilities in the country. At this Forum, governments, civil society organizations and development partners committed to challenge stigma and inequity by seeking inclusion of disability in the continent's development agenda. The Forum also provided an opportunity to build momentum to improve the rights of persons with disabilities, especially in areas of health, human rights, and education, by establishing an African Leadership Alliance on Intellectual Disabilities. This Alliance seeks to align with efforts such as the Africa Disability Alliance, with a goal of achieving full participation, equality and empowerment of people with disabilities in Africa. The event raised the profile of persons with disabilities in terms of their rights especially, their right to

²⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Criminal Case No. of 2014.

²⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje CILIC Case.

participate in sports and physical activity; and promoting community engagement through the games.

62. The Disability Policy provides that Government should ensure that there is awareness raising on matters to do with persons with disabilities. It further states that there should be encouragement of mass awareness about the causes and prevention of disabling conditions, undertake disability awareness among public transport staff and encourage the use of sign language and alternative communication systems.²⁷ In that regard, the Government through Community-Based Rehabilitation (CBR) programme by MACOHA, FEDOMA and its affiliates and other players have raised awareness. Similarly, MoGCDSW through the Department of Disability and Elderly Affairs (DoDEA) has invested a lot in promoting disability mainstreaming in sectoral policies, plans, and programmes which has also a direct impact on increasing awareness on disability issues.

63. Starting from 3rd December 2014, the Government declared Disability Week with the aim of raising awareness. Disability Week will be observed a week commencing 3rd December every year. In addition, since 2012 FEDOMA has been conducting disability audits to promote awareness on access to public infrastructure. Malawi further plans to institutionalize undertaking of disability audits within the observance of Disability Week. Furthermore, every year Malawi commemorates International Day of Persons with Disabilities where messages on disability are placed on print and electronic media. The Day is also commemorated through an open day function held in a selected district. Currently the Government is developing a Disability Communication Strategy to provide a framework on disability awareness raising.

64. The Malawi Human Rights Commission (MHRC),²⁸ a constitutional body, has the mandate to promote and protect human rights including investigation of human rights violations. Under the Constitution and the Human Rights Commission Act, the Commission makes recommendations for the effective promotion and protection of rights. MHRC has no judicial or legislative powers. In order to make their operations effective, MHRC recently changed from a functional approach to a thematic approach which has seen the establishment of a Directorate for Disability and Elderly Rights.

65. Pursuant to this mandate, MHRC has conducted various programmes aimed at raising awareness on rights of persons with disabilities including public inquiries. In 2013, it conducted a nationwide public inquiry on the status of the rights of persons with disabilities in Malawi. The inquiry involved a cross section of persons with disabilities as rights holders on one hand and duty bearers such as civil society organisations, religious leaders, public institutions, service providers and policy makers on the other hand. The findings of the inquiry proved useful to the work of MHRC as well as Government and its stakeholders as they informed various programmes and interventions aimed at improving

²⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje The Disability Policy sets the government to – promote public awareness of human rights for persons with disability;

- Develop a disability awareness programme within every line Ministry/Department in Government;
- Develop disability awareness projects aimed at journalists and the public broadcasters;
- Increase visibility of people with disabilities in the media;
- Provide guidelines on disability friendly terminology for use by the media and general public.

²⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 15 – Protection of human rights and freedoms:

(1) The human rights and freedoms enshrined in this Chapter shall be respected and upheld by the executive, legislature, judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Malawi and shall be enforceable in the manner prescribed in this Chapter;

(2) Any person or group of persons, natural or legal, with sufficient interest in the promotion, protection and enforcement of rights under this Chapter shall be entitled to the assistance of the courts, the Ombudsman, the Human Rights Commission and other organs of the Government to ensure the promotion, protection and enforcement of those rights and the redress of any grievances in respect of those rights.

the lives of persons with disabilities. Furthermore, the findings formed part of Malawi's internal human rights reporting.

66. MHRC has also conducted various trainings between 2012 and 2013 including trainings for disability focal persons from Government Ministries, Departments and parastatals following the establishment of Disability Desk Offices in these institutions by the Government. These trainings were aimed at equipping desk officers on disability rights so that they can meaningfully mainstream disability issues in the national agenda. A total of 24 desk officers were trained. Some of the trainings were meant to enhance knowledge on protection and promotion of rights of children with disabilities and providing relevant materials to enhance capabilities in campaigning and advocating for disability rights.

67. MHRC worked with various DPOs²⁹ such as MANAD, MUB, PODCAM and Association of Persons with Albinism in Malawi (APAM) on programmes aimed at raising awareness on specific forms of disability.³⁰ It has also produced various IEC materials on different forms of disability. This includes the production and distribution of copies of Chichewa version of the CRPD to various stakeholders such as national libraries and community libraries managed by the National Initiative for Civic Education (NICE) Trust. To date 4,000 copies of the CRPD have been distributed. The Commission continues to conduct community sensitization meetings nationwide.

68. Civil society organisations and international cooperating partners have also seen key in championing the cause of persons with disabilities through awareness raising. For instance, MUB in partnership with NICE and Malawi Electoral Commission (MEC) formed 51 radio listening clubs as electoral activities in relation to the 2014 Tripartite Elections exercise, whereby 170 club listeners were females whilst 85 were male. Such partners' efforts to compliment Government's interventions and awareness have greatly contributed to the increased knowledge of rights of persons with disabilities as well as reporting of human rights violations against persons with disabilities.

69. In terms of health, the Government of Malawi is still facing challenges in the areas of sexual reproductive health for instance in safe motherhood and male circumcision in the context of HIV and AIDS Program targeting persons with disabilities. It has to be acknowledged though that 10 district-based HIV and AIDS Organisation which include Malawi Aids Resource Organisation (MACRO), Banja La Mtsogolo (BLM), Population Services International (PSI) and National Association for People living with HIV and AIDS (NAPHAM) use MUB peer educators who were trained using support from Sight Savers in implementing HIV and AIDS activities at district level. Two of these organisations have developed their information on HIV and AIDS in braille. Notably, the HIV and AIDS Policy of 2005 does not recognize disability as cross cutting issue and its importance cannot be over emphasised for purposes of interventions and programming in HIV and AIDS.

Article 9: Accessibility

70. Malawi recognizes the importance of ensuring that persons with disabilities have access to information, services and buildings so that they have a strong platform from which they can access, exercise, promote and protect their rights. Commendable progress has been made in this regard. However, the MHRC Public Inquiry on disability noted that public health education campaigns are often visual and therefore not useful to persons that are blind and radio campaigns do not reach persons that are deaf.

71. MACOHA which is a government institution facilitates provision of various assistive devices. In 2013, they facilitated provision of various assistive devices to 11,203 persons with disabilities, that is, 5,319 males and 5,884 females. This was more than double

²⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje MHRC Annual Report, 2012.

³⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Malawi Human Rights Commission Annual Reports, 2012 and 2013.

the numbers assisted in 2012 but the same levels as those assisted in 2010/2011.³¹ It is also acknowledged that MAP has issued over 5,566 appliances from 2007 to 2013 to assist mobility of persons with disabilities. Government through the Local Development Fund in Phalombe District made 11 schools in Nazombe Zone accessible to children with disabilities. Despite efforts by Government and its partners, there are instances where children have been unable to go to school due to their disability as they lack assistive devices or the infrastructure and distance make it difficult for them to attend school regularly.

72. Section 8 of the Disability Act provides a legislative requirement for the Government to take appropriate measures to ensure that persons with disabilities have access to the physical environment, transportation, information and communications, including information and communication technologies and systems and other facilities and services available or provided to the public. The Disability Act further states that no person shall be denied access or admission to any premises or the provision of any service or amenity, on the basis of disability.³² The Act provides penalties for non-compliance of these provisions. A court may, in addition to any penalties mentioned, order the person or body corporate, to undertake reasonable accommodation to facilitate access for persons with disabilities to the premises or the provision of the service or amenity.³³

73. The Government has been encouraging owners of public property to adapt existing buildings. In the past few years, 207 public and private buildings have been renovated so as to provide access points for persons with disabilities. There is also a similar trend for newly constructed buildings to provide disability friendly infrastructure like toilets and ramps. Through MACOHA programmes, 67 schools were made accessible including water and sanitation in the 2012–2013 financial year. However, there is no data on accessibility to other buildings. Malawi Government is developing access standards to guide construction and adaptation of public infrastructure for accessibility to persons with disabilities. There have also been different awareness campaigns on accessibility issues. For instance, the commemoration of World Standards Day in 2010 led by the Malawi Bureau of Standards focused on accessibility, standards and disability.

74. Currently, the Office of the Vice President, which has been tasked with setting the political agenda as well as the lead agency for all public sector reforms, has been at the forefront in ensuring compliance with the Disability Act. The Office has taken on the task of providing an oversight role to ensure that all ministries and government agencies comply with provisions of accessibility and it has done this by issuing a directive that all government infrastructures has to be made accessible.

75. During the commemoration of International Day of Persons with Disabilities and the observance of the newly established Disability Week in Malawi, the Government and stakeholders will be undertaking disability audits as one of the activities. The results of such audits will provide the necessary information to enhance access for persons with disabilities to all public infrastructures.

76. It should also be noted that one of the objectives of the Disability Policy is to promote easy access by persons with disabilities. Strategies on how Malawi can achieve these have been provided in the said policy. However, Malawi is still in the process of developing building standards and guidelines including internal furnishings that are appropriate and accessible for persons with disabilities. Similarly, Malawi needs to develop regulations to the Disability Act for stakeholders' compliance and enforcement by the

³¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje MACOHA Annual Report, 2013. See also Table 4 to for a detailed analysis of the type of devices provided.

³² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 9 of the Disability Act.

³³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 9 (3) of the Disability Act Government of Malawi through the national disaster risk management structure in terms of clusters responded to the disasters. Clusters are groups of humanitarian organizations, comprising UN, government, civil society, donors and other key humanitarian actors, in each of the main sectors of humanitarian action.

relevant authorities. Furthermore, the Government needs to enforce the implementation of the guidelines in the Local Development Fund National Building Code as well as review the Building Code so that it is aligned with the CRPD and national policies and legislation on disability. Lastly, there is need to promulgate legislation, which provides for the technical guidelines.

Article 10: Right to life

77. Persons with disabilities have the same right to life from birth as persons without disabilities, and are not subject to arbitrary deprivation of life. Euthanasia and assisted suicide are both unlawful.

78. Section 16 of the Constitution stipulates that every person has the right to life and no person shall be arbitrarily deprived of his or her life. However, a proviso to this section states that the execution of the death sentence imposed by a competent court on a person in respect of a criminal offence under the Laws of Malawi of which he or she has been convicted shall not be regarded as arbitrary deprivation of his or her right to life, however this provision does not make specific reference to persons with disabilities. Notably, the death penalty has not been imposed in Malawi since 1989.

79. Part XIX of the Penal Code provides for the offences of murder and manslaughter. The maximum punishment for murder is death while for manslaughter it is life imprisonment. Prior to April 2007, the mandatory punishment for murder was death but the Constitutional Court of Malawi held that mandatory death penalty was unconstitutional because it was in violation of the constitutional guarantees of rights under section 19 (1), (2), and (3) of the Constitution on the protection of the dignity of all persons as being inviolable, the requirement to have regard to the dignity of every human being and the protection of every person against inhuman treatment or punishment; the right of an accused person to a fair trial under section 42(2)(f) of the Constitution; and the right of access to justice, in particular the right of access to the court of final settlement of legal issues under section 41(2) of the Constitution.³⁴

80. Currently the law is that no person may intentionally or unintentionally (directly or indirectly) take the life of another. The law does not make a distinction as to whether the life is of a person with or without disability. This emphasises the sanctity of human life under Malawian law. Please also see discussion under Article 15 on the recent developments.

81. Section 218 of the Penal Code states that it is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to provide for that other person the necessaries of life. Where there is a breach of that duty by the person having the charge, he will be held to have caused any consequences, which result on the life or health of the other person.

82. Additionally the Penal Code in section 242 states that any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his health is or is likely to be permanently injured, shall be guilty of a felony, and shall be liable to imprisonment for three years. All these provisions are aimed at ensuring the protection of human life without distinction.

Article 11: Situations of risk and humanitarian emergencies

83. The Department of Disaster Management Affairs, under the Office of the Vice President is responsible for the protection and safety of Malawians during natural as well as man-made disasters. The Department has made tremendous strides in mainstreaming disability issues in its programs. For instance, it has taken into account disability issues in

³⁴ *Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Francis Kafantayeni & 5 Others vs. The Attorney General*, Constitutional Case Number 12 of 2005.

its Disaster Risk Management Policy and Contingency Plans. At local level, Civil Protection Committees coordinate and implement disaster risk management interventions. These committees include persons with disabilities as members to ensure that issues of disabilities are effectively taken into consideration. In 2013 the Department commemorated the International Day of Disasters under a disability theme whereby awareness was raised on the need to include issues of persons with disabilities in disaster risk management. During disasters, the Government takes a leading role in the coordination and implementation of disaster management interventions with support from partners such as Red Cross, World Vision, Plan, Concern Universal, and Care. However, lack of specialised facilities and equipment in disaster risk management or rescue operations remain some of the major challenges to fully mainstream issues of persons with disabilities.

84. Notably, the Constitution of Malawi allows for derogation of rights unless there is a declaration of a state of emergency by the President following widespread natural disasters³⁵ or other prescribed circumstances. The derogation is only permissible to the extent that in the case of a widespread natural disaster, it is strictly required for the protection and relief of those people in the disaster.

85. The inclusion of issues of persons with disabilities in the development of emergency protocols is in line with the principles of inclusiveness and participation.

86. In early January 2015, heavy rainstorms and floods hit Malawi. To ensure that persons with disabilities were not excluded from national disaster responses, the Early Recovery and Protection Cluster³⁶ used the twin-track approach to the disaster. The first track was to mainstream disability in all national response so that persons with disabilities equally benefit. This ensured that basic needs of persons with disabilities were systematically addressed and fully integrated in relief aid in food security, Water, Sanitation and Hygiene (WASH), emergency shelter and camp management, Early recovery and Protection, Health and Nutrition. The second track was specific to disability, where persons with disabilities and their families were empowered and provided with specific services that meet their specific needs. Awareness was raised amongst persons with disabilities and their families about support and services available and to participate in relief activities. Assistive devices, mobility aids, hearing and vision aids were provided to meet their specific needs. In addition services such as personal assistance and mental health were offered.

87. Further relief efforts included; designation of 40 rehabilitation and social welfare officers in the affected districts to continuously monitor and take part in provision of services and relief items to the flood victims to ensure that persons with disabilities benefit equally. Wheelchairs, tricycles, crutches, white canes, commode chairs, and sunscreen lotions for 750 persons with disabilities were procured and provided. Table 2 presents data on persons with disabilities affected by the floods.

88. Fifteen³⁷ out of twenty eight districts were affected with Nsanje, Chikwawa and Phalombe being the worst hit. Over 200,000 people were affected and displaced and 7,681 persons with different types of disability in the 15 districts were affected by displacement.

89. The Early Recovery and Protection Cluster in collaboration with stakeholders in the disability sector like DoDEA, MACOHA, FEDOMA, Malawi Network of Elderly Peoples Organizations (MANEP), Public Service Pensioners Association of Malawi (PUSEPA), CBM, NAD, MAP and others following the floods, responded to the disaster in the targeted districts for a period of four months.

³⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 45 (2) (c) of the Constitution.

³⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje The national disaster risk management structure works in clusters to respond to disasters. Clusters are groups of humanitarian organizations, comprising UN, government, civil society, donors and other key humanitarian actors, in each of the main sectors of humanitarian action.

³⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Chikwawa, Nsanje, Phalombe, Zomba, Rumphu, Karonga, Thyolo, Machinga, Mangochi, Ntcheu, Chiradzulu, Mulanje, Balaka, Salima and Blantyre.

Article 12: Equal recognition before the law

90. Malawi is in strong support of the equal recognition of persons with disabilities before the law, and their right to exercise their legal capacity. It is recognized that there are circumstances in which persons with disabilities need support to exercise that legal capacity, or where they lack the mental capacity to make decisions for themselves, and on their behalf. Malawi needs to address this area to ensure that strict safeguards are in place to protect the individual in the way that such decisions are made. These safeguards include the duty to involve an independent advocate in certain situations.

91. The right of the individual to equality before the law and protection of the law is stipulated in section 20 of the Constitution. Additionally, section 12 of the Constitution provides for the underlying principles, which clearly states in part “all persons have equal status before the law”.

92. In addition, the rights of persons with disabilities enshrined in part IV of the Constitution and the Disability Act guarantee that every person with a disability shall be entitled to the same rights and privileges as all other persons.

93. Section 28 of the Constitution also provides the right of the individual to own property and not to be deprived of those rights arbitrarily. There are no express or implied provisions in Malawi’s legislation that prevents people with disabilities from full participation in society and controlling their own affairs, such as applying for bank loans, mortgages. It must be noted further that section 44 of the Constitution clearly provides that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.

94. Persons with disabilities have been informed of their constitutional rights through ongoing workshops and training organised by civil society organizations. Government has also been doing radio programmes on Malawi Broadcasting Corporation Radio 1 and 2 as well as Zodiak Broadcasting Station on rights of persons with disabilities. Consultations with persons with disabilities on national policies and legislation focused on their Constitutional rights have been on-going in Malawi and this is reflected in the Disability Act.

Article 13: Access to justice

95. Part VI of the Disability Act provides an avenue for complaints of discrimination against persons with disabilities as well as remedies for those that have been discriminated against. Section 31 of the Act provides that where a person with disability has reason to believe that any person or institution that has violated any provision in Part III³⁸ of the Disability Act, the aggrieved person may commence legal action against that person or institution in any competent court of law. This is also guaranteed under Section 46 of the Constitution.

96. It must be noted that the Constitution provides for other persons or bodies to take part in the enforcement and protection of fundamental rights guaranteed under the Constitution. Section 15(2) of the Constitution provides that any person or group of persons, natural or legal, with sufficient interest in the promotion, protection and enforcement of rights under this Chapter shall be entitled to the assistance of the Courts. The report acknowledges that the justice system in Malawi is not an inclusive system in respect of persons with disabilities because officers from the Malawi Police Service, the Malawi Judiciary and the Malawi Prison Service are not given special needs training to enable them to professionally handle persons with disabilities who are in the process of accessing justice. Persons with hearing impairments and the deaf-blind in particular have problems accessing

³⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Of course part III deals with the responsibilities of the Minister. What can be violated are provisions in Part IV of the Act which provides for the rights of persons with disability. It is therefore arguable that the reference to Part III in section 31 is a textual error which should have instead read Part IV.

justice either as offenders, complainants or witnesses since court staff are not trained to interpret or use sign language and there is an acute shortage of people with such expertise countrywide.

97. Apart from the Court, the Ombudsman, the Human Rights Commission and other organs of Government have a duty to ensure the promotion, protection and the enforcement of those rights and the redress of grievances in respect of those rights. This ensures that the enforcement and protection of human rights for people with disabilities is not left to only those who have suffered discrimination or whose rights have been violated. In this regard the Constitution of Malawi has expanded the principal of *locus standi* for NGO's, Civil Society Organisations and Constitutional bodies³⁹ in the enforcement, promotion and protection of human rights for all.

98. In terms of the civil remedies that may be granted to an aggrieved person under the Disability Act, the court may award any of the following remedies,⁴⁰ that is (a) equitable relief that the court may consider appropriate in accordance with the gravity of the violation; the provision of auxiliary aid or services; or any other relief that the court may consider appropriate, including monetary damages to the aggrieved person.

99. Apart from the remedies that a Court of law may grant, the Minister has also been given powers to impose administrative penalties on persons or institutions that have violated the provisions of the Disability Act.⁴¹ In order to ensure compliance with Minister's administrative penalties, the Disability Act makes it an offence for any person who fails or refuses to comply with an administrative penalty.⁴²

100. Malawi is committed to ensuring that persons with disabilities have equality of access to justice. Notably, the Malawi criminal justice has undergone significant reforms in the last four years including the review of the Criminal Procedure and Evidence Code⁴³ however a lot of measures still need to be in place to ensure that persons with disabilities have the support they need to ensure they can effectively access justice at all stages of the legal process. Persons with disabilities can also exercise their legal rights as defendants, and victims, and can fulfill their responsibilities as witnesses and or other judicial aspects. In Malawi, persons with disabilities have access to legal aid on the same basis as others.

101. Regarding the criminal justice system, inmates incarcerated are advised of their rights such as legal assistance, and their right to remain silent. Section 42(1) (b) of the Constitution provides, in part, that every person who is held, including every sentenced prisoner, shall have the right to be detained under conditions consistent with human dignity, which shall include at least the provision of reading and writing materials, adequate nutrition and medical treatment at the expense of the State. It should, however, be observed that the prison system does not have the appropriate resources to address this issue.

102. There is no provision in the Disability Act that determines reasonable accommodations in the legal process that ensures effective participation for all types of persons with disabilities in the justice system in whatever role they may find themselves. The same also applies to anyone without any form of disability.

103. All the above provisions should be accessible in all forms including braille, sign language, digital and the local language however they are not. It is important to note that government does not have the resources to fully ensure that access to vital information is accessible to persons with disabilities. It will work towards ensuring that persons with

³⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See for example the case of *Malawi Human Rights Commission vs. The Attorney General*, Civil case Number 1119 of 2000.

⁴⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 31(2) of the Disability Act.

⁴¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See Section 32 of the Disability Act.

⁴² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See section 32(3) of the Disability Act.

⁴³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 8:01 of the Laws of Malawi.

disabilities are provided with these means in order to progressively realise the rights that are due to them in their fight to access justice.

Article 14: Liberty and security of person

104. Under Malawian law, no one may be penalized by deprivation of liberty simply on account of a disability or functional limitation. Indeed, a person may only be deprived of liberty if he or she has committed a crime or offence. Section 16 the Constitution provides that everyone has the right to personal liberty. Section 19(6) of the Constitution guarantees the right to freedom and security of person which includes the right not to be detained without trial; detained solely by reason of his or her political or other opinions; or imprisoned for inability to fulfil contractual obligations.

105. The Constitution guarantees all fundamental rights and freedoms to every person without discrimination. This means that persons with disabilities are guaranteed the enjoyment of the right to life, liberty and security of the person. Furthermore, Malawi has no legislation that permits the institutionalisation or deprivation of liberty for persons with disabilities.

106. Partners in Health and the District Assembly in Neno, located in the southern part of Malawi, are implementing a special assistance programme for persons with severe disabilities. Those who have no residing homes are assisted with standardized accessible houses and if they have families of their own, they are also accommodated there. The Constitution also states that an individual's right to own property should not be deprived thereof except in accordance with the law.

107. In terms of reasonable accommodation, no specific provisions have been made for persons with disabilities in the prison regulations under the Prisons Act.⁴⁴ However, where resources are available, the Department of Prisons do provide necessary equipment like clutches, wheelchairs and other such devices and tries to accommodate inmates with disabilities by taking account the difficulties they may face prison.

Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment

108. There are constitutional safeguards, which guarantee the right to human dignity and personal freedom.⁴⁵ Section 19(3) provides that no person shall be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment. Additionally the Constitution specifically prohibits the subjection of a person to medical or scientific research without his or her consent. This reinforces a fundamental principle in medical ethics that states that any procedures or treatment may only be conducted with the informed consent of the patient and guardian.

109. The conduct of health and biomedical research in Malawi dates back to pre-independence era.⁴⁶ Since then the need for health research has been growing in order to inform policy and health care service delivery. The National Health Sciences Research Committee in Malawi under MoH and the College of Medicine Research and Ethics Committee (COMREC) are some of the bodies that are responsible for health research in the country. The three core functions of the College of Medicine (CoM) are teaching, service and research. To facilitate the research function the University of Malawi established College Research and Publication Committees (CRPC) in all its constituent colleges. Studies conducted in the CoM include those that require participation of human subjects. All such research requires ethical review and approval. The CoM established COMREC in order to perform these functions.

⁴⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. of the Laws of Malawi.

⁴⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 19.

⁴⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje National health research agenda (2012–2016).

110. Guidelines for ethical and scientific standards for the conduct of research involving human subjects have been developed and established. Malawi is currently also using the Declaration of Helsinki (WMA), the International Ethical Guidelines for Biomedical Research Involving Human Subjects (/CIOMSWHO), Guidelines for Good Clinical Practice (ICH). Compliance with these guidelines helps to ensure that the dignity, rights, safety, and well-being of research participants are promoted and that the results of the investigations are credible. In addition, there are national guidelines by the National Commission for Science and Technology (NCST), formerly known as the National Research Council of Malawi (NRCM), which are based on international guidelines. College of Medicine (CoM) developed its first guidelines for COMREC in 1995. CoM has undertaken a review of the original guidelines to keep them in line with both the National Commission for Science and Technology and international guidelines.

Article 16: Freedom from exploitation, violence and abuse

111. The Constitution provides under sections 16, 17, 18 and 19 that everyone has the right to life, liberty and security as well as freedom from torture and degrading treatment. Malawi has the Prevention of Domestic Violence Act,⁴⁷ which ensures protection of all persons in a domestic arrangement regardless of gender or disability from incidences of domestic violence. In addition section 27 of the Constitution prohibits acts of slavery, servitude or forced labour on any person.

112. The Penal Code⁴⁸ is the legislation, which governs criminal offences against the State. It is applicable to every person who commits an offence committed in the Republic of Malawi. The general provisions relating to murder, assault and others apply equally to persons with disabilities. Interestingly, sections 164 and 165 impose a duty to provide the necessaries of life. The two provisions essentially provide that any person who has charge of any other person unable, by reason of detention, age, sickness, insanity, or any other cause – is under a legal duty to supply that person with the necessaries of life and can be held criminally responsible for failing to do this. An offence against this section attracts a maximum penalty of 3 years term of imprisonment.⁴⁹

113. MoGCDSW is responsible for the coordination of the domestic implementation of the CRPD, CRC and CEDAW including the African Charter on the Rights and Welfare of the Child (ACRWC). The Disability Act introduces the Strategic Plan stating that social development should promote the wellbeing of all people across a wide range of sectors including social support, health, education, employment, and justice and community safety. The Act seeks to enhance intervention programmes with new policies, programmes and benchmarks. These programmes focus on social services such as labour and consumer programmes, activities related to gender equality and vulnerable communities including persons with disabilities, the destitute and chronically ill, migrant workers, children and families at risk, the elderly and women. Consequently social cash transfer programmes have been implemented targeting among others, persons with disabilities.

⁴⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 7:05 of the Laws of Malawi.

⁴⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 7:01 of the Laws of Malawi.

⁴⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje any person who being the parent, guardian or other person having the lawful care or charge of a child under the age of fourteen years, and being able to maintain such child, wilfully and without lawful and reasonable cause deserts the child and leaves it without means of support, shall be guilty of a misdemeanour. Neglecting to provide food, etc., for children: Any person who, being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, refuses or neglects (being able to do so) to provide sufficient food, clothes, bedding and other necessaries for such child, so as thereby to injure the health of such child, shall be guilty of a misdemeanour.

114. The National Gender Policy provides equality and empowerment of women through specific measures under the six priority⁵⁰ outcomes that will cater and recognise girls and women with disabilities activities and programmes upon endorsement by Cabinet. Conversely, the passing of the Gender Equality Act in 2013 offers girls and women with disabilities further protection against gender discrimination.

115. Mediation and diversion have been identified as the two processes for which to help, support a child whether in situations of neglect, violence, abuse and the same applies to children with disabilities.⁵¹ Community support groups where there has been violence or abuse also intervene in such cases, whether support is needed for able-bodied people or persons with disabilities.

116. The Universal Periodic Review (UPR) can also provide for independent monitoring in relation to the full realisation of the fundamental human rights encapsulated under the CRPD. The recommendations from the Malawi Human Rights Commission can be used as a guiding tool for enhancing the status of persons with disabilities. The recommendations can also be used to monitor the Republic of Malawi's progress in relation to its commitment to the CRPD and more importantly the full realisation of fundamental human rights for persons with disabilities at the international level. Different human rights issues will attract work from the relevant UN bodies.

117. Counselling services are provided to youth, families of persons with disabilities and by the Department of Children Affairs in the MoGCDSW, which works collaboratively with the Ministry of Health and Ministry of Justice and Constitutional Affairs. They also monitor the welfare of such persons and their families in order to identify other necessary support from other support agencies.

118. MACOHA, also plays a pivotal role in assisting families and or victims of violence in Malawi. However, they are not specifically equipped to provide such services. There is a need to improve in this area in particular in the provision of human and financial resources to provide appropriate and professional services to victims of violence including persons with disabilities.

119. The Penal Code provides for prosecution of any act or forms of violence against any person regardless of the situation. Furthermore, the Penal Code, under sections 253 to 256 provide for different forms of assaults punishable by a maximum of seven years imprisonment. Therefore, the penal law provides general offences for exploitation, violence and neglect.

120. Section 165 of the said Penal Code creates an offence of neglecting to provide food, etc., for children. It provides as follows: "Any person who, being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, refuses or neglects (being able to do so) to provide sufficient food, clothes, bedding and other necessities for such child, so as thereby to injure the health of such child, shall be guilty of a misdemeanour."

121. Persons with disabilities in need of health or social care support want reassurance that such support is effectively regulated, and that their rights will be respected. The Government is committed to ensuring that safeguards are in place so that disabled people can have confidence in the system through the operation of effective regulation systems. Malawi's social care system still needs improvement from the inadequate qualified social workers or medical personnel, lack of shelters and institutions to provide care more especially for persons with disabilities who have experienced violence or abuse.

⁵⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje (i) Gender responsive government's programs and policies; (ii) equitable participation of women and men in decision-making and governance systems; (iii) enabling environment for the full participation of women in economic development; (iv) improved capacity of women and men to contribute to climate change adaptation strategies; (v) improved capacity of women and men to address health issues; (vi) elimination of violence against women.

⁵¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Child (Care, Justice and Protection) Act.

122. Malawi from October, 2014 to date has experienced an increase in cases of violence and abuse towards persons with albinism. Reported cases of abductions, kidnappings and murder have been registered in Dedza, Machinga, Mangochi, Mulanje and Zomba districts. The MoGCDSW issued a press release on 5th February, 2015 which was also carried in the national papers and radios. The President and the Minister also made statements which were released in newspapers and aired on the radio and television. Copies of these are attached to the report from Annex 1 and 2. Government following the recent albino abductions and killings developed a strategy on addressing the crisis. Furthermore, Malawi joined the rest of the world in commemorating the first ever International Albinism Awareness Day on 27th June with the aim of raising awareness on albinism issues. Attached as Annex 3 is the intervention strategy on attacks on persons with albinism and copies of press release and newspapers cuttings are attached as Annex 4.

123. Zomba Magistrate Courts in Eastern Region is handling most of the criminal cases involving persons with albinism. Some cases have been concluded and others are still being prosecuted. All cases with lenient sentencing have been appealed. A list of the current cases in Zomba are consolidated in Table 3 and a copy of the ruling and sentencing of one of the cases is attached as Annex 5. Furthermore, the Government is undertaking an investigative research to establish the root cause of the attacks so that response approaches are evidence-based to deal with the situation completely.

124. Malawi has further noted a huge influx of persons with disabilities into the cities who are on the street begging. During a stakeholders meeting held by MoGCDSW in Lilongwe on 4th February, 2015, it was noted that the issue of street begging was slowly getting out of hand, as such the Government needed to take a multi-sectoral approach to dealing with the problem especially the criminal elements as evidence by a huge element of abuse of all persons but more with children.

125. Preliminary results from a project being undertaken by Disabled Women in Africa (DIWA) with funding from Disability Rights Fund from September 2014 have shown that a lot of cases of exploitation, violence and abuse of women and girls with disabilities go unreported. Their data indicates that over 64% of the respondents have experienced exploitation, and violence in their life time. Further that although 89% of the girls expressed that they can report abuse, only 56% of those that have experienced it and only 22% have actually reported after experiencing it. Whilst 100% of the women claimed they can report abuse but 64.7% of the women that have actually been abused, only 17.6% have actually reported the abuse. And lastly an average of 50% women and girls did not report abuse because they did not know where to report. The project to date has seen itself rescuing girls from abuse following public awareness and taking up reported complaints. Notably, Malawi continues to face abuse in the form of persons with disabilities and more often children being segregated and kept from school. Anecdotal information suggests that this is due to parents not having enough information on how to manage the various disabilities as well as the lack of Government support structures.

Article 17: Protecting the integrity of the person

126. Malawi supports the right and respect for the physical and mental integrity of persons with disabilities as well as the view that they should be subject to medical or other treatment without their freely given, informed consent. Persons with disabilities have the same right to refuse treatment as everyone else even if that treatment is considered to be in their best interest. Where a person lacks the capacity to make such decisions themselves, any decision made on their behalf should be made in that person's best interests.

127. Section 19 of the Constitution guarantees all persons against cruel and unusual treatment and therefore any procedures performed on the person can only be undertaken with their informed consent.⁵² This has also been specifically provided for in Section 27 of the Disability Act. Furthermore, the onus rests with the designated guardian, in ensuring

⁵² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje No person shall be subject to torture of any kind or to cruel, inhuman or degrading treatment or punishment.

that appropriate consent for medical treatment provided to persons with disabilities in his/her care. Consent is usually provided by the next of kin and applies in other medical cases (not necessarily affecting persons with disabilities).

128. The procuring of an abortion is illegal in Malawi and this is provided for in the Penal Code,⁵³ under section 231. The punishment for this crime is life imprisonment.

129. Malawi acknowledges that persons with disabilities should be able to retain their fertility on an equal basis as those without disabilities. Currently there is no specific legislation that allows sterilization of a person who lacks the capacity to make their own decisions.

Article 18: Liberty of movement and nationality

130. Any person born in Malawi is a Malawian citizen if his father or mother is a citizen of Malawi. This is provided for in section 4 of the Citizenship Act.⁵⁴ Furthermore, a person who is born outside Malawi can become a Malawian Citizen by descent on the date of his birth if his father or mother is a citizen of Malawi by birth. Regarding persons with disabilities, they are entitled to citizenship as any other person since the law does not allow discrimination in terms of entitlement of rights, freedoms and privileges under the law.

131. According to the Birth Registration Act,⁵⁵ all births in Malawi including those of persons with disabilities must be registered and all children must be given a name. However, the birth registration books and forms under the said Birth Registration Act do not provide a place for the registration of a disability at birth. Nonetheless, hospitals in the country have been able to register disability on the birth of a person but do not specify the type of disability except for Salima and Machinga Districts hospitals. Notably, under the birth registration exercises conducted by the National Registration Bureau (NRB), chiefs throughout the country have been specifying the types of disability in their village birth registries. The Government of Malawi has plans to ensure that this aspect is rectified.

132. In terms of the Constitution, section 47 makes it clear that citizenship shall not be arbitrarily denied or deprived. It also recognizes that citizenship can be acquired by birth, descent, marriage, registration, naturalization or any other means prescribed by an Act of Parliament. Citizenship law in Malawi currently does not permit dual citizenship. There is, however, a robust discussion within the country for the Government to consider reviewing the law to allow dual citizenship.

133. Section 39 of the Constitution guarantees to every person the right of freedom of movement and residence within the borders of Malawi. In addition every person has the right to leave the Republic of Malawi and to return to it. In terms of non-Malawians seeking to enter the Country, the requirements are provided for in the Immigration Act. Citizens from some countries require visas for entry into Malawi while citizens from certain designated countries are exempted from visa requirements. However there have been no recorded incidences of discrimination against persons with disabilities in terms of their right to movement.

134. No persons shall enter, be or remain in Malawi unless he is in possession of a current permanent residence permit, or a current temporary residence permit, a current business residence permit or a current temporary employment permit.⁵⁶ Once a non-Malawian has entered into the country either through air, water or land, he or she has to present himself or herself to an Immigration Officer within 24 hours of such arrival.⁵⁷ All

⁵³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 7:01 of the Laws of Malawi.

⁵⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap.15:01.

⁵⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 24:01 of the Laws of Malawi.

⁵⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 21 of the Immigration Act.

⁵⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 15 of the Immigration Act.

Malawians as defined in sections 3,⁵⁸ 4,⁵⁹ 5,⁶⁰ 7⁶¹ and 21⁶² of the Citizenship Act can enter and leave the country whenever and for as long as they wish. Non-Malawians can apply for permanent residency after living in the Republic of Malawi continuously for 10 years. Unless incarcerated or prevented from doing so by the judiciary, there are no laws preventing the departure of people from the Malawi and this law applies to persons with disabilities as well.

Article 19: Living independently and being included in the community

135. There is no system in place, which provides independent living and this includes personal assistants for persons with disabilities. As such persons with disabilities rely on well-wishers to assist them. This creates challenges to the independent livelihood of persons with disabilities. For instance, those in Machinga district face challenges because once a person has assisted them to cross the road, the person demands payment for the service.

136. Government recognizes the efforts that DPOs in Malawi have undertaken to ensure independence of their registered members. For instance, MUB has given leadership training, using the funding from Atlas Alliance, to 1,500 of its members at all levels in areas of mobility, leadership, management, computer, literacy and small scale business. About 1,215 members were trained in leadership and management skills out of which 145 were employed in the public sector while 185 are self-employed. In fact in Mulanje and Phalombe, the Union trained 134 women in businesses and 131 are doing businesses. However, some persons with disabilities have developed a culture of relying on hand-outs instead of engaging in economic activities that are sustainable and provide a dignified life.⁶³

137. The priority for the Government of Malawi at the moment is to ensure that persons with disabilities know their rights; are able to access public facilities and services and are integrated into public institutions such as schools. Malawi understands persons with disabilities' right to independent living means having choice and control over assistance and/or equipment needed to go about daily life, and having equal access to housing, transport and mobility, health, employment, education and training needs. However, due to the progressive realization of this right, Malawi's current priority is on some of the essential fundamental rights but shall continue to move towards the realization of this choice.

138. It should be noted that there is currently being implemented a Community-Based Rehabilitation (CBR) programme in Malawi. The programme promotes persons with disabilities to have access to five major intervention areas namely; health, education, livelihood, empowerment and social inclusion. The CBR programme in Malawi was initiated by MACOHA with technical and financial support from United Nations

⁵⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Every person who on the 5th day of July 1966 was under any existing law a citizen of Malawi shall continue to be citizen of Malawi after that date.

⁵⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Every person born in Malawi after the 5th day of July 1966 shall become a citizen of Malawi on the date of his birth if one of his parents is a citizen of Malawi. Provided that this subsection shall not apply to a person whose father is a citizen of a country with which Malawi is at war and the birth occurs at a place then under occupation by the enemy.

⁶⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje A person born outside Malawi after the 5th July 1966 shall become a citizen of Malawi on the date of his birth if his father or mother is a citizen of Malawi by birth.

⁶¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Any person who upon the attainment of twenty one years of age is a citizen of some other country shall upon his twenty second birthday cease to be a citizen of Malawi unless before that day he has taken oath of allegiance in the form specified in the Second Schedule and made a declaration in writing in the form specified in the Third Schedule of his intention to retain citizenship of Malawi.

⁶² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Acquisition of citizenship by naturalization.

⁶³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje The Status of Human Rights in Malawi, 2012 @p. 36.

Development Programme (UNDP) and International Labour Organization (ILO) to cater for the needs of persons with disabilities. The CBR programme started as a pilot in Blantyre district but has since expanded and is now in 14 districts.

139. In districts where the CBR programme is being implemented especially with support from NAD, Sight Savers International, CBM and Government, MACOHA promotes the capacity of persons with disabilities so that they have a stronger say on development issues affecting them. This is done through the promotion of representation of persons with disabilities at Village Development Committees, Area Development Committees and District Executive Committees. Hence the inclusion of persons with disabilities in mainstream development activities is being promoted at district and lower levels. In districts where there are CBR programs supported by CBM especially representation of persons with disabilities at different levels is encouraging but Government of Malawi Ministries at district level have not really taken up the practice of involvement of persons with disabilities.

140. Additionally MACOHA's responsibilities include provision of rehabilitation services (including extension services); identification and treatment of children, youths, and adults with disabilities and referral for surgery as required (especially for orthopaedic and visual services); treatment of epileptic patients at community level; provision of shelter employment (production units); development of strategies and disability related services and provision of counselling and vocational training to persons with disabilities; education sponsorship to persons with disabilities and encouraging community participation in Community-Based Rehabilitation (CBR) programmes. Production Units in Blantyre and Lilongwe offer on-the-job training and provide employment opportunities for persons with disabilities.

141. MACOHA has also been restructuring its two training centres namely Kamuzu and Lilongwe Vocational Training Centres which were opened in 1983 and 1989 respectively. It is diversifying the courses being offered by the two training centres. As of 2014, it has graduated 3170 students since its inception. However the intended capacity has not been met due to underfunding. Since 2001, it has added information technology, secretarial skills, motor vehicle mechanics, bricklaying, technical installation and refrigeration to its course list. The centres have since included people without disabilities amongst their students who will pay fees, while persons with disabilities receive scholarships.

142. There are no living arrangements, including shared and sheltered accommodations which take into account any form of disability at this stage. However, it is envisaged that this will be addressed by the State in the future. Persons with disabilities live with and are cared for by their families, who, share everything with them. It is only when they are referred on severe medical circumstances to the hospital, that they are admitted to the public hospital where everyone has access.

143. Although there are no restrictions on anyone in Malawi to public places, persons with disabilities have little access to community services and facilities such as hospitals, places of worship, parks, sports and cultural activities and other social gatherings.

Article 20: Personal mobility

144. In order to assist the mobility of persons with disabilities, donated assistive devices are provided by organizations such as the Malawi Rotary Club, MACOHA, STARKEY, International Rotary Clubs and other charitable organizations outside the Republic of Malawi. In addition, there is one orthotic and prosthetic centre in Blantyre, operated by the government that also supplies mobility aids to clients. Since there are many persons with disabilities who require mobility aides, not all are getting these devices. There is still a lot that the country has to pursue in order to cater for the needs of persons with disabilities such as signal indicators and street signs. It is a challenge at this stage as the State has limited resources but Government is committed to addressing this problem in the future. Table 4 shows the numbers of assisted devices provided through MACOHA.

145. Although this has not been a concern in the past, Malawi is currently in the process of reviewing its Information and Communication Technology (ICT) Policy, as well as Communications Act⁶⁴ with a view to integrate disability as recommended by the ICT division of the Office of the President and Cabinet.

146. Specialist training for mobility skills for specialist staff working with persons with disabilities has been a part of the Ministry of Education teacher aide training program. Due to limited resources, the Ministry is taking every step to strengthen this programme with teacher aides across the country.

147. There are no set measures in place in the country for personal mobility. In order to get appropriate assistive devices or aids for persons with disabilities, specific measurements are taken prior to ordering of equipment from appropriate suppliers in Malawi. Generally, the assistive equipment is usually sent to specific organisations in Malawi on a donated basis.

148. Malawi's public transport system continues to be inaccessible to persons with disabilities, that is, designs do not put special structures like pavements, guard rails or traffic lights. Furthermore, the transport systems do not have monitoring systems to ensure provision or retention of such facilities for instance when the Kamuzu Highway in Blantyre was being rehabilitated, the disability friendly traffic lights which were at Queen Elizabeth Central Hospital (QECH) were never returned after the completion of the works in 2013.

Article 21: Freedom of expression and opinion, and access to information

149. Malawi is committed to ensuring that persons with disabilities have the right to freely express their opinion and to play an active role in all spheres of life. Section 34 of the Constitution ensures this right for persons with disabilities. As such they have a right to freedom of opinion, including the right to hold, receive and impart opinions, without interference. Section 35 of the Constitution provides that every person shall have the right to freedom of expression.

150. The 2008 Malawi's Population and Housing Census shows that the country has over 82,000 persons with various hearing challenges. However there are only eighteen (18) sign language interpreters in the country with only five (5) actively working. Out of these one is in the North and the other is in the Central Region while the Southern Region has three. This acute shortage of sign language interpreters deprives persons who are deaf in accessing essential services. It further makes it difficult to eradicate all communication barriers which persons with hearing impairments face. In order to bridge the communication gap, currently MANAD together with various Government Ministries are carrying out some basic sign language user training.

151. In Malawi, persons with disabilities have difficulties to access health services because most of the health campaign and communication is visual and audio. As such those with hearing and visual impairment often get inappropriate medication and the radio campaigns have no meaning to persons who are deaf. Health education messages on posters and pamphlets which are relevant and essential may not be seen by persons with visual impairments.

152. Malawi has yet to develop its own sign language, and plans to have one are underway. Currently sign language is used by few. The national television, MBC TV airs some of its news and programmes with a sign language interpreter to promote the right to access information. Notably in Malawi, the sign language interpretation has not received formal recognition as stipulated by the Disability Act.

153. Currently, few of the public documents in Malawi are accessible to persons with visual impairments for their respective purposes. There is limited information which is either on large prints or Braille. The country has a long way to go to sufficiently provide

⁶⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 68:01.

public documents in Braille for those with hearing impairments and audio ones for those with visual impairments. Further, those with severe learning difficulties have no access to information in a way they can understand. As such it is clear that accessibility to information which directly links to freedom of expression remains a challenge in the country.

154. Regarding access to information, section 37 of the Constitution guarantees to every person the right of access to all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his or her rights. This is also reinforced in section 25 of the Disability Act, which provides that persons with disabilities shall have the right to access information and communication technologies at an affordable cost. Government is mandated in section 26 of the Disability Act to recognize the importance of research and the role that information and communication technologies play in improving the quality of life of persons with disabilities. Persons with disabilities share the same right as persons without disabilities to the media whether it is a newspaper, television or radio.

155. Recently in Malawi an Access to Public Information Bill has been proposed in order to afford people the opportunity to have government information relating to expenditure and other public information. The purposes of the Access to Public Information Bill are, where consistent with the principle of the Executive Government's responsibility to the Constitution – to enable their more effective participation in the making and administration of laws and policies; to promote the accountability of Ministers of the Cabinet and officials, and thereby to enhance respect for the law and to promote the good government of the Republic of Malawi; to provide for proper access by each person to official information relating to that person and to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

156. Although there are no measures in place to provide accessible information and services for persons with disabilities, the media is open for awareness and reporting on all areas of disability. All media groups in the country freely air disability issues and welcome persons with disabilities to raise their issues. However, the Government has not put in place measures to ensure private entities and mass media to compel them to provide their information and services in accessible form for persons with disabilities.

Article 22: Respect for privacy

157. Section 21 of the Constitution of Malawi specifically protects the privacy of all persons. It provides that every person shall have the right to personal privacy, which shall include the right not to be subjected to some of the following searches of his or her person, home or property or interference with private communications, including mail and all forms of telecommunications. Although the law provides so, there are several challenges on the ground. For instance, lack of disability friendly systems prevent persons with disabilities from exercising their right to vote as was noted in the Mzimba by-elections in 2012. Further, in the Tripartite Elections of 2014, all visually impaired persons used a guide when voting. Further on a daily basis those with hearing impairment have to talk using an interpreter. In all these scenarios it is clear that there is no privacy.

158. Government of Malawi has no data protection laws, however privacy concerns especially where there is confidential information is protected by any institution keeping such information for instance judicial records on adoption cases or sexual offences involving children. The Ministry of Health has procedural guidelines in treating all information on every person including persons with disabilities confidential.⁶⁵

159. The Constitution states the right of the individual to life and security of the person and the right not to be deprived thereof except in accordance with law also applies to persons with disabilities. Therefore the misconception to conceal persons with disabilities

⁶⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See the Charter on patients' and Health Service Providers' Rights and Responsibilities no 8. Titled "Right to privacy and confidentiality".

on the basis of protecting their privacy is not acceptable. As a result of the many awareness campaigns on the rights of persons with disabilities, the attitude of people has been positively receptive towards them and they are more visible and accepted in society today. It is acknowledged that some persons with disabilities are locked-up in houses by their relatives and guardians. School going children are denied education as noted by MACOHA on their Tilitonse funded programme in Mzimba district which registered an increase enrolment of children with disabilities between 2012 and 2014.

Article 23: Respect for home and the family

160. The Constitution allows persons with disabilities to enter into a marriage contract. For persons between the age of fifteen and eighteen years a marriage shall only be entered into with the consent of their parents or guardians. The State shall actually discourage marriage between persons where either of them is under the age of fifteen years. Section 2 of the Disability Act provides that every person with a disability shall be entitled to the same rights and privileges as all other persons in the Republic of Malawi. Therefore all persons with disabilities within Malawi have the right to marry and make a family in accordance with the law.

161. The Marriage, Divorce and Family Relations Act,⁶⁶ allows persons with disabilities to enter into a marriage contract. The Constitution in section 22(3) clearly states that all men and women have the right to marry and found a family.

162. Section 22(1) of the Constitution recognizes that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The Constitution further provides that each member of the family shall enjoy full and equal respect and shall be protected by law against all forms of neglect, cruelty or exploitation.

163. In terms of social relationships a good proportion of persons with disabilities are married. Some studies⁶⁷ have shown that some women with disabilities would want to get married and have children but most men do not want to associate and let alone marry a woman with a disability. They are perceived as being unattractive. In some cases women with disabilities, have had their husbands desert them because of their disability and some are even tricked into having sex with men and once they are pregnant they are abandoned.

164. Persons with disabilities are protected from unlawful discrimination in the provision of family planning services. Reproductive health and family planning still remains a major issue for most women in Malawi including those with disabilities. Malawi does not have a comprehensive Sexual Health Strategy aimed at supporting all citizens to acquire and maintain the knowledge, skills and values necessary for good reproductive health and wellbeing. Notably persons that are deaf, blind, intellectual and with mental or health problems may have special and specific needs around contraception and sexual health, for example, in terms of accessible information but such is rarely provided.

165. Section 33 of the Constitution provides that every person has the right to freedom of conscience, religion, belief and thought, and to academic freedom. This entails, therefore, women and girls have the right to express what they want and do not want to be done to their lives. At times families try to make decision for persons with disabilities for their protection. However, there is insufficient evidence supporting this as well as to how often this is done or under what circumstances it is done or allowed.

166. The ongoing lobbying for the amendments of the existing policy with the Ministry of Health on voluntary tubal ligation (sterilisation) is aimed at recognising women's right to health and currently the reproductive form has been amended. However, the practice of health personnel needs to be monitored.

⁶⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap 25:01 of the Laws of Malawi.

⁶⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje 2008 Population and Housing Census Report – Disability and Elderly Analytical Report.

Article 24: Education

167. Various measures such as introduction of the Early Childhood Development (ECD) Policy and various policies have been adopted to ensure that every child including those with disabilities have access to nursery, primary, secondary and higher education.

168. Discrimination against persons with disabilities in education is prohibited. Section 25 of the Constitution provides that all persons are entitled to education. The provision allows for the establishment of private schools and other private institutions of higher learning provided that such schools or institutions are registered with a State department in accordance with the law and the standards maintained by such schools or institutions are not inferior to official standards in State schools. In spite of this provision, evidence on the ground suggests that the majority of children with disabilities, especially those with intellectual disabilities are not accessing education. Even those that enrol, often drop out of school prematurely mainly due to issues of accessibility and a one size-fit-all curriculum.

169. The Ministry of Education Science and Technology (MoEST) is responsible for ensuring that all Malawians have access to education and the education system is based on the 8-4-4 system where one spends 8 years in primary school 4 years in secondary school and another 4 years in the university. In terms of enrolment the number of pupils enrolled in primary school reached 1 million in 1986/87. In 1993/94 enrolments was at 1.9 million and the following year in 1994/95 enrolment jumped to 2.9 million. The massive increase in enrolment in primary school was as a result of the introduction of free primary education. The number of primary schools is estimated at 5,400 while that of secondary schools is at 1,127. On the other hand the number of teachers is currently at 46,000 and 11,400 in primary and secondary schools, respectively. The National Education Sector Plan (2008–2017) highlights a number of problems facing the education sector in Malawi and these include: shortage of teachers, poor strategic management of teachers, inadequate teaching and learning materials, inadequate and inferior physical infrastructure and poor access for children with different types of disabilities. Table 5 shows enrolment figures for primary and secondary schools.

170. In 2009 the Malawi Education System had an estimated number of 83,666 learners with Special Education Needs (SEN) in primary school while 2,780 were in secondary schools. Currently, the numbers have increased to about 90,089 for learners in primary schools and 3,352 for learners in secondary school, while the current enrolment in public university for learners with different types of disabilities is about 61 with Chancellor College, a constituent College of the University of Malawi has the highest enrolment of 38 learners. The increase demonstrates Government's continued effort to increase access to education by Persons with Disabilities. In 2009 there were 3,671,481 learners in primary schools and 243,838 in secondary schools in Malawi. The proportion of pupils with Special Education Needs (SEN) in primary school (2.3%) was twice that in secondary school (1.1%). In primary school 52.4% of the learners with SEN were boys while the rest (47.6%) were girls. In secondary school, however there were slightly more girls (50.6%) compared to boys at 49.4%. These statistics, however, do not capture all learners with disabilities enrolled in mainstream classes. These statistics from Education Management Information System excludes school going age children with disabilities who are not attending school; hence population-based surveys are more informative.

171. The challenges facing teachers and learners include lack of knowledge and skills in teaching children with disabilities, inadequate teaching and learning resources, negative attitudes by teachers and the community towards children with disabilities, inaccessible school infrastructure and a lack of assistive devices.⁶⁸ There is also lack of specialist teachers in secondary schools as compared to primary schools. The majority of specialist teachers in Malawi are primary school teachers as compared to secondary school teachers. Public institutions of higher learning in Malawi restrict persons with disabilities to particular faculties which is discriminatory. For instance, at Chancellor College, learners with disabilities, especially those that are totally blind, are restricted to such disciplines as

⁶⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje A. Chavuta et al p. 8 and 9.

Humanities, Social Sciences, Political Science and Education (Humanities) despite their interest to study natural sciences such as Biology, Chemistry, Physics and Mathematics.⁶⁹

172. In recognising the challenges faced by persons with disabilities, the Government previously established special needs school to cater for learners with visual and hearing impairments. One of them is Chilanga School for the Blind in Kasungu district. Currently, the Government of Malawi is working towards inclusive education in the mainstream education system. For instance Lilongwe Girls Secondary school has a resource centre as well. Most of learners in speciality schools such as the Schools for the Blind started their education in other schools but because of lack of facilities for the learners with visual impairment, they had to be transferred to special schools. The learners with visual impairment love being in these special schools because teachers who know Braille are available, unlike teachers in mainstream schools. Mostly, teachers, parents and the community are the ones who identify learners with special education needs. The specialist teachers conduct advocacy work but their impact is limited because their numbers are low. For instance, Malawi has about 1,100 special needs teachers nationwide to cater for about 93,502 learners with special education needs and these numbers are not sufficient. On the other hand, mainstream teachers and the majority of the community lack knowledge and skills on how to identify and assist learners with SEN. While Government established special schools for learners with SEN, the current policy encourages inclusion of children with disabilities in mainstream schools through the establishment of resource centres in these mainstream schools. Malawi has 140 primary and 37 secondary resource centres.⁷⁰ These are not sufficient to meet the demand. The MoEST has also embarked on creating awareness amongst community members about disability issues and the importance of community participation in addressing educational needs of persons with disabilities. As a result of these initiatives, some communities are mobilising resources and constructing resource centres for persons with disabilities in existing mainstream schools. For instance, Gumbo Resource Centre in Ntcheu and Migowi Resource Centre in Phalombe are resource centres that have been initiated and constructed by community members. In addition to this, the private sector and faith-based organisation have also participated in addressing the educational needs of children with disabilities. For example, institutions such as Airtel Malawi, Rotary and Lions Clubs have provided support to SNE institutions, especially resource centres throughout the country with infrastructure, food and non-food items, assistive devices teaching and learning materials and additional remuneration package for specialist teachers.

173. Internationally Malawi is a signatory to a number of conventions such as the Salamanca Declaration (1994), Dakar Declaration (2000) and many others that advocate for inclusion of learners with special educational needs in the mainstream school. Furthermore, Malawi alongside other countries in the SADC region is advocating for inclusive education. In Malawi, inclusive education is being implemented using a twin-track approach whereby severe cases still go to special schools while those learners with mild cases go to inclusive setting. For instance, learners with hearing impairment are still going to special schools whereas learners with low vision or those with physical disabilities do attend their classes with the rest of the learners in mainstream schools.

174. Curriculum and syllabus changes in the education system do not take into account the special needs of persons with disabilities. For instance, despite the introduction of information and Communication Technology or computer studies in Malawi Secondary Schools, learners with disabilities continue to be side-lined in benefitting from these studies. Further, the rate at which reforms or reviews in the curriculum and syllabi take place does

⁶⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje.

⁷⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Examples are Ekwendeni, St. Mariagolette, Kaphuta and St. Mary's Boys in the North. In the central some of them are Nsiyaludzu, Malingunde, Salima L.E.A and Dowa 1 Primary school. Southern region has Makande, Luchenza Primary, Chingoli and Nkope For the secondary school resource centre e.g Mulanje, Lunzu, Balaka and Blantyre in the South and North has Chilumba, Mzimba, Robert Laws and Chitipa Secondary Schools whist Central has Chayamba, Namitete, Salima and Ntcheu secondary schools.

not match the rate at which materials for these changes are developed in braille. The MoEST does not consider the diverse nature of disabilities of learners in Malawi's schools in the procurement of learning and teaching materials. However, despite the fact that the majority of learners with disabilities are side-lined from computer studies, learners with visual impairments are able to use the computers. This is been made possible by the Making Wonders programme which the department of special needs education is implementing with support from Scottish government to promote access to ICT among learners with visual impairments.

175. The demand for SEN is high in Malawi but it seems this demand is not being met. Government is committed to ensure that this demand is met using the available resources. Currently, the MoEST has introduced the Itinerant Teaching Programme to cater for insufficient specialist teachers. Under this programme one specialist teacher is designated to manage SEN learners in different mainstream schools in a given zone. Government also allocates financial resources for all SEN activities in all districts of Malawi. Using the resources districts such as Nsanje have managed to procure materials for SEN learners such as type writers for visually impaired children. However concerns from Nsanje residents were that there were no measures for learners with hearing impairments. Whilst in Chiradzulu, learners with disabilities are considered a priority when considering bursary applicants. In other districts wheelchairs for those with physical disabilities have been bought in the various resource centres. This is in line with section 10 of the Disability Act that recognizes the role of the Government in providing equal opportunity, and ensures an inclusive education system and lifelong learning for persons with disabilities.

176. In terms of access to a built environment, the Ministry of Education issued a directive that all education facilities should be made accessible to learners with disabilities. The Education Infrastructure Management Unit has guidelines on how to construct structures that are disability friendly. To this end, Liwonde Teachers Training College and the recently constructed 20 secondary schools funded by the World Bank, which include Bangwe in Blantyre, Kasakula in Ntchisi and Chinsapo⁷¹ in Lilongwe are disability friendly. Currently, construction of new structures is complying with these standards.

177. It should also be noted that section 11 of the Disability Act prohibits discrimination in education or training institutions on the basis of disability. Any person who discriminates persons with disabilities in education or training institutions in education or training institutions commits an offence and is liable to a fine of K100,000.00 and imprisonment for twelve years in case of a natural person and a fine of K1,000,000.00 in the case of a body corporate.

178. Arising from the challenges that learners with disabilities experience in accessing education, the MACOHA CBR programme has created awareness to the communities on education of children with disabilities. To this end, there has been an increase in enrolment of learners with disabilities across the country from 1,154 in 2012 to 5,533 in 2014. The programme has also oriented regular classroom teachers in inclusive education. So far 734 regular teachers have been oriented. The CBR programme has also facilitated provision of assistive devices as well as bursaries to needy and deserving learners with disabilities. Currently, 438 learners have been supported with bursaries while 227 learners have accessed various assistive devices. The programme has also promoted access to school infrastructure such as classrooms, toilets and water points. Between 2012 and 2014, 153 school structures were made accessible.

179. In terms of the overarching role of the MoEST, with regard to persons with disabilities the Ministry's strategic objectives include increasing equitable access to education by persons with disabilities, improving quality of education provided to persons with disabilities and improving governance and management of education for persons with disabilities. The MoEST has a Special Needs Education Directorate that has the responsibility of ensuring a conducive school environment where learners with SEN can easily access education without any hindrances.

⁷¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Chavuta Research Report.

180. MoEST is also responsible for the training of specialist teachers. To some extent it is fulfilling the roles as described in the Policy and this has been possible because of the presence of the Directorate of Special Needs Education within the Ministry. Currently, Malawi has one college solely responsible for training of specialist teachers. The Montfort College is currently graduating about 100 specialist teacher every two years.

181. The National Special Needs Education Guidelines sets out a comprehensive approach to the implementation of special needs education in Malawi. The policy focuses on eight major components of SNE which include: early identification assessment and intervention; advocacy, care and support; management planning and financing; access, quality, equity and relevance. Each of these components has policy statements and strategies to ensure their effective implementation. Noted challenges to the realization of the guidelines include inadequate funding; inadequate teaching and learning materials; inaccessible infrastructure such as classrooms and toilets; long distances to facilities; and shortage of specialist teachers among other factors.

182. The Malawi National Education Strategic Plan (NESP) for the period 2008–2017 outlines strategic interventions that will be implemented in Malawi within the education sector. This is the basis for investments in the education sector by GoM and Development Partners. One of the major areas of emphasis in the Plan is that learners with special educational needs (SEN) are taken care of. Some of the strategies that will be implemented over the 10 year period to address the challenges that learners with SEN include:

- (a) Improving the provision of teaching and learning materials for both special needs education and other adults;
- (b) Ensuring CBR programmes run by MACOHA have special needs education component;
- (c) Mainstreaming special needs education at all levels of education and for both out of school and in school youth;
- (d) Mainstreaming special needs education in both primary and secondary school curricula;
- (e) Developing appropriate tools for special needs education for example sign language and braille;
- (f) Increasing enrolment and making selection equitable including those of special educational needs;
- (g) Increasing the enrolment of special needs education teachers in training colleges; and
- (h) Reviewing and revising Technical Entrepreneurial, Vocational Education and Training (TEVET) Act to incorporate issues of special needs and inclusive education.

183. Table 6 provides the necessary budget data for the SNE that the Republic of Malawi has allocated in terms of education of persons with disabilities.

184. Notably, MoEST is overall responsible for the technical education and vocational training in Malawi but Technical Entrepreneurial, Vocational Education and Training Authority (TEVETA) is responsible for developing and supervising TEVET policies in Malawi and for administering the TEVET Fund whose three main functions it is charged with are to: foster and promote entrepreneurial skills; promote vocational training for “disadvantaged groups” (without naming them); and ensure that the TEVET system is demand-driven and responsive to the needs of the labour market, in both the formal and informal economy. The TEVETA Board is made up of 14 members, who are all appointed by the Minister. Significantly, the Board includes a representative of persons with disabilities.

Article 25: Health

185. Section 6(1) of the Disability Act provides that the Government shall provide appropriate health care services to persons with disabilities, including prevention, early identification, intervention and other services designed to minimize and prevent the occurrence of disabilities. Section 7 of the same Act provides that no person shall be denied access to health care and rehabilitation services in any health establishment or be required to pay a higher fee for such services, on the basis of disability.

186. In Malawi, there are three major categories of health service providers: public-sector facilities, and not-for-profit private-sector facilities, and for profit-private-sector facilities. Of the total 1060 health facilities, 48 percent are public facilities, 16 percent are faith-based organisations that work under the umbrella of the Christian Health Association of Malawi (CHAM). The rest belong to other non-governmental organizations (NGOs) or to the private for-profit sector. The public sector provides services free of charge to the population. However, under the decentralisation policy, the MoLGRD is responsible for delivery of services at district and lower levels. The Malawi Health Sector Plan is to ensure that services are brought close to the people that need them and the recommendation was that there should be a Health Facility that serves the community around that facility at every 8 kilometres. However, there are significant coverage gaps in terms of health service provision to population living outside the 8 km radius. This resulted in Government going into a Service Level Agreement (SLA) with CHAM whereby clients get medical services in a CHAM facility free of charge and Government pays for such services in localities where there are no government hospitals. Hospitals under Christian Health Association of Malawi are private and charge user fees. The public sector accounts for almost 78 percent of health care services in Malawi. At the central level, the Ministry of Health (MoH) is mainly responsible for policy formulation and enforcement and setting of standards, planning and mobilising health resources for the health sector, providing technical support, supervision and coordinating research, monitoring and evaluation. National AIDS Commission as the HIV and AIDS national funding agency has provided funds to MUB, MACOHA, MANAD as DPOs to run HIV and AIDS programmes.

187. Currently, the MoH provides health care to all Malawians including persons with disabilities. Information from participants to focus group discussion during nationwide consultations indicated that they do not access health services at the same rate as others because of their disabilities. For instance, there is lack of health specialist medical personnel who are able to understand health problems as communicated by persons with disabilities especially those with hearing, speech, visual and intellectual impairments. The situation is worse in rural areas where rehabilitation services are inadequate. Further, there are no accessible beds in the labour wards for women with physical disabilities.

188. The MoH is also responsible for the prevention of disability, for example, through provision of vaccines such as polio, diphtheria, measles to children and the provision of adequate nutritional care to malnourished children. If malnutrition in children is not properly addressed it can lead to childhood disability. MACOHA provides and facilitates stimulation of children with disabilities and this has so far benefitted 1184 children nationwide. Health centres are also responsible for identification and referrals of persons with disabilities to higher health facilities such as district and central hospitals or rehabilitation centres. They also refer the patients to district or central hospitals. The follow-up of patients with physical disabilities is done by MAP with assistance from health facilities. Table 7 shows referrals for 2013.

189. It has to be stated that MAP has recently suspended its outreach programs due to funding challenges. For instance, the Government gave MAP K207, 689, 573 and K229, 865, 747 for 2011 and 2012 financial years respectively. The money for operations of the centre from the allocated funds were as follows: K66, 748, 472.00 and K80, 099, 404.00 for 2010 and 2011 respectively. The actual expenditures were K66, 855, 031.00 and K79, 753, 737.⁷² Within the Ministry of Health, medical rehabilitation is done in all central hospitals.

⁷² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje MAP Annual Report, 2012 @ pg 6.

Medical rehabilitation service programs have been expanded to some district hospitals such as Ntcheu, Dowa, Kasungu, Rumphi and Machinga by utilizing medical rehabilitation technicians.

190. The MoH has occupational therapists at Queen Elizabeth Central Hospitals as well as at Zomba Mental Hospital. These therapists are responsible for teaching patients activities of daily living such as bathing, dressing, and eating. However, there are only 2 Government occupational therapists. The Government of Malawi through MACOHA has facilitated provision of therapy to 2805 persons with disabilities, 2992 eye surgeries which restored sight to the blind, 1188 orthopaedic surgeries and facilitate provision of assistive devices to 1453 persons with disabilities. In addition, the Ministry provides mobility aids and appliances to persons with disabilities. Physiotherapy services are found at Zomba, Mzuzu, Kamuzu and Queen Elizabeth Central Hospitals. There are other rehabilitation cadres such as physiotherapists, orthopaedic technologists, rehabilitation technicians, speech and language therapists, whose numbers remain limited, which means the majority of Malawians do not have access to rehabilitation. Physiotherapists are responsible for teaching clients gait training, do postural drainage, treatment of burns and the treatment of varieties of spinal cord lesions.

191. The Government constructed a wheelchair production workshop at the Orthopaedic Centre at Queen Elizabeth Central Hospital. This was to improve the supply of appropriate wheelchairs which will be produced to individual client's specifications. At Kamuzu Central Hospital there is a specialist Paediatric physiotherapy unit within the physiotherapy department which caters for children's conditions. Currently, there are three (3) physiotherapists in government service and the College of Medicine is running a BSc. (Hons) Physiotherapy programme which was introduced in 2014. There are nineteen (19) intern physiotherapists currently doing clinical attachments in Kamuzu Central Hospital and Queen Elizabeth Central Hospital and MoH only has one orthotic and prosthetic centre which produces mobility appliances such as wheelchairs as well as artificial limbs. Ekwendeni mission hospital in Mzimba district has a small unit responsible for the provision of artificial limbs and fabrication of braces.

192. MoH signed a Memorandum of Understanding with 500 miles (Scottish NGO) for the provision of prosthetic and orthotic services at Kamuzu and Mzuzu Central Hospitals. These are fee-paying services however, for clients who cannot afford to pay for the appliances, the hospitals are responsible for the bills.

193. Persons with disabilities have access to information as to where they can access health services whether public or private. The Southern Region of Malawi especially Mulanje, Chiradzulu and Nsanje have been implementing innovating practices at the health centres through the adoption of policies that ensure that persons with disabilities are prioritized during health service provision. The practice also involves provision of a clinical officer and a Nurse who is versed in signed language for persons with hearing impairment. It is acknowledged that there remains a challenge on accessibility of health facilities due to beds and toilets that are not disability friendly. Those who require to use both hands and legs to move from one point to the other due to the nature of their disability, those with visual impairments and those who use wheelchairs find access to sanitation facilities problematic and a health hazard. Further in most hospitals there are few clinicians and nurses who are conversant with sign language, which means communication problems with clients that have hearing impairments. In all the districts birth registration is done at the chief and at the hospital. However, the birth registrations do not indicate whether or not the child has a disability except for Machinga district where disability is specifically mentioned on registration form.

194. MoH has been working with MANAD in the training of different health cadres like physiotherapists, nurses, rehabilitation technicians, HTC councillors in the use of sign language. Between 2013 and 2015, 150 personnel have undergone training. Government recognizes that these efforts need to be escalated to ensure that persons with hearing impairments access to medical assistance.

195. Notably, one component of the CBR program is health. It aims at improving access to health services by persons with disabilities. CBM supported CBR to provide eye care,

mainly surgical removal of cataracts. As of now most clients are without rehabilitation services since MAP suspended its outreach programmes. When there is a need, CBR programmes also refer persons with disabilities to hospitals or other service providers. The evaluation of CBR programmes demonstrates increased access to health services by person with disability. For instance there are increased referrals to health facilities and specialist institutions; access to epilepsy treatment, restoration of sight and hearing after treatment of infections.

196. Studies carried by Centre for Social Research have generally demonstrated that persons with disabilities have problems in terms of accessing health services. Thus clients can be aware of availability of health services and they also do require these services. However, only a minority receive the said services. This is also applicable when it comes to assistive devices. This demonstrates that there exist gaps between what services persons with disabilities need and what they receive.

197. Challenges in accessing health services include: failure to seek treatment timely because of traditional beliefs, lack of money for people with disability for them to get to health centres, mistreatment e.g. during antenatal clinics, delivery and post-natal services as if persons with disabilities are not supposed to reproduce. Persons with disabilities may even be demeaned when they are accessing services. For instance, some reported insults faced like being asked “how they can be expectant when they have a disability.” Further, communication barriers between health workers and persons with hearing impairments, mobility challenges from places of residence to health facilities including long distances to health facilities. Failure by health workers to effectively communicate health messages to persons with disabilities especially those with hearing and visual impairments e.g. persons with visual impairments failing to access HIV and AIDS messages because of lack of Braille information materials.

Article 26: Habilitation and rehabilitation

198. Malawi has one adult rehabilitation centre, which offers institutional rehabilitation to clients and multidisciplinary rehabilitation programmes to persons with various forms of functional limitations. These include physiotherapy, occupational therapy and some speech therapy. These rehabilitation programmes are designed to allow persons with functional limitations to become as independent as possible and to ensure their optimal reintegration in social and family life.

199. Malawi is obligated to enable persons with disabilities attain and maintain lives that are as independent as possible with services and programs in place in the areas of health, rehabilitation, employment, education and social.

200. MoH provides practical guidance for frontline clinicians and service providers on how to provide effective and efficient community services to help people achieve and maintain maximum health and independence. The ministry recognizes that the key aim of rehabilitation is to enable and support individuals to recover, or adjust, to achieve their full potential and where possible, to live full and active lives, participating in their communities.

201. There are also NGOs and Foundations which provide rehabilitation services to persons with disabilities in Malawi. These include the Sue Ryder Foundation, St John of God, Feed the Children and the Malawi Against Physical Disabilities (MAP), which runs over 200 clinics in the country while Feed the Children runs two rehabilitation centres; one in Blantyre district and another one in Lilongwe district, which operates as an outreach programme. In 2014, Feed the Children reached over 1,290 children with rehabilitation services. The Sue Ryder Foundation provides medical rehabilitation services in the country. Further information on habilitation and rehabilitation programmes and services can be found under articles 19, 24 and 27.

Article 27: Work and employment

202. There have been efforts to tackle discrimination against persons with disabilities as governed by the Employment Act.⁷³ This Act prohibits all forms of discrimination: direct and indirect discrimination, incitement to discrimination, harassment and denial of reasonable accommodation for persons with disabilities. The Act is applicable, in both private and public sectors, to employment relations, conditions of access to employment, working conditions and the regulations concerning redundancies, and covers employed and self-employed persons at all levels and in all aspects of activity.

203. On labour, Section 31 of the Constitution of the Republic of Malawi states that every person shall have the right to fair and safe labour practices and to fair remuneration. These provisions in the Constitution apply to all people in Malawi including persons with disabilities. The mandate to implement these constitutional provisions lies with the Ministry of Labour (MoL). In addition to the Constitution, the legislative mandates of the MoL are stipulated in other Malawian laws such as the Labour Relations Act,⁷⁴ Occupational Safety, Health and Welfare Act,⁷⁵ the Employment Act⁷⁶ and the Workers' Compensation Act.⁷⁷ The MoL promotes equal access to open employment opportunities by persons with disabilities as stipulated in the Employment Act; among other things, the Workers' Compensation Act makes provision for compensation for injuries suffered or diseases contracted by workers in the course of their employment, or for death resulting from such injuries or diseases; and the Occupational Safety, Health and Welfare Act makes provision for the regulation of conditions of employment in workplaces with regard to safety, health and welfare of employees and the prevention and regulation of accidents occurring to persons employed or authorised to go into the workplace; among other issues. The Ministry of Labour is therefore key in terms of ensuring a safe workplace hence preventing disability and disease as well as the prevention of discrimination in the workplace based on a number of factors including disability.

204. Section 13 of the Disability Act prohibits discrimination in the work place against persons with disabilities and it states that no person shall be discriminated against on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and restructuring of employment, continuation of employment, career advancement and safe and healthy working conditions. It is acknowledged that employment levels among persons with disabilities are very low. Apart from remnant traits of discrimination against persons with disabilities, there is generally lack of skills required for employment among persons with disabilities. Efforts to impart vocational skills through the MACOHA and TEVETA have produced some meaningful results. The most common vocational skills acquired by persons with disabilities are tailoring, tinsmith, weaving, agriculture, carpentry and home economics. The majority of women are undergoing training in home economics and weaving as compared to men who are mostly trained in agriculture and tailoring. After being equipped with vocational skills, persons with disabilities are provided with capital items to start some small scale businesses or income generating activities in their respective communities. Persons with disabilities that have undergone such kind of skills training are been recognised by society and have been able to take up jobs. From 2012, MACOHA has managed to train 529 persons with different types of disabilities in various skills.

205. The Government recognizes that persons with disabilities do not have meaningful access to employment due to quality of training offered to them. It is notable that persons

⁷³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap of the Laws of Malawi.

⁷⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 54:01.

⁷⁵ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 55:07.

⁷⁶ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 55:02.

⁷⁷ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Cap. 55:06.

with disabilities need more than vocational skills but should have access to gainful professional skills. The steps taken by public universities to ensure that persons with disabilities have access to education are commendable but the numbers remain extremely low. However certain Government institutions like the TEVETA should be commended for the vocation training that they provide to persons with disabilities in Malawi. Under the Technical, Entrepreneurship and Vocational Education and Training Act's uniquely provides for representation of persons with disabilities on its Board thus ensuring that the interests of persons with disabilities are addressed in the carrying out of the objectives which are to promote demand-driven, competency-based modular training systems; monitor gaps between supply and demand for skills; promote managerial skills; foster an entrepreneurial spirit "with regard to both wage and self-employment"; and facilitate sound and sustainable financing for the training system. Although the Act apart from Board representation does not specifically talk about persons with disabilities it however provides for skills development for persons with disabilities as noted above.

206. Government through MACOHA runs a Placement Section which is promoting employment of persons with disabilities in meaningful jobs by creating awareness and lobbying from prospective employers to employ persons with disabilities. Between 2012 and 2014, 1,561 persons with disabilities have been assisted in getting meaningful employment in different sectors of the economy.

Article 28: Adequate standard of living and social protection

207. In terms of welfare provided through the social security systems, Malawi has the National Social Support Policy, 2012, which identifies four (4) social support interventions aiming at:

- (a) Providing welfare support to those that are unable to construct a viable livelihood;
- (b) Protecting the assets and improve the resilience of poor and vulnerable households;
- (c) Increasing the productive capacity and asset base of poor and vulnerable households to move them above the poverty line; and
- (d) Establishing coherent and progressive social support synergies by ensuring strong positive linkages to influence economic and social policies and disaster risk reduction.

208. It is in line with this policy that Malawi is implementing public works program, fertilizer input subsidy program, social cash transfer programs, school meals program, village savings and loans and the iron sheets and cement subsidy programs. However, Malawi does not have legislation dealing with social security system but it does have the Pension Act⁷⁸. Persons with disabilities receive equal treatment in relation to other beneficiaries in these programs. Adequate quality of life and social protection to persons with disabilities are guaranteed under the Constitution of Malawi.

209. Malawi together with Development Partners like NAD, CBM, UNDP, ILO, Sight Savers, Department for International Development (DfID) or United Nations Children's Fund (UNICEF) work to combat poverty and have been running social protection programs to meet contingencies or universal social rights. Such programs are public works program, fertilizer input subsidy program, social cash transfer programs, school meals program, village savings and loans and the iron sheets and cement subsidy program for vulnerable households. Persons with disabilities are targeted beneficiaries as being among the poorest of the poor in society. However, negative attitudes and prejudices by the public towards persons with disabilities influence traditional leaders who are charged to identify potential beneficiaries of such programs. This leads to exclusion of persons with disabilities. In places where awareness has been conducted, there are noticeable improvements because

⁷⁸ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. 6 of 2011.

persons with disabilities are being included as beneficiaries in the social protection programs. It has to be noted that MACOHA has facilitated inclusion of persons with disabilities in social protection programmes. To this end, 524 persons are benefitting from cash transfer, 1,817 persons benefitting from public works and 6,559 persons benefitting from farm input and subsidy program.

210. CBR programs have ensured that persons with disabilities benefits from social protection programs as well as access business credit and loans. About 2, 146 persons with disabilities have accessed business credits and loans through microcredit facilities offered by Opportunity International Bank of Malawi, MARDEF and other microfinance institutions. It has to be stated though that locations of institutions offering loans can be disability unfriendly for instance the Lilongwe MARDEF office which has steep stairs which shows the insensitivity of the institution to the needs of persons with disabilities.

211. The Government is collaborating with different NGOs in promoting access to water and sanitation services in the country. The Ministry of Agriculture, Irrigation and Water Development is mandated to ensure that Malawians have access to portable water and sanitation services. The National Water and Sanitation Policies were developed to guide these initiatives so that they are equitably accessible to and used by all individuals in the society. The Ministry has also developed guidelines on provision of inclusive of WASH facilities and services. The Ministry is implementing a National Water Development Program. Under this programme, they have Dedza school sanitation project where latrines have been constructed in selected schools taking into account issues of inclusiveness. Other projects implemented on the same are in Mulanje, Zomba and Machinga districts.

212. Notably, other NGOs like WaterAid and World Vision are also taking a lead in promoting access to safe water and sanitation. WaterAid is undertaking a number of interventions on equity and inclusion of persons with disabilities in water, sanitation and hygiene services. It is working with partners to reach out to excluded and marginalized populations through strategies and approaches that understand their differences. WaterAid in Malawi's country strategy paper addresses issues of exclusion and equity by emphasizing a pro-poor approach in all of its programming. Through the project the organization is implementing in 6 districts in the country, groups of persons with disabilities in Balaka, Machinga and Chikhwawa districts have been trained to advocate and ensure that they are included in community WASH committees. The organization has also constructed public toilets, boreholes and other water points that are easily accessible to persons with different needs including those with disabilities.

Article 29: Participation in political and public life

213. In ensuring that all Malawians enjoy the rights that are guaranteed by the Constitution and, in particular, the right to participate in political and public life, section 20 provides for the right of the individual to equality and protection before the law. The Malawi Government has introduced new bank notes inscribed with disability features. However the process was not done in a consultative manner. As a result the disability features on the bank notes can hardly be recognised by the intended beneficiaries because of the way they were designed.

214. Furthermore, sections 32 and 38 of the Constitution provide for freedom of peaceful assembly and association. These rights apply to persons with disabilities and accordingly, section 16 of the Disability Act guarantees to persons with disabilities the right of association and representation.

215. The Constitution also entrenches citizens' political rights in section 40. All persons in Malawi have the right to form or join political parties of their choices, campaign for a political party or cause and to freely make political choices. In order to sustain political parties, the Constitution provides that a political party that secures more than one-tenth of the national vote in elections to Parliament shall be provided with funding from the State. Currently Malawi has 50 political parties. During the last election persons with disabilities participated, however, with limited privacy during the voting process and currently a person with disability holds the office of Second Deputy Speaker in the National Assembly.

216. Government is obliged under section 17 of the Disability Act to put in place deliberate measures and policies to create a conducive environment for persons with disabilities to effectively and fully exercise their political rights, directly or through their freely chosen representatives. Government is to do this by ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use, protecting their right to freely vote by secret ballot in elections and public referendum, ensuring that they stand for elections, effectively hold office and perform all public functions at all levels of government; and guaranteeing the free expression of their will as voters and, where necessary and at their request, allowing a person of their own choice to assist them in voting.

217. Section 18 of the Disability Act specifically prohibits the prevention of persons from participating in public or political life on the ground of disability. Any person who does this commits an offence and is liable to a fine of K100,000.00 and imprisonment for 12 months in case of a natural person and a fine of K1,000,000.00 in case of a body corporate.

218. Therefore in terms of the Disability Act, a person with disability can demand as of right from the Electoral body for the provision of special facilities or assistance for the exercise of the right to vote. Regarding, the participation in public life section 17 of the Disability Act also imposes a number of obligations on Government to ensure that persons with disabilities equally participate in public life. Specifically Government is obliged to create an environment and to encourage persons with disabilities to participate fully in the conduct of public affairs, by:

(a) Having membership in non-governmental organizations, Boards of Statutory Corporations, diplomatic missions and other institutions concerned with the political and public life of the people of Malawi, and participation in the activities and administration of political parties; and

(b) Forming and joining organizations of persons with disabilities to represent them at local, regional and international levels;

(c) Providing opportunities to persons with disabilities to participate in the planning, organization, management, monitoring and evaluation of all development programmes and projects at the community and national levels.

219. The Parliamentary and Presidential Elections Act and the Local Government Act do not prohibit persons from exercising their right to vote. However, there is no special provision in the Electoral laws that mandate the Electoral Commission (hereinafter referred to as 'MEC') to put in special measures to assist persons with disabilities during the voting process. Despite the absence of any legislation, the Electoral body in collaboration with other NGO's including disability rights organisation offer assistance to persons with disabilities during voting process.

220. The elections in 2014 noted some improvements for persons with disabilities. For instance availability of tactile ballot papers, prioritisation of persons with disabilities when voting and awareness by MEC officials and the media. However, there continue to be challenges in terms of the exercise by persons with disabilities of the right to vote. Challenges range from inaccessibility to voting polls, inaccessible information for visually and hearing impaired persons, appropriate personnel, knowledge by officials on how to assist persons with disabilities or infrastructure that will enable them to cast their vote privately without the need of assistance. MEC has been made aware of these short comings and during the post elections feedback MEC has undertaken to take these into consideration.

221. Since the advent of multiparty Democracy in 1994, Malawi has seen the election and appointment of persons with disabilities into various political and public offices including Ministerial position. However the numbers to date remain dismal despite persons with disabilities making up four percent (4%) of Malawi's population.

Article 30: Participation in cultural life, recreation, leisure and sport

222. Section 20 of the Disability Act guarantees to all persons with disabilities the right to participate in cultural life, recreation, leisure and sports. The prevention or denial of a person from participating in social and cultural life on the ground of disability constitutes an offence under the Disability Act for both natural persons and legal persons.

223. In terms of sports and recreation, the Malawi Disability Sports Association (MADISA), a civil society organization was formed in 1998 to promote mass participation and provide opportunities for persons with disabilities to participate in sporting activities that are compatible and suited to their needs. MADISA is affiliated to FEDOMA, the Malawi National Council of Sports and the African Sports Confederation of the Disabled. The organisation has been able to lobby, advocate and create awareness on disability sports issues and has also organised disability sports events and related training. Special Olympics Malawi, which is an affiliate to the Special Olympics International, currently supports more than 5000 athletes with intellectual disabilities in the districts of Lilongwe, Kasungu, Blantyre, Chikhwawa, Chiradzulu, Balaka, Ntchisi, Ntcheu, Mchinji, Salima, Mzimba, Nkhata-bay, Rumphu and Karonga. Their programmes are meant to provide an opportunity to athletes with intellectual disabilities to participate in sporting activities as well build their confidence. The organisation is implementing a three-year Health Communities project to raise awareness on issues of intellectual disability and ultimately create communities where athletes with intellectual disabilities have the same access to health and wellness resources and can attain the same level of good health as all community members.

224. The Government has created a good environment so that groupings of persons with different types of disabilities enjoy their right of participation. These include persons that have hearing impairments. Every year persons with hearing impairments commemorate Deaf Awareness Week from 21st to 27th September through their association, Malawi National Association of the Deaf (MANAD) with the aim of promoting awareness on issues affecting Deaf people as well as to showcase responsibilities and opportunities to Deaf people. During that week different activities are undertaken including sign language training, role modelling in schools for the Deaf, and different sporting activities.

225. Malawi has the Ministry of Sports and Youth Development which provides policy leadership on matters of sports in the country. In addition, there is a Ministry of Information, Tourism and Culture that is there to promote among others, issues of culture and social life in the country. Section 19 of the Disability Act⁷⁹ obliges Government to take appropriate measures to ensure that persons with disabilities have access to cultural life, recreation, leisure and sports.

IV. Specific provisions for women and children

Article 6: Women with disabilities

226. Government of Malawi realises that the advancement of women with or without disabilities is a cross-cutting issue in all its development programmes. The Gender theme in the Malawi Growth and Development Strategy II also highlights the cross-cutting nature of women's issues. However, there is need to operationalize this through mainstreaming

⁷⁹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 19 of Disability Act:

- (i) Cultural materials available in television programmes, films, theatre and other cultural activities, in accessible formats;
- (ii) Places of cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, to monuments and sites of national and cultural importance; and
- (iii) specific development programmes for sports, both in and out of school.

gender in the economic and social sectors of society. All rights and freedoms guaranteed under the Constitution have to be enjoyed by every person regardless of gender, sex or disability. For this reason, the Government has enacted a number of legislations that specifically aim at protecting and promoting the rights of women with and without disabilities namely the Gender Equality Act, the Deceased Estates (Wills, Inheritance and Protection) Act and Child (Care, Justice and Protection) Act to mention a few. In spite of these legal provisions, women with disabilities continue to be marginalised.

227. Constitutionally, section 24 guarantees women's rights. It states that women have the right to full and equal protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status.

228. The Government enacted the Prevention of Domestic Violence Act (PDVA) in 2007 and the Gender Equality Act in 2013. The objective of the PDVA is to ensure the commitment of the Government of Malawi to eliminate gender-based violence occurring within a domestic relationship. It further aims to provide for effective legal remedies/solutions and other social services to persons affected by domestic violence. On the other hand, the Gender Equality Act is aimed at promoting gender equality and equal integration of men and women in all functions of society. The Act also aims at prohibiting and providing redress for sex discrimination, harmful practices, sexual harassment and providing for public awareness and promotion of gender equality.

229. Part 2.4.10 of the Disability Policy identifies women and children with disabilities as an integral component of all priority policy areas and so does the Constitution.⁸⁰ In February, 2015, Malawi enacted the Marriage, Divorce and Family Relations Act, which is aimed at protecting women rights in marriage and upon divorce. The Act became operational as of 30th July, 2015.

230. Malawi has made great strides in reducing the maternal mortality ratio and infant mortality rate and the reproductive health standards have relatively improved. The Government has had a robust and enviable immunization programme for many years – 1980–2010. Recent high coverage is confirmed in the 2010 Demographic and Health Survey (DHS) report which shows that 81% of children aged 12–23 months were fully immunised. This is an increase in coverage of 26 % since 2004 DHS. However, in 2010 the country experienced an outbreak of measles with an estimated 43,000 children requiring treatment. The maternal mortality rate decreased from 984 per 100,000 live births in 2004 to 675 per 100,000 in 2010, with an increase in women delivering at health centres from 57.2% in 2004 to 73% in 2010. Currently, the neonatal mortality rate (NMR) is estimated at 33 deaths per 1,000 live births and it is higher in rural areas (34/ 1,000) compared to urban areas (30/1,000) about 69% of women were protected against tetanus at their last birth. The 2010 DHS report confirms the slow increase in contraceptive use. The projected percentage of women aged 15–49 years who will be using any form of contraceptive in 2015 is anticipated to be 55%, while MDG target is 65% using modern methods. The Malawi Reproductive Health Strategy (2010–2015) echoes this target of 65% for the Contraceptive Prevalence Rate.

231. It must however be acknowledged that despite enacting a number of progressive pieces of legislation, women and girls continue to suffer discrimination and sexual exploitation. This is more pronounced where women are not economically empowered and the situation is compounded with social and cultural norms. Be that as it may, great strides have been taken to progressively empower women and girls through civic education and awareness of the general public on the importance of respecting women and girls rights.

232. It has been noted that there are general provisions dealing with women in the broadest sense under the various policies and legislation however there is no concerted affirmative action specific for women with disabilities. Anecdotal information shows massive discrimination against women with disabilities for instance on access to sexual reproductive health and general health services due to lack of mobility assistance,

⁸⁰ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Section 13, 18 and 30.

communication for those with hearing and visual impairment.⁸¹ Furthermore the Disability Act is unable to provide reasonable protection for women with disabilities.

233. Further anecdotal information has highlighted massive spousal discrimination when a woman bears a child with disability which results in husbands abandoning their families. Such practices make the achievement of women's rights challenging.⁸²

Article 7: Children with disabilities

234. Children just like adults in Malawi are guaranteed the enjoyment of fundamental rights in the Constitution. Discrimination of children is prohibited under section 20 of the Constitution. Additionally, section 23 of the Constitution provides that all children, regardless of the circumstances of their birth, are entitled to equal treatment before the law, and the best interests and welfare of children shall be the primary consideration in all decisions affecting them. Special recognition is made of children with disabilities in section 23(4). It is provided that all children shall be entitled to reasonable maintenance from their parents, whether such parents are married, unmarried or divorced, and from their guardians. Furthermore, all children particularly orphans, children with disabilities and other children in situations of disadvantage are supposed to live in safety and security and, where appropriate with State assistance.⁸³

235. The Constitution further prohibits all forms of exploitation against Children regardless of their status. The Government of Malawi in 2012 enacted the Child (Care, Protection and Justice) Act.⁸⁴ This is a comprehensive piece of legislation that consolidates the law relating to children by making provision for childcare and protection and for child justice and for matters of social development of the child. Notably, section 72 states that councils should register children with disabilities. However, implementation of this provision still remains a challenge and therefore a shortfall which needs to be addressed. Furthermore, the Child Care, Protection and Justice Act lacks specific provisions for children with disabilities and therefore a need for review.

236. In terms of Early Childhood Education (ECE), Malawi does not have much information in both policies and legislation. However, the Child Protection Strategy (2014–16) gives prominence to children with disabilities and additionally the Social Support Policy (2012) gives prominence to the care of children with disabilities through support of the cash transfers, education assistance and extension of the Vocational Skills Training in colleges with the support from TEVET. Notably, in 2014, Government developed a 5 year programmes plan for children with disabilities. The development of this plan was informed by a survey on the situation of children with disabilities conducted in 2012. However, the plan still remains unimplemented.

V. States Party obligations

Article 31: Statistics and data collection

237. The Government of Malawi is aware of the importance of collecting and managing statistics, data and research, and the role of research in informing strategies, policies and programs that will ensure the advancement and protection of persons with disabilities. NSO is the government institution mandated through the National Statistics Act, 2013 to

⁸¹ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Situation Analysis on Children with Disabilities (2013) by DoDEA and Center for Social Research.

⁸² Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje SINTEF report, 2004 – Living conditions among People with Activity Limitations in Malawi (A National Representative Study).

⁸³ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje See paragraph 226.

⁸⁴ Karonga, Mzimba, Mchinji, Lilongwe, Salima, Machinga, Mulanje, Chiradzulu and Nsanje Act No. 22 of 2010.

coordinate statistical activities in all government ministries, Departments, Statutory corporations, civil societies and others. The institution is the central depository of all official statistics in the country and that the Commissioner of Statistics is empowered to declare statistics from other producers other than the NSO official upon certifying with a stamp of quality. All the Population and Housing Censuses undertaken in Malawi were not disability inclusive. It was only in the 2008 Population and Housing Census that Malawi had for the first time included a component of disability.

238. The Malawi National Population and Housing Census showed that the total number of persons with disabilities was 498,122, representing about 4 percent (4%) of the total population. There were notable differences between urban and rural areas. The numbers indicated that there were 452,743 in the rural areas and 45,379 in the urban areas. Detailed statistics from the 2008 Population and Housing Census Report are shown in the Tables 8 to 11 attached hereto.

239. The 2008 census was to gauge the size or extent of the population of persons with disabilities. It was also to develop a survey frame so that researchers and agency responsible for disability can further collect information on living conditions of persons with disabilities, or barriers that affect their lives, programmes and services available for them. However, the information collected had limitations because of the nature of the tool used to collect such data. Additionally, gaps still exist which need to be addressed in terms of data collection for instance data on access to public infrastructure and transport. This report acknowledges that lack of up-to-date data on different types of disabilities in Malawi makes it difficult to design and implement inclusive development programs.

Article 32: International cooperation

240. The Government of Malawi recognizes the support its partners give towards persons with disabilities and their organizations. The Government directed that all requests for financial assistance to development partners should pass through the Ministry of Foreign Affairs and Ministry of Finance and Economic Planning and Development in order to guarantee that the donor funds are properly used by recipient institutions. The Government of Malawi has received support from; UNICEF and Norwegian Embassy through UNDP in preparation of the CRPD report, programs for children with disabilities including research and awareness raising; NAD, CBM, UNDP and Royal Norwegian Embassy in areas of disability mainstreaming as well as capacity building of the department; Water Aid in the area of awareness raising and; World Vision in awareness raising and welfare support.

241. MACOHA has received a lot of financial support from various partners to implement the CBR programme in Malawi as well as fulfil its mandate as provided by the Handicapped Persons Act, 1971. Recently, the Tilitonse Fund supported MACOHA in its lobbying effort to ensure that its budget was fully endorsed by the Government. Table 11 shows Development Partner Support to MACOHA.

Article 33: National implementation and monitoring

242. MoGCDSW is Government's focal point for matters relating to the implementation of the Convention on the Rights of Persons with Disabilities. The Ministry works in collaboration with other Government ministries and departments on all matters concerning persons with disabilities. Under section 4 of the Disability Act, the Ministry is responsible for promoting disability mainstreaming in all sectors and implementing, monitoring and evaluating programmes concerning persons with disabilities. In addition the Disability Policy has a detailed monitoring and evaluation plan on Government activities and initiatives regarding persons with disabilities. The annual budget for the DoDEA has successfully not been altered despite the downgrade from the Ministry as such it shows the Government's commitment to disability as shown in Table 13.

243. The Minister is obliged under section 5 of the Disability Act to establish a National Advisory and Coordinating Committee on Disability Issues (NACCODI) which shall provide a forum for all key stakeholders on disability issues to receive, discuss and review

reports from Government ministries and departments and other relevant stakeholders on disability mainstreaming; make recommendations to Government on best practices regarding the formulation of policies, legislation and programmes, with respect to disability; and oversee the implementation, monitoring and evaluation of disability-related programmes. In addition, the Minister has the mandate under section 28 of the Disability Act to establish a Disability Trust Fund which shall consist of such monies as may be given to the Fund by way of donations, contributions or grants. The purpose of the Trust Fund shall be to support the implementation of disability programmes and services.

244. The Government has approved the establishment of NACCODI and members have already been chosen. NACCODI will ensure that disability is mainstreamed in the public sector, and in subsequent national development Strategies and that requisite funds are allocated in the respective budgets and utilized accordingly. Being a new structure, NACCODI membership awaits orientation on their Terms of Reference and functions. The Committee comprises Senior Government Officers at the grade of Principal Secretary, representatives of key disability organisations and development partners. The operationalization of NACCODI means a better enforcement of the Disability Act as well as monitoring of disability issues.

245. The National Committee and the Disability Trust Fund are parts of the Disability Act that are being implemented progressively. The Government also recognizes that it has not designated an independent monitoring agency but the reporting process has brought this issue into focus and it shall put it on its agenda for discussion.

Conclusion

246. This report marks an important step for the Government of Malawi. The report shows notable progress for persons with disabilities and their issues in various areas such as education, health and socio-economic empowerment. Needless to mention though that progress in some areas is still gradual. Constitutional and specific legislation on disability provide protection from discrimination for persons with disabilities, and further guarantee their full participation in all areas of social and family life.

247. Government acknowledges the need for more efforts to be done in order to attain the acceptable standards. It is important to note that the Government of Malawi is committed to making more progress to meet the specific needs of persons with disabilities in Malawi. Many challenges still remain, especially dealing with infrastructure and environmental issues, transportation issues, training institution issues and securing persons with disabilities' rights to fully participate in society but also for their security and safety. Government intends to utilise CBR and disability mainstreaming programmes to address the challenges being faced by persons with disabilities.

248. The commendable work of disability rights organizations and other NGOs to promote the development and advancement of persons with disabilities will continue to be supported by Government so that all people of Malawi can advance forward together.

List of institutions that took part in national stakeholders consultative workshops

Government Institutions

- Department of Disability & Elderly Affairs
- Ministry of Justice & Constitutional Affairs
- Ministry of Health
- Malawi Human Rights Commission
- Judiciary
- Centre for Social Research

- Ministry of Finance
- Chancellor College, University of Malawi
- Ministry of Housing
- Ministry of Information
- Department of Disaster Management Affairs
- Ministry of Agriculture, Irrigation & Water Development
- Dept. of Economic Planning & Development
- Special Olympics Malawi
- Ministry of Gender
- Ministry of Finance
- Ministry of Information

Non-Governmental Institutions

- Association of the Physically Disabled in Malawi (APDM)
- MACOHA
- Water Aid
- Malawi Union of the Blind
- Parents of Disabled Children Association of Malawi (PODCAM)
- Malawi Disability Sports Association
- CBM
- Federation of Disability Organizations in Malawi
- St John of God Hospital
- Sue Ryder Foundation
- Feed the Children
- NGO-Gender Coordination Network
- Malawi National Association for the Deaf (MANAD)
- Malawi Against Physical Disabilities
- Chisomo Children's Club
- Malawi Union of the Blind

International Organizations

- UNICEF
- Royal Norwegian Embassy
- United Nations-Women
- UNDP

Tables

Table 1
Schools that have been made disability friendly in Phalombe Education Zone, 2013

<i>School</i>	<i>Modification</i>
Changa	4 ramps for 2 school blocks
Mphembezu	1 toilet with 2 ramps
Mangazi	1 accessible toilet with a stand
Mambala	2 accessible toilets with ramps
Longwe	1 toilet with a ramp
Luwani	2 ramps for school blocks
Nazombe	1 ramp for school block and painted all chalkboards
Nambiti	2 ramps, 1 toilet with stand, painted chalkboards and classroom floor
Michesi	4 ramps for school blocks
Siyamanda	1 new block with ramp
Chitawotawo	Painted 12 chalkboards

Source: MACOHA/MUB Annual Report, 2013.

Table 2
Disaster Relief Distribution to Flood Victims

<i>District</i>	<i>Physical Disability</i>		<i>Blind</i>		<i>Albinos</i>		<i>Hearing Impairment</i>		<i>Epilepsy</i>		<i>Learning Difficulties</i>		<i>Other</i>		<i>Total</i>		<i>Total</i>
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	
Nsanje	240	267	255	260	32	47	46	58	12	17	4	5	2	4	591	658	1 249
Chikwawa	200	235	215	216	17	17	38	54	26	30	6	8	5	3	507	563	1 070
Thyolo	70	77	99	121	15	20	49	55	27	30	4	10	4	6	268	319	587
Mulanje	52	56	72	80	3	6	20	30	9	10	5	7	2	5	163	194	357
Phalombe	121	112	159	134	57	62	87	97	38	35	26	36	19	15	507	6	513
Blantyre	198	230	152	165	68	76	77	88	92	95	57	68	12	16	656	738	1 394
Chiradzulu	36	73	73	85	20	24	32	26	13	17	5	5	2	2	181	232	413
Balaka	32	39	37	38	13	27	10	15	10	16	6	2	3	3	111	140	251
Machinga	98	118	55	63	26	35	15	27	15	23	2	1	2	5	213	272	485
Mangochi	20	25	17	20	2	3	15	20	5	6	5	3	7	2	71	79	150
Zomba	49	58	31	35	15	20	7	15	20	33	1	3	1	2	124	166	290
Salima	46	39	15	22	2	3	3	5	5	7	10	4	2	6	83	86	169
Ntcheu	77	75	35	65	12	14	20	39	9	10	1	3	5	7	159	213	372
Rumphi	24	35	53	58	2	5	14	5	9	12	7	5	5	2	114	122	236
Karonga	18	20	25	28	4	5	11	13	8	7	1	2	2	1	69	76	145
Total	1 281	1 459	1 293	1 390	288	364	444	547	298	348	140	162	73	79	3 817	3 864	7 681
Grand Total	2 740		2 683		652		991		646		302		152		7 681		

Source: Department of Disability and Elderly Affairs, 2015.

Table 3

List of cases involving albinos in Eastern Region Judicial District

<i>Accused Person(s)</i>	<i>Case No.</i>	<i>Type of Offence</i>	<i>District of Origin</i>	<i>Court</i>	<i>Judge/Magistrate</i>	<i>Findings</i>	<i>Comments</i>
<i>Republic vs. Wyson Sinoya and 5 others</i>	Criminal Case Number 5 of 2015	Burglary contrary to Section 309 and abduction of a child under sixteen years of age contrary to Section 136 of the Penal Code	Machinga	Second Grade Magistrate	H/W Malula	2 years imprisonment with hard labour	Case is currently in the High Court for review
<i>Republic vs. Bello Dennis and five others</i>	Criminal Case Number 66 of 2015		Machinga	Senior Resident Magistrate	H/W Nyimba	criminal trespass 12 months and 18 months for found with human tissues	Case rulings under Annex 5. Two suspects were acquitted at ruling stage. 3 suspects pleaded guilty to the substituted charges on case to answer stage and were convicted and sentenced. One pleaded guilty to all the charges.]
<i>Republic vs. MacNight Mwalabu</i>	Criminal Case Number 141 of 2015	attempted child stealing (Samson Benjamin) contrary to Section 167 (a) of the Penal Code and acts intended to cause grievous harm contrary to Section 235) of the Penal Code	Balaka	Senior Resident Magistrate	H/W Kayira	Accused acquitted at ruling stage	

<i>Accused Person(s)</i>	<i>Case No.</i>	<i>Type of Offence</i>	<i>District of Origin</i>	<i>Court</i>	<i>Judge/Magistrate</i>	<i>Findings</i>	<i>Comments</i>
<i>Republic vs. Pillow Imran and Alli Mustafa, Ajalu Muleke and Witness Shuga</i>	Criminal Case Number 28 of 2015	burglary which is contrary to Section 309 of the Penal Code, abduction contrary to Section 263 of the Penal Code and child stealing which is contrary to Section 167 (a) of the Penal Code	Machinga	Senior Resident Magistrate	H/W Kayira		The victim is a 2 years old male child namely Ibra Pillow and the case is at judgment stage
<i>Republic vs. Peter Jeke and Rabson Mwanyali</i>	Criminal Cause Number 172 of 2015	selling human tissues (albino hair)	Zomba	Senior Resident Magistrate.	H/W Kayira		
<i>Republic vs. George Ningoliya</i>	Criminal Cause Number 115 of 2015	charged with kidnapping Simonjile Chapita from lawful custody contrary to Section 258 of the Penal Code	Phalombe	Senior Resident Magistrate	H/W Mussa		Still in court
<i>Republic vs. Melinda Mbendera</i>	Criminal Cause Number 144 of 2015	attempted child abduction Treeza Chikomesa contrary to Section 78 of the Child Care, Protection and Justice Act	Zomba	Senior Resident Magistrate	H/W Kayira		Still in court

Source: Judiciary Report, April, 2015.

Table 4
Clients who received assistive Devices from MACOHA

<i>Year</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>
2009/2010	180	258	438
2010/2011	161	203	364
2011/2012	93	128	221
2012/2013	195	235	430

Source: MACOHA Annual Reports 2009–2013.

Table 5
Total Number of Special Needs Education Enrolment in Primary and Secondary School as of 2014

<i>Type of Disability</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Visual Impairment			
Low Vision	9 513	9 260	18 773
Blind	254	212	466
Total			19 239
Hearing Impairment			
Hard of hearing	9 549	9 458	19 007
Deaf	1 577	1 355	2 932
Total			21 939
Mobility Problem	4 686	3 544	8 230
Learning Difficulties	21 471	19 210	40 681
Grand Total			90 087

Source: Ministry of Education Science and Technology Statistics, 2013.

Table 6
Special Need Education Budget

<i>Financial Year</i>	<i>Government Estimate</i>	<i>SNE Budget</i>
2009/2010	-	K 86 538 000.46
2010/2011	K185 342 951.00	K68 169 000.54
2011/2012	K185 342 951.00	K65 384 000.61
2012/2013	K196 732 597.00	K57 692 00.31
2013/2014	K212 341 089.00	K67 307 00.69

Source: Budget Statements 2009–2014.

Table 7
Referral Clients referred to MAP

	<i>Blantyre</i>	<i>Zomba</i>	<i>Lilongwe</i>	<i>Rumphi</i>	<i>Total</i>
Community	298	238	420	70	1 026
District	243	181	314	115	853
District Level	151	178	06	911	1 246
Mission Hospitals	59	93	84	167	403
Central Hospitals	40	56	420	11	527
MAP Activity	31	01	03	03	38

	<i>Blantyre</i>	<i>Zomba</i>	<i>Lilongwe</i>	<i>Rumphi</i>	<i>Total</i>
Central Level	18	93	49	150	310
Kachere Rehabilitation	15	01	01		1 718
Health Centre	281	117	109	959	1 466

Source: MAP Annual Report, 2013.

Table 8:
Disability prevalence rate, proportion of persons with disabilities and proportion of total population by residence, 2008

<i>Area</i>	<i>Total Population</i>	<i>Population Proportion</i>	<i>Persons with disabilities</i>	<i>Proportion of Persons with disabilities</i>	<i>Prevalence Rate</i>
Total	13 029 048	100	498 122	3.8	3.8
Urban	1 946 637	14.9	45 379	9.1	2.3
Rural	11 082 861	85.1	452 743	90.9	4.1
Northern Region	1 679 491	12.9	90 683	18.1	5.4
Chitipa	176 835	1.4	9 047	1.8	5.1
Karonga	264 112	2	14 187	2.8	5.3
Nkhatabay	215 429	1.7	12 722	2.5	5.9
Rumphi	166 460	1.3	8 655	1.7	5.2
Mzimba	718 402	5.5	39 293	7.9	5.4
Likoma	10 714	0.1	1 026	0.2	9.5
Mzuzu	127 539	1	5 753	1.2	4.5
Central Region	5 497 252	42.2	214 466	43.0	3.9
Kasungu	623 592	4.8	21 433	4.3	3.4
Nkhotakota	299 240	2.3	11 213	2.3	3.7
Ntchisi	222 374	1.7	12 099	2.4	5.4
Dowa	559 849	4.3	34 325	6.9	6.1
Salima	337 928	2.6	17 841	3.6	5.3
Lilongwe	1 232 972	9.5	46 372	9.3	3.8
Lilongwe City	669 532	5.1	16 012	3.2	2.4
Mchinji	454 584	3.5	20 830	4.2	4.6
Dedza	625 828	4.8	19 963	4.0	3.2
Ntcheu	471 353	3.6	14 378	2.9	3.0
Southern Region	5 852 755	44.9	192 973	38.8	3.3
Mangochi	796 036	6.1	25 018	5.0	3.1
Machinga	494 835	3.8	16 970	3.4	3.4
Zomba	578 766	4.4	13 985	2.8	2.4
Zomba City	81 501	0.6	1 848	0.4	2.3
Chiradzulu	287 604	2.2	17 236	3.5	6.0
Blantyre	3 399 406	2.6	11 357	2.3	3.4
Blantyre City	648 852	5	12 367	2.5	1.9
Mwanza	92 237	0.7	3 973	0.8	4.3
Thyolo	590 472	4.5	24 963	5.0	4.2
Mulanje	523 949	4	12 342	2.5	2.4
Phalombe	315 185	2.4	11 938	2.4	3.8
Chikwawa	437 892	3.4	16 760	3.4	3.8

<i>Area</i>	<i>Total Population</i>	<i>Population Proportion</i>	<i>Persons with disabilities</i>	<i>Proportion of Persons with disabilities</i>	<i>Prevalence Rate</i>
Nsanje	241 107	1.9	7 888	1.6	3.3
Balaka	316 574	2.4	11 395	2.3	3.6
Neno	108 339	0.8	4 931	1.0	4.6

Table 9

Disability prevalence rate, percentage of persons with disabilities and total persons with disabilities by sex and place of residence, 2008

<i>Area</i>	<i>Persons with disabilities</i>		<i>Prevalence Rate</i>		<i>Percentage</i>	
	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
Total	243 269	254 853	3.8	3.8	48.9	51.1
Urban	23 544	21 835	2.5	2.4	51.9	48.1
Rural	219 725	233 018	4.1	4.1	48.5	51.5
Northern Region	44 241	46 442	5.4	5.4	48.8	51.2
Chitipa	4 384	4 663	5.1	5.1	48.5	51.5
Karonga	6 858	7 329	5.4	5.4	48.3	51.7
Nkhatabay	6 158	6 564	5.8	6	48.4	51.6
Rumphu	4 225	4 430	5.1	5.3	48.8	51.2
Mzimba	19 239	20 054	5.5	5.4	49	51
Likoma	446	580	8.7	10.3	43.5	56.5
Mzuzu	2 931	2 822	4.6	4.5	50.9	49.1
Central Region	100 546	107 920	3.9	3.9	49.7	50.3
Kasungu	10 971	10 462	3.5	3.4	51.2	48.8
Nkhotakota	5 839	5 374	3.9	3.6	52.1	49.2
Ntchisi	6 149	5 949	5.6	5.3	50.8	49.2
Dowa	16 616	17 709	6	6.3	48.4	51.6
Salima	8 779	9 063	5.3	5.3	49.2	50.8
Lilongwe	22 795	23 777	3.8	3.8	49.2	50.8
Lilongwe City	8 416	7 596	2.5	2.3	52.6	47.4
Mchinji	10 572	10 257	4.7	4.5	50.8	49.2
Dedza	9 370	10 593	3.1	3.3	46.9	53.1
Ntcheu	7 038	7 340	3.1	3	49	51
Southern Region	92 482	100 491	3.3	3.4	48	52
Mangochi	11 959	13 059	3.2	3.2	47.8	52.2
Machinga	8 185	8 785	3.5	3.4	48.3	51.7
Zomba	6 825	7 160	2.5	2.4	48.8	51.2
Zomba City	938	910	2.3	2.3	50.8	49.2
Chiradzulu	7 407	9 830	5.5	6.5	43	57
Blantyre	5 627	5 730	3.4	3.3	49.6	50.4
Blantyre City	6 614	5 752	2	1.8	53.5	46.5
Mwanza	1 832	2 141	4.1	4.5	46.3	53.7
Thyolo	11 545	13 419	4.1	4.4	46.3	53.7
Mulanje	5 931	6 411	2.4	2.3	48.1	51.9
Phalombe	5 414	6 524	3.6	4	45.4	54.6
Chikwawa	8 470	8 290	3.9	3.8	50.6	49.4

Area	Persons with disabilities		Prevalence Rate		Percentage	
	Male	Female	Male	Female	Male	Female
Nsanje	3 844	4 044	3.3	3.3	48.8	51.2
Balaka	5 544	5 852	3.7	3.6	48.7	51.3
Neno	2 347	2 584	4.5	4.7	47.6	52.4

Source: 2008 National Census Report – Disability and Thematic Report.

Table 10
Prevalence rate, proportion of persons with disabilities by age and sex, 2008

Age/Sex	Prevalence Rate			Proportion with Disability		
	Total	Male	Female	Total	Male	Female
Malawi	3.8	3.8	3.8	100	48.9	51.1
0–4	1.6	1.7	1.5	7.5	8.1	7.0
5–9	2.6	2.9	2.4	10.4	11.4	9.4
10–14	2.9	3.1	2.7	9.6	10.3	8.9
15–19	2.9	3.1	2.7	7.2	7.8	6.7
20–24	2.7	2.9	2.5	6.7	6.7	6.7
25–29	2.9	3.0	2.8	6.4	6.5	6.2
30–34	3.5	3.5	3.6	5.9	6.1	5.7
35–39	4.3	4.2	4.4	5.4	5.6	5.1
40–44	5.6	5.3	6.0	5.0	4.8	5.2
45–49	7.0	6.7	7.3	4.8	4.6	5.0
50–54	8.3	8.0	8.6	4.5	4.2	4.8
55–59	9.6	9.2	10.0	5.0	4.8	5.2
60–64	11.4	11.0	11.8	4.2	4.0	4.4
65–69	13.4	12.8	13.9	4.1	3.8	4.4
70–74	16.2	15.7	16.6	3.4	3.0	3.8
75–79	18.5	18.2	18.6	3.9	3.5	4.4
80–84	21.3	21.6	21.1	2.4	2.0	2.8
85–89	23.2	23.5	22.9	1.9	1.6	2.1
90–94	24.7	26.0	23.9	0.9	0.7	1.1
95 and over	26.0	26.1	26.0	1.0	0.7	1.2

Source: 2008 National Census Report – Disability and Thematic Report.

Table 11
Prevalence rate by age groups, 2008

Age group	Prevalence Rate		
	Total	Male	Female
5+	4.3	4.3	4.4
5–14	2.8	2.9	2.6
15–64	4.2	4.2	4.2
65+	17.6	17.1	18.0

Source: 2008 National Census Report – Disability and Thematic Report.

Table 12
Development Partner Support to MACOHA

<i>Year</i>	<i>CBM</i>	<i>NAD</i>
2010	N/A	K65 600 000.00
2011	K46 858 195.00	K66 115 000.00
2012	K61 679 592.00	K67 790 000.00
2013	K115 850 711.00	K115 848 300.00
2014	K115 374 600.00	K85 000 000.00

Source: MACOHA Annual Reports 2010–2013.

Table 13
Budgetary allocation to Ministry of Gender from 2006–2015 financial years

	<i>MK 000,000</i>	
	2014/15 Approved	2014/15 Revised
PE	74.00	
ORT	229.81	
Recurrent – Total	303.81	
Development – Total	150.00	
2014/15 MoDEA – Total	453.81	
	2013/14 Approved	2013/14 Revised
PE	73.25	
ORT	199.83	
Recurrent – Total	273.08	
Development – Total	60.00	
2013/14 MoDEA – Total	333.08	
	2012/13 Approved	2012/13 Revised
PE	53.40	
ORT	158.94	
Recurrent – Total	212.34	
Development – Total	80.75	
2012/13 MoDEA – Total	293.09	
	2011/12 Approved	2011/12 Revised
PE	50.25	57.65
ORT	146.49	125.54
Recurrent – Total	196.73	183.18
Development – Total	105.00	105.00
2011/12 MoDEA – Total	301.73	288.18
	2010/11 Approved	2010/11 Revised
PE	40.00	40.04
ORT	145.34	145.34
Recurrent – Total	185.34	185.39
Development – Total	150.01	150.01

<i>MK 000,000</i>		
2010/11 MoDEA – Total	335.35	335.40
	2009/10 Approved	2009/10 Revised
PE	30.17	31.69
ORT	135.00	155.00
Recurrent – Total	165.17	186.69
Development – Total	70.00	70.00
2009/10 MoDEA – Total	235.17	256.69
	2008/09 Approved	2008/09 Revised
PE	97.00	23.42
ORT	240.00	240.00
Recurrent – Total	337.00	263.42
Development – Total	165.00	165.00
2008/09 MoDEA – Total	502.00	428.42
	2007/08 Approved	2007/08 Revised
PE	97.00	97.00
ORT	185.00	185.00
Recurrent – Total	282.00	282.00
Development – Total	105.12	105.12
2007/08 MoDEA – Total	387.12	387.12
	2006/07 Approved	2006/07 Revised
PE	14.28	13.42
ORT	72.80	92.80
Recurrent – Total	87.08	106.22
Development – Total	-	-
2006/07 MoDEA – Total	87.08	106.22