



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

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Consideration of reports submitted by parties to  
the Convention under article 35

## Replies of Malawi to the list of issues in relation to its combined initial and second reports\*

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\* The present document is being issued without formal editing.



## **I. Introduction**

1. The Government of Malawi is pleased to submit responses to the list of issues and questions posed by the Committee on the Rights of Persons with Disabilities in relation to Malawi's combined initial and second periodic reports.

## **II. Replies to list of issues**

### **A. Purpose and general obligations (arts. 1–4)**

#### **Reply to paragraph 1 of the list of issues on the combined initial and second periodic reports of Malawi (CRPD/C/MWI/Q/1-2)**

2. To review domestic laws and harmonize them with the Convention, the Government of Malawi, through the Ministry of Gender, Community Development and Social Welfare (MoGCDSW), is in the process of reviewing the Disability Act (Cap 33:06). Drafting instructions were issued to the Ministry of Justice and the process of drafting a new Persons with Disabilities Bill is underway. The review seeks to repeal the Handicapped Persons Act (Cap. 33:02) and the Disability Act and replace them with a new piece of legislation that will regulate all matters relating to persons with disabilities in Malawi. The proposed Bill provides for an improved regime for the promotion and protection of the rights of persons with disabilities, in accordance with the Convention. The review proposes to create a new regulatory body for disabilities affairs, called the Malawi Council for Disability Affairs which will have the power to enforce the rights of persons with disabilities, where duty bearers fail to promote, protect and fulfil the rights of persons with disabilities.

3. The Government of Malawi has also started the review of the Mental Treatment Act(Cap. 34:02) to ensure that it complies with the provisions of the Convention.

4. With regard to the review of policies, the National Policy on the Equalisation of Opportunities for Persons with Disabilities is undergoing review to ensure that it is in tandem with the Convention.

5. With regard to the implementation of policies and programmes, the Government of Malawi is implementing the National Disability Mainstreaming Strategy (2018–2023) and Implementation Plan (NDMS&IP). This is a framework for promoting public sector-led equity and inclusive development through the implementation of national and sectoral policies that take cognisance of the human rights and development needs of persons with disabilities in line with the provisions of the Convention. Other policies and strategies being implemented include the National Inclusive Education Strategy, Disability Communication Strategy, and Medical Rehabilitation Policy.

6. The Government of Malawi is in the process of consulting all the relevant stakeholders to consider whether to ratify the Optional Protocol to the Convention. Since the consultation involves various stakeholders, it is difficult to provide a definitive timeline. Whatever, the result of the consultation is, the Government of Malawi will implement it.

#### **Reply to paragraph 2 of the list of issues**

7. The Government of Malawi continues to support persons with disabilities, through the statutory body, the Malawi Council for the Handicapped and the MoGCDSW (Department of Disabilities). The Department of Disability Affairs continues to work closely with the Federation of Disability Organisations in Malawi (FEDOMA) which is an umbrella organization for the Malawi Union of the Blind (MUB), Disabled Women in Development (DIWODE), Malawi National Association of the Deaf (MANAD), Spinal Injuries Association of Malawi (SIAM), Parents of Disabled Children Association in Malawi (PODCAM), Association of persons with Albinism of Malawi (APAM), Association of Persons with Physical Disability in Malawi (APPDM), Disabled Widows Orphans Organization in Malawi (DWOOM), National Epilepsy Association(NEA), Disability rights

Organization of Movement (DROM), Visual and Hearing Impaired Association of Malawi(VIHEMA) and Mental Health Users and Carers Association (MEHCUA).

8. Furthermore, mechanisms have been put in place to ensure that persons with disabilities are consulted in the formulation and implementation of policies and legislation through the umbrella body FEDOMA or consulted directly. Individual persons with disabilities are also involved in the policy and legislation formulation. These representative organisations participate in mechanisms for consultation such as the National Advisory and Coordinating Committee on Disability Issues (NACCODI), National Disability Affairs Technical Working Group (NDA-TWG), District Executive Committees (DECs), District Disability Forums (DDFs), Area Development Committees (ADCs), and Village Development Committees (VDCs).

9. Malawi signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa on 6th February 2022. The process of ratification is underway.

#### **Reply to paragraph 3 of the list of issues**

10. Section 139 of the Penal Code was amended in the Penal Code (Amendment) Act, 2022 to remove the derogatory terminology when referring to persons with disabilities. The provision now reads: "Any man who, knowing a woman or a girl to be a person with a mental disability has or attempts to have sexual intercourse with the woman or girl, under circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl has a mental disability, commits an offence and shall, upon conviction, be liable to imprisonment for life."

11. The punishment for the offence has also been enhanced from a maximum penalty of fourteen years to a maximum of imprisonment for life, to take into account, the aggravated nature of taking advantage of a person with a mental disability.

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

#### **Reply to paragraph 4 of the list of issues**

12. The Constitution of Malawi guarantees the protection of persons with disabilities from any form of discrimination. In line with this, section 9 of the Disability Act, recognises denial of reasonable accommodation as a form of discrimination based on disability.

### **Women with disabilities (art. 6)**

#### **Reply to paragraph 5 of the list of issues**

13. Section 20 of the Constitution of Malawi, provisions of the Disability Act, the Gender Equality Act (Cap25:06) and the Prevention of Domestic Violence Act can all be implemented to eliminate multiple and intersectional discrimination against women and girls.

14. With regard to policies, several policies have been designed to eliminate multiple and intersectional discrimination against women and girls with disabilities, including Gender-Based Violence (GBV). The policies include the National Gender Policy and the National Plan of Action to Combat Gender-Based Violence. Disability issues have been mainstreamed in all Government programming and implementation of gender and GBV activities to equally promote the rights of and prevent and respond to violence against women with disabilities.

15. The implementation of these policies and national strategies takes into account disability mainstreaming. The National Disability Mainstreaming Strategy and Implementation Plan (2018–2023), launched in 2019, provides a framework for mainstreaming disability across all sectors of Government and society, including education, health, employment, and social protection. The Strategy highlights key areas to mainstream

disability in line with other national and international policies and strategies. The key areas include access to health, education, means of livelihoods, employment and means of social inclusion. As a development Strategy, it also provides measures for mainstreaming disability in other critical cross-cutting issues such as HIV and AIDS, gender, and research.

16. The Ministries, Departments and Agencies stated in strategies or action plans or work plans that implement the above-mentioned policies are responsible for implementing various activities assigned. The MoGCDSW is responsible for monitoring the implementation of activities being implemented by various actors through the receipt of reports. The MoGCDSW then submits the reports to the Secretary to the President and Cabinet, who is the chairperson of the National Advisory Coordinating Committee on Disability Issues (NACCODI) established under section 5(2) of the Disability Act, whose responsibility is to monitor the implementation of disability-related programmes.

17. Women with disabilities are also consulted either individually or through NGOs such as Disabled Women in Development (DIWODE), Disabled Widows Orphans Organization in Malawi (DWOOM) and Disabled Women in Africa (DIWA), about how to effectively participate in the formulation of their rights, as well as in decision-making and economic, public and other aspects of life. They participate in consultation mechanisms at the national, district and community levels which include the Gender Technical Working Group and the Gender-Based Violence Sub-Technical Working Group.

18. The Government of Malawi, through the MoGCDSW, continues to raise awareness on the inclusion of women with disabilities in local governance structures such as Area Development Committees (ADCs) and Village Development Committees (VDCs) and advocate for their participation and representation in the development of Village Action Plans at District Council level to ensure that issues affecting women with disabilities are incorporated in the District Development Plans (DDPs).

## **Children with disabilities (art. 7)**

### **Reply to paragraph 6 of the list of issues**

19. Consultations for the review of the Child Care Protection and Justice Act (Cap 26:03) are underway. The question of whether there is a need to include specific provisions for children with disabilities in that Act will be under consideration.

20. With regard to consultations and effective participation of representative organizations of children with disabilities, these organizations are members of Mother Groups, Child Protection Committees, and other community structures. At the national level, the Technical Working Groups.

## **Awareness-raising (art. 8)**

### **Reply to paragraph 7 of the list of issues**

21. The Government of Malawi is using different media channels and approaches to reach out to the public and private sectors to combat stigma and all forms of violence against persons with albinism such as disseminating posters, brochures and fliers, materials in braille and conducting radio and television programmes. The Government, through the MoGCDSW (Department of Disability Affairs), conducts targeted training and conducted for various Ministries, Departments, and Agencies at national and district levels to promote disability mainstreaming and inclusion. The awareness-raising is done in cooperation with development partners.

22. Media houses play a significant role in portraying a positive image of persons with disabilities with regard to their contribution to public life. Targeted training is conducted with media practitioners to ensure that they are aware of the rights persons with disabilities have and that their reporting is compliant with the Convention.

23. Persons with disabilities are involved, through their representative organizations, in the design and implementation of awareness-raising campaigns. They take a leading role in directing how and where such awareness campaigns are undertaken.

## Accessibility (art. 9)

### Reply to paragraph 8 of the list of issues

24. The Government of Malawi through the Malawi Bureau of Standards has developed the Malawi Standard on Accessibility and Usability of the Built Environment. The Standards will be gazetted soon. The Standards define how the built environment should be designed, constructed, and managed to enable people to approach, enter, use, egress from and evacuate a building independently, in an equitable and dignified manner and to the greatest extent possible. They provide building users, architects, designers, engineers, builders, building owners and managers, manufacturers, policymakers and legislators with requirements and recommendations to create a sustainable built environment which is accessible.

## Right to life (art. 10)

### Reply to paragraph 9 of the list of issues

25. To protect persons with disabilities, in particular persons with albinism, from different forms of violence, including ritual killings of their body parts, some legislative measures have been adopted. The Anatomy Act (Cap 34:03), was amended in 2016 to broaden the offences of removal and unauthorised possession of human tissue and enhance the penalties for offences under the Act. Section 18 of the Act now provides for an offence of possession of a body of a deceased person or human tissue and the penalty is imprisonment for life without the option of a fine. Furthermore, a Handbook for Investigators, Prosecutors and Magistrates Concerning offences against persons with albinism was launched, to strengthen the legal response to crimes against persons with albinism. The Handbook, consolidates relevant provisions from the Penal Code (Cap 7:01), the Anatomy Act (Cap 34:03), the Child Care, Protection and Justice Act,(Cap 26:03), the Trafficking in Persons Act (Cap 7:06 ) and the Witchcraft Act (Cap 7:02) and outlines in a simplified form all offences likely to be committed against persons with albinism.

26. From a policy perspective, the MoGCDSW adopted the National Action Plan on Persons with Albinism (2018–2020). The Action Plan is still in use. It provides a comprehensive, multisectoral blueprint for ending violence against persons with albinism and ensuring that they equally enjoy their rights. The Plan outlines seven key priority areas in line with other national, regional, and international human rights instruments, namely, civic education, awareness raising and training; administration of justice and support of victims of attack; safety and security of persons with albinism; human rights monitoring, reporting and research; mainstreaming and empowerment of Persons with Albinism; access to affordable and quality health care services and access to equitable and quality education. The key stakeholders in implementing the Plan are the Department of Disabilities, the Association of Persons with Albinism (APAM), the Human Rights Commission, the Ministry of Justice, the Malawi Police Service, the Ministry of Education, The Judiciary, the Ministry of Civic Education, Ministry of Health, Malawi Legal Aid Bureau, Ministry of Lands, Housing and Urban Development, 28 District Councils and other NGOs. As a result of the implementation of the Plan, in-service training for prosecutors and magistrates in the prosecution of cases of atrocities against persons with albinism has been conducted across the country. Furthermore, the office of the Director of Public Prosecutions appointed a Special Counsel to closely work on cases against persons with albinism. The Chief Justice also issued a practice direction that all albinism-related cases must solely be handled by professional magistrates. The Judiciary has been prioritizing the hearing relating to offences committed against persons with albinism and continues to mete out very stiff punishments, with the maximum of life imprisonment being meted out. The statistics related to the criminal cases relating to offences against persons with albinism are provided below:

**Figure 1: The status of homicide cases before the Courts as of May, 2022**

| Registry     | Registered | Concluded | Pending                   |
|--------------|------------|-----------|---------------------------|
| South        | 8          | 6         | 2 pending judgment        |
| Centre       | 5          | 5         | 0                         |
| East         | 5          | 3         | 2 pending further hearing |
| North        | 2          | 2         | 0                         |
| <b>Total</b> | <b>20</b>  | <b>16</b> | <b>4</b>                  |

(Source: Director of Public Prosecution's Office).

**Figure 2: number of cases involving other offences before Magistrates relating to persons with albinism**

| Region       | Cases Registered | Cases Concluded | Cases Pending |
|--------------|------------------|-----------------|---------------|
| South        | 10               | 4               | 6             |
| Centre       | 14               | 6               | 8             |
| East         | 9                | 5               | 4             |
| North        | 11               | 6               | 5             |
| <b>Total</b> | <b>44</b>        | <b>21</b>       | <b>23</b>     |

(Source: Director of Public Prosecution's Office).

**Figure 3: status of cases involving persons with albinism as of May, 2022**

| Narration                        | Total |
|----------------------------------|-------|
| Cumulative cases (2018–2022)     | 200   |
| Cases completed with convictions | 75    |
| Acquitted                        | 18    |
| Ongoing cases: hearing stage     | 25    |
| Pending judgments                | 5     |
| Under investigations             | 77    |

(Source: Department of Disabilities and the Director of Public Prosecution's Office).

27. The Government of Malawi, through the Department of Disabilities (in the MoGCDSW) has also established and is managing a database on reported cases and locations of persons with albinism in the country. The communities have also been sensitized on how to protect persons with disabilities.

## Situations of risk and humanitarian emergencies (art. 11)

### Reply to paragraph 10 of the list of issues

28. The National Disaster Risk Management Policy is under review following Malawi's experience with tropical cyclones in recent years. The review will consider the Sendai Framework for Disaster Risk Reduction (2015–2030) and the Convention. In fact, the Disaster Risk Management Bill, 2023 which has been tabled before Parliament, takes into account the Sendai Framework.

29. The Government of Malawi does ensure that organizations of persons with disabilities are consulted during disaster preparedness and disaster risk reduction measures and management strategies, by including them in the membership of technical working groups and various committees responsible for overseeing the implementation of disaster preparedness and disaster risk reduction measures. Though they may not be consulted at all

stages, these organizations have been consulted in the crucial stages of implementing disaster preparedness and disaster risk reduction measures and management strategies.

30. Rescue and emergency personnel are trained regularly in rescue and emergency responses. Though the training covers some aspects of how to deal with persons with disabilities, it does not comprehensively cover rescue and emergency responses specifically tailored for persons with disabilities. The Government of Malawi would appreciate technical assistance from the Committee, in this regard.

#### **Reply to paragraph 11 of the list of issues**

31. In response to the COVID-19 pandemic, the Government of Malawi declared a State of National Disaster on May 20, 2020, and developed the National COVID-19 Preparedness and Response Plan (NCPRP). The Plan was developed to build resilient capacity to manage the present outbreak and prevent, prepare for and control future surges of the same, and anticipate and prepare for other future public health emergencies. It extended beyond the epidemiological-medical domains of the response, in recognizing the perverse effects and impacts associated with the burden of disease and its impacts on individuals, families and the wider community. Some of the activities being implemented include enhancing safety, protection and well-being for all learners including girls and those with disabilities and teachers during the COVID-19 period and after the re-opening of schools and disseminating information on COVID-19 prevention and response to vulnerable groups at risk of contracting the disease including people with disabilities. Information relating to COVID-19 to persons with disabilities through various mediums such as the radio and word of mouth. Those with hearing impairments received information either through pictures or sign language, though the Government lacked the financial resources to reach hard-to-reach communities. Some Organizations of Persons with Disabilities also assisted the Government in disseminating COVID-19 information through SMS messages, issuing press releases, developing and airing radio documentaries and jingles and providing COVID-19 materials in braille, DVD or prints. The Department of Disabilities, with the assistance of the United Nations Development Programme (UNDP), also printed Braille 4,500 materials on COVID-19, for the visually impaired.

32. The continued support of community services, particularly in-home care and personal assistance was negatively impacted by the COVID-19 pandemic due to the diversion of healthcare personnel towards managing the COVID-19 pandemic.

33. To ensure equal access to health care, during the COVID-19 pandemic, persons with disabilities had access to health facilities in the same manner as before the pandemic. The Government of Malawi acknowledges that most of the financial and human resources in the health system were diverted towards managing the pandemic, therefore unable to provide specialised services to persons with disabilities as it would before the pandemic. Nonetheless, persons with disabilities with COVID-19 were provided access to health care on an equal basis with others.

34. With regard to the guarantee of social benefits, these are guaranteed at all times, persons with disabilities continue to be some of the beneficiaries of the social protection programmes being implemented in Malawi, including the Social Cash Transfer Programme and the Affordable Inputs Programme, provided the persons fit the criteria for being eligible to participate in the programmes. This did not change as a result of the COVID-19 pandemic.

#### **Equal recognition before the law (art. 12)**

##### **Reply to paragraph 12 of the list of issues**

35. As it stands, Malawi continues to follow the common law doctrine relating to the legal capacity to enter contracts which requires that a person with an intellectual disability can enter into a contract with the help of a legal guardian. This is meant to protect the person from any possible exploitation. This principle also applies to opening bank accounts.

36. Steps to substitute decision-making regimes with supported decision-making regimes are yet to be taken. The Government will have to consult various stakeholders on the best way to implement it, having regard to Malawi's economic standing.

### **Access to justice (art. 13)**

#### **Reply to paragraph 13 of the list of issues**

37. Currently, there are age-appropriate accommodations provided under the Child Care, Protection and Justice Act (Cap 26:03), such as holding hearings on camera. However, procedural accommodations are not explicitly provided under the court's procedural rules. Though a court can issue directions to make accommodations to ensure that a person with a disability meaningfully participates in the court proceedings. As mentioned above, the Disability Act is undergoing review. The principles of procedural and age-appropriate accommodation for persons with disabilities are under consideration and also to ensure that they meaningfully participate in the justice system as witnesses, lawyers, court officials or law enforcement agents.

38. Officials of the judicial system, including police officers and prison officers have been trained and will continue to be trained on provisions of the Convention.

### **Liberty and security of the person (art. 14)**

#### **Reply to paragraph 14 of the list of issues**

39. The Mental Treatment Act (Cap 34:02) is still under review, the review aims to develop a Bill which will replace the Mental Treatment Act which promotes, protects, and ensure the rights of people with mental health conditions in Malawi. The Bill will recognize the need for mental health services to be available, accessible, and of good quality to all citizens, regardless of their social status, ethnicity, or gender.

### **Freedom from exploitation, violence and abuse (art. 16)**

#### **Reply to paragraph 15 of the list of issues**

40. Besides the enactment of the Disability Act, the Gender Equality Act, and the Prevention against Domestic Violence Act which prohibit GBV and medical experiments on people including persons with disabilities, the Government has implemented a robust reporting and referral mechanism to ensure an effective response to violence and proper management of data on the prevalence of GBV including violence against women with disabilities. Awareness is being raised on reporting and referral of all forms of violence including violence against women with disabilities to relevant structures such as Community Victim Support Units (CVSUs), district gender and social welfare offices, One Stop Centres and Police Victim Support Units to ensure necessary measures are taken and that data is properly safeguarded.

41. The Government of Malawi, through the MoGCDSW, established a GBV Management Information System (GBVMIS). The system is used to collect and analyse data on GBV perpetrated against all women including women with disabilities. The system is linked to the available GBV reporting structures at the community and district levels. It collects data with all necessary information regarding a particular case covering details of the survivor and the perpetrator disaggregated by sex, age and disability. Currently, efforts are underway to link the GBVMIS with the National GBV Data Hub which is managed by the National Statistical Office.

## Protecting the integrity of the person (art. 17)

### Reply to paragraph 16 of the list of issues

42. Section 19(5) of the Constitution of Malawi prohibits subjecting any person to medical or scientific experimentation without his or her consent. Furthermore, the HIV and AIDS (Prevention and Management) (No. 9 of 2018) prohibits subjecting any person to HIV and AIDS tests without the free and informed consent of the person. Where the person to be tested has a disability which in the opinion of the person providing the pre-test information, renders the person incapable of understanding the meaning and consequences of HIV testing, with the voluntary informed consent of one of the following persons, said consent to be sought from either the partner or spouse, legal guardian or an immediate family member of the person with the disability.

43. Currently, the collection of reliable disaggregated statistical data on the number of reported cases involving violations of article 17 of the Convention remains a challenge. The Government of Malawi would appreciate technical assistance in the area to ensure that its data collection systems are well designed and capture such data and personnel are trained to ensure that the data collection systems are managed well.

44. With regard to the remedies, HIV and AIDS (Prevention and Management), criminalises conducting an HIV test without consent with a punishment of a fine of K5,000,000 (USD 4,800) and imprisonment for five years. The Disability Act under review is also considering criminalising sterilization of persons with disabilities or any form of medical experimentation, without consent of the person or a legal guardian.

45. To protect persons living with albinism from abductions, killings, attacks and mutilation, the Government of Malawi has instituted a multisectoral National Technical Committee on Abuse of Persons with Albinism in Malawi to coordinate initiatives and strategies being implemented concerning persons with albinism. Furthermore, a multimedia awareness programme is being implemented to educate and sensitize the general public on albinism issues in the country and the community policing structures across the country have been revamped to protect persons with albinism. Learners with albinism are being placed in schools with boarding facilities where the Police are providing security. The mapping of persons with albinism across the country has been done to identify their population size and where they live to arrange for proper security measures.

## Living independently and being included in the community (art. 19)

### Reply to paragraph 17 of the list of issues

46. As mentioned in paragraph 135 of our State Party report, there is no system in place, which provides independent living and this includes personal assistants for persons with disabilities due to budget constraints. However, NGOs and development partners are assisting the Government through the implementation of projects such as the Empowering Families of People with Disabilities Project which is being implemented by Habitat for Humanity Malawi aimed at improving the physical living conditions of families of people with disabilities. The Malawi Council for the Handicapped (MACOHA) is working closely with NGOs implementing article 19 of the Convention.

47. The Government of Malawi is yet to move away from institutional care settings since accessible community facilities, goods and services are still not widely available. However, the Government is committed to working progressively towards ensuring that there are public services which are easily accessible to persons with disabilities.

## Personal mobility (art. 20)

### Reply to paragraph 18 of the list of issues

48. Sections 8 and 25 of the Disability Act impose an obligation on the Government to implement measures that ensure that persons with disability enjoy their right to personal

mobility by developing, promulgating and monitoring the implementation of policies that promote accessibility of all facilities and services available or provided to the public. From the policy perspective, there is no specific policy covering personal mobility. However, the National Disability Mainstreaming Strategy and Implementation Plan (NDMS&IP) is mainstreaming personal mobility issues in the programming of Ministries, Departments and Agencies. However, as stated in paragraph 147 of our State Party report, the Government acknowledges that there are no set measures in place in the country for personal mobility. Some efforts are being made to produce and distribute mobility appliances through community-based rehabilitation programmes in 12 of the 28 districts and need to be rolled out in all districts. NGOs and development partners remain crucial in assisting the Government in providing forms of personal mobility and other assistive devices.

## **Freedom of expression and opinion, and access to information (art. 21)**

### **Reply to paragraph 19 of the list of issues**

49. On 17th August, 2021, the President of Malawi, His Excellency, Dr Lazarus McCarthy Chakwera ordered sign language to be used on all television stations and official functions and to be recognized as a national language. However, there is yet to be legal recognition of sign language as an official language. The public television channel, Malawi Broadcasting Corporation Television, provides sign language. Private television stations are yet to begin providing sign language. This low uptake of the use of sign language is due to the small number of sign language interpreters. Currently, there are 10 active certified sign language interpreters and 30 communication supporters who have mastered sign language skills and could become interpreters when the necessary training is provided. The Government of Malawi, with the assistance of NGOs such as the Malawi Association of the Deaf (MANAD), will continue to work towards training more sign language interpreters. In 2022, MANAD launched the first Malawian Sign Language dictionary. The dictionary will help to bridge the communication gap between the hearing community and the deaf community.

50. The provision of information meant for the general public to persons with disabilities, in accessible formats remains limited. The Government of Malawi requires both technical and financial assistance to ensure that all information meant for the general public should be accessible to persons with disabilities in various accessible formats.

51. The Malawi Council for the Handicapped (MACOHA) is working hard to provide some information accessible to the public through its website. Their website has an electronic Library which has some crucial policy documents and laws. Ministries, departments and agencies also run websites where various information is provided.

## **Respect for privacy (art. 22)**

### **Reply to paragraph 20 of the list of issues**

52. Section 21 of the Constitution of Malawi guarantees every person's right to privacy enshrining the right not to be subject to searches of his or her person, home or property; the seizure of private possessions; or interference with private communications, including mail and all forms of telecommunications. Persons with disabilities, therefore, enjoy this right on an equal basis with others since section 20 of the Constitution prohibits any form of discrimination on the basis of a disability.

## **Respect for home and the family (art. 23)**

### **Reply to paragraph 21 of the list of issues**

53. To enable persons with disabilities, especially women and girls and persons with psychosocial or intellectual disabilities, to exercise their rights with regard to the home and the family, including to marry, found a family and receive information in accessible formats on their sexual health and reproductive rights, the Government of Malawi, has adopted

legislative and policy measures. With regard to legislative measures, section 24 of the Constitution in recognising that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, guarantees any person over the age of 18, the right to marry and found a family. Women with psycho-social and intellectual disabilities enjoy the right to marry and found a family. However, to ensure that there is a conducive environment for the right to be enjoyed, the Government of Malawi continues to sensitize the public about the rights of persons with disabilities and not to stigmatize them, by using local development structures in collaboration with district disability forums.

54. The Government of Malawi is implementing the National Sexual and Reproductive Health Rights (SRHR) Policy. The Policy is aimed at providing a policy direction on the provision of sexual and reproductive services in Malawi. The Policy is also linked to the Malawi National Youth Policy and Youth Friendly Health Services National Standards. The Policy aims to strengthen the provision of the following services:

- (a) maternal and neonatal health (including prevention and management of unsafe abortion);
- (b) young people's sexual and reproductive health;
- (c) family planning;
- (d) prevention and management of STI, HIV and AIDS;
- (e) early detection and management of cervical, prostate and breast cancers;
- (f) elimination of harmful maternal practices, including domestic and sexual violence;
- (g) prevention and management of obstetric fistula;
- (h) prevention and management of infertility;
- (i) male involvement in the development, promotion and delivery of SRHR services;
- (j) development of human resources for SRHR services; and
- (k) strengthening the support systems for the delivery of SRHR services.

55. The SRHR Policy adopts a human rights-based approach which aims to provide sexual and reproductive health services without discrimination on the basis of *inter alia*, disability.

56. The SRHR Policy is being implemented in tandem with the National Youth Friendly Services Strategy. The Strategy aims to address the gaps in the provision of health services to the youth, particularly sexual and reproductive health knowledge and services by employing a multi-sectoral approach to the delivery of:

- (a) access to information through health promotional activities, social and behavioural change communications and formal learning;
- (b) delivery of services mainly through static and outreach sites; and
- (c) referrals dependent on the situation at hand (social services, district and central hospitals, community structures, and/or police).

57. In the implementation of the SRHR and the National Youth Friendly Services Strategy, youth with disabilities are a specific target group.

58. 59% of married women and 44% of sexually active unmarried women use family planning methods in Malawi. The majority of women obtain modern contraceptives from Government hospitals and 4% from Christian Health Association of Malawi (CHAM) hospitals and health facilities. *Banja La Mtsogolo* clinics, managed by MSI Reproductive Choices, an NGO focusing exclusively on family planning, provide 8% of women with contraceptives. Private providers offer 6% and 2% are obtained from other sources.

59. While sexual and reproductive health services are also being offered, with consideration of age appropriateness to girls and young women and Malawi is generally

improving its reach in the provision of information about sexual and reproductive health rights, persons with disabilities, particularly women and girls with disabilities remain the smallest portion of women and girls who receive information on sexual and reproductive health services in accessible formats. This is largely due to the lack of adequate financial resources to produce sexual and reproductive health information in accessible formats for persons with disabilities. However, efforts will continue to be made to ensure that information is provided to them in accessible formats. With the help of NGOs, the Government of Malawi is providing sexual and reproductive health rights information to women and girls with disabilities in various formats, including braille. As an example, some NGOs such as MANAD are training young women with disabilities to provide sexual and reproductive health information to other persons with disabilities. Furthermore, United Nations Population Fund (UNFPA) supported the training of 125 young people with disabilities as well as 25 young people who have no disabilities, who are members of youth clubs on sexual and reproductive health rights.

## **Education (art. 24)**

### **Reply to paragraph 22 of the list of issues**

60. The Education Act (Cap 30:01) was promulgated in 2013 and came into force on 6th December, 2013.

61. The Government of Malawi, through the Ministry of Education, Science and Technology developed and is implementing the National Strategy on Inclusive Education. The Strategy actualises the inclusive education policy statement of the National Education Policy (2016) into a plan of action to achieve increased access to equitable and relevant quality education for all learners in Malawi. The Strategy also builds on existing interventions, strategies and policies. These include; Free Primary Education, Complementary Basic Education (CBE), Child-Friendly Schools, Primary School Improvement Programme (PSIP), Community-Based Childcare Centres (CBCCs), Special Needs Education programmes, Inclusive Education projects, School Health and Nutrition, Community Based Rehabilitation (CBR) programmes, the National Education Standards (NES), Advocacy and Communications Strategy for Early Childhood Development in Malawi, Malawi Education Sector Improvement Project (MESIP), National Girls' Education Strategy (NGES), and National Social Support Programme such as cash transfers, bursaries and loans.

62. The National Inclusive Education Strategy identifies eight key areas to be addressed in order to make inclusive education a reality in Malawi. These are:

- (a) capacity for inclusive education;
- (b) governance and management of inclusive education;
- (c) learner identification and assessment;
- (d) inclusive Education Management Information System;
- (e) teacher education and motivation;
- (f) partnerships for inclusive education;
- (g) enabling environment for teaching and learning; and
- (h) financing inclusive education.

63. The Ministry of Education disseminated the National Inclusive Education Educational Managers from the national level to zonal levels targeting Directors, District Commissioners, District Education managers, Secondary and Primary School Headteachers, and teachers. In collaboration with Disability Peoples Organizations, the capacity for inclusive education increased through awareness raising. This led to the increase of learners with disabilities from 120,007 (57,655 Girls and 62,362 Boys) in 2016 to 173, 715 (84,826 Girls and 88,889 Boys in Basic Education in 2021.

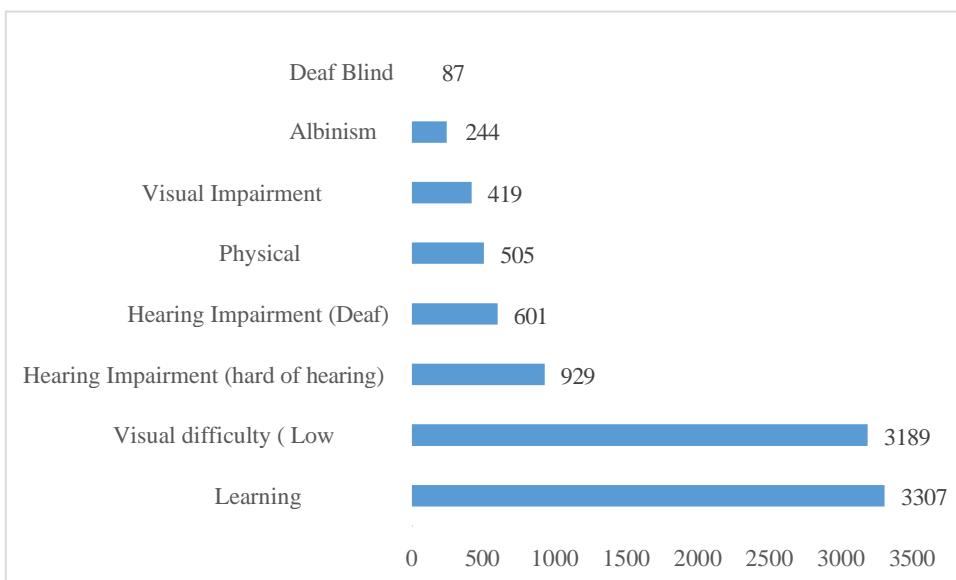
64. District Councils have a budget line that targets learners with disabilities as a strategy for promoting learners with disabilities in schools. The national funding towards the

implementation of inclusive education increased from K1.2 billion (USD1,160,303) in the 2018/19 financial year to K1.7 billion ( USD 1,643,763) in the 2022/23 financial year.

65. There has been a mindset change towards the education of children with disabilities more parents are willing to send their children with disabilities to school. The Government of Malawi continues to raise awareness about inclusive education to make stakeholders in making inclusive education a reality.

66. The 2022 annual school census collected information on the number of students with disabilities by form and their specific disability. 9,281 secondary school students had a disability in the 2022 academic year. This represents 2.1 per cent of the total student enrolment. Of the reported students with learning needs, 36 per cent had learning difficulty, followed by those with visual impairment (34 per cent) and finally, those who are deaf-blind formed about 1 per cent of the total secondary school students with impairments. The figure below shows the results by type of impairment.

**Figure 4: Students with special needs by type of disability (Source: Ministry of Education)**



67. To train teachers in the provision of inclusive education in Malawi, the Government of Malawi began working towards increasing the number of teachers supporting learners with disabilities, in 2019 the Ministry of Education, Science and Technology introduced a one-year Blended Learning Inclusive Education certificate course for training inclusive education teachers at an average of 200 every year at Montfort SNE College. Furthermore, the Ministry of Education, Science and Technology has also introduced an Open Distance Learning Diploma Course that will be training 200 special needs teachers per programme. The Ministry has also introduced an Inclusive Education module in all the Initial Teacher Training Colleges in Malawi. In addition, it has also introduced continuous professional development courses for teachers and governance structures on inclusive education in collaboration with its partners. Through different inclusive education programmes, the Ministry in collaboration with its partners has conducted activities on learner identification, assessment and case management and improved teaching and learning environment by adapting existing curriculum, teaching and learning materials to incorporate inclusive education. These include procurement of assistive devices and teaching and learning materials suitable for learners with disabilities. The budget dedicated towards the procurement of assistive devices and teaching and learning materials has been increased from K550 million (USD 483,459) in the 2022/23 financial year to K650 million (USD 628,497) for the 2023/24 financial year.

68. To help actualise inclusive education in Malawi, the Government of Malawi, through the Ministry of Education, Science and Technology developed a 10-year (2020–2030) National Education Investment Plan (NESIP) which has taken Inclusive Education and

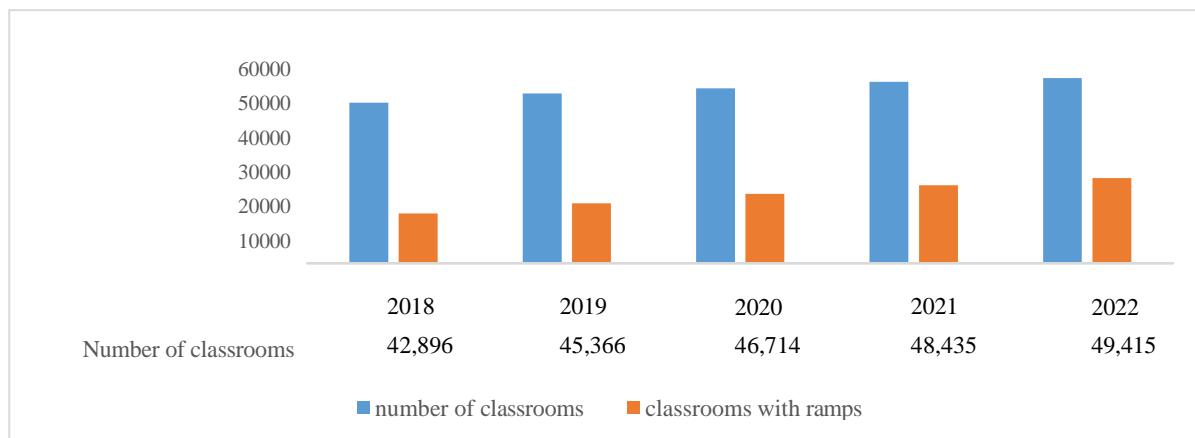
Gender as one of its priority areas. NESIP takes into account the review of the National Inclusive Education Strategy.

69. Furthermore, the Ministry of Education identified the development of an Inclusive Education Policy and the upgrading of the Department of Inclusive Education as a fully-fledged Directorate and the Construction of an Institute for Inclusive Education in the Ministry as some of the reform areas to be implemented. The draft Inclusive Education Policy has been developed and awaiting Cabinet approval.

70. Some strategies put in place to actualise inclusive education, include improving physical infrastructure by building ramps and widening the doors as well as building disability-friendly toilets. In some schools, children are using assistive technology to aid their learning. Accessible formats like braille, large print and sign language are some initiatives that are enhanced to increase accessibility.

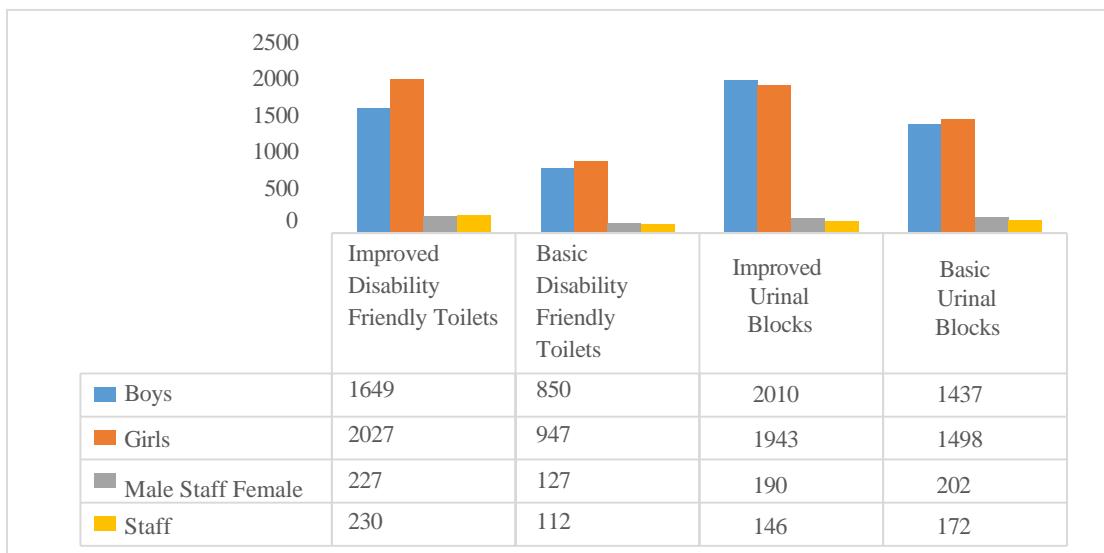
71. The figure below shows the trend in classrooms with ramps relative to the total permanent classrooms. Between 2018 and 2022, the number of classrooms with ramps increased by 70% from 13,348 to 22,729 and grew at an annual average of 14%.

**Figure 5: Number of permanent classrooms with ramps, 2022 (Source: Ministry of Education)**



72. The figure below also provides the number of disability-friendly toilets in primary schools.

**Figure 6: Number of disability-friendly toilets as of 2022 (Source: Ministry of Education)**



73. In transition towards fully implementing inclusive education, special needs schools have been transformed into resource centres which serve learners with special education needs as institutional settings attached to primary, secondary or higher education institutions. As of 2019, there were 140 primary and 37 secondary resource centres. Some communities have also mobilized resources to set up resource centres for persons with disabilities attached to local regular schools, such as Gumbo Resource Centre in Ntcheu District and Migowi Resource Centre in Phalombe District.

## Health (art. 25)

### Reply to paragraph 23 of the list of issues

74. Section 13 of the Constitution of Malawi mandates the State to promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation to provide adequate health care, commensurate with the health needs of Malawian society and international standards of healthcare. To give effect to this provision, various legal provisions and policies have been adopted. As mentioned in paragraph 185 of our State Party report, section 6 of the Disability Act mandates the Government to 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 more disabilities. Furthermore, section 7 of the Disability Act prohibits the denial of 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. To improve upon the legal provisions relating to access to health for persons with disabilities, the Government intends to enhance, in the Disability Act currently under review, the obligations of health service providers including private health service providers to improve access to health services for persons with disabilities.

75. Furthermore, the Government of Malawi is implementing various health policies to improve access to health for all, including persons with disabilities. The policies, strategies and guidelines are as follows:

- the National Health Policy (2016–2022);
- the National Sexual and Reproductive Health Rights Policy (2017–2022);
- the National Sexual and Reproductive Health Rights Strategy (2021–2025);

- (d) the National Community Health Strategy (2018–2022);
- (e) the Health Sector Strategic Plan II (2017–2022)
- (f) the Reproductive Health Service Delivery Guidelines (2019–2024);
- (g) the National Medical Rehabilitation Policy;
- (h) the Mental Health Policy; and
- (i) the National Action Plan on Persons with Albinism In Malawi (2018–2022).

76. Persons with albinism continue to be supported with essential medicines and other necessities such as sunscreen lotion. However, the Government still experiencing challenges in adequately providing health services to them.

77. Furthermore, the Government of Malawi is still facing challenges in providing the necessary health services for persons and psychological or intellectual disabilities due to the acute shortage of the necessary medical personnel. Currently, there are only two psychiatrists to service the entire country including persons with disabilities. Furthermore, there is a major shortage of clinicians with psychiatry as a speciality. District mental health services are mainly run by psychiatric nurses. However, the country now has psychologists and social workers trained in mental health. The Government continues to encourage medical students to specialise in psychiatry. With the assistance of development partners, the Government has in the past been supported by visiting foreign psychiatrists.

78. To address the challenges experienced by persons with disabilities in accessing health services listed in paragraph 197 of our State Party report, the Government of Malawi, through the MoGCDSW (Department of Disability Affairs) continues to sensitize persons with disabilities on the importance of seeking medical attention at a medical facility and not to heavily rely on traditional medicines and traditional beliefs. The communities also continue to be sensitised to not stigmatize persons with disabilities. To address the challenge of communication barriers between health workers and persons with hearing impairments, the Government of Malawi has also deployed qualified medical rehabilitation personnel in all central and district hospitals, health centres and some rural hospitals across the country. Some of these personnel have already been trained in sign language and the focus is to train and to have a focal person at each facility to assist persons with hearing impairment. This is an important step in attaining accessibility of health services for all. To address the mobility issues, some medical facilities have re-designed their buildings to take into consideration accessibility issues. Furthermore, the review of the Disability Act is also considering mandating the re-design of existing hospitals and health centres to take into account accessibility issues.

## Work and employment (art. 27)

### Reply to paragraph 24 of the list of issues

79. The legal guarantees provided in the Constitution of Malawi, the Employment Act( Cap 55:01) and the Disability Act stated under paragraphs 202 to 204 are still present. However, the Government of Malawi intends to improve the guarantee of the right to work for persons with disabilities in the Disability Act, under review. Some considerations include mandating employment quotas for persons with disabilities in both the public and private sectors as well as mandating employers to provide reasonable accommodation for their employees with disabilities.

80. With regard to policies, the Government of Malawi is implementing the National Employment and Labour Policy. This policy outlines the Government's strategic framework for creating decent work opportunities and promoting social protection for all workers in Malawi. The Policy focuses on the following key areas:

- (a) job creation and economic growth;
- (b) labour market governance;
- (c) skills development and human resource management;

(d) social protection and working conditions;

(e) gender equality and non-discrimination (particularly non-discrimination against women and persons with disabilities).

81. To give effect to this Policy, the MoGCDSW (Department of Disability Affairs) in collaboration with the Ministry of Labour, the Technical, Entrepreneurial and Vocational Education and Training (TEVET) Authority and MACOHA continue to train persons with disabilities with various skills to make them more marketable on the job market. Furthermore, MACOHA continues to provide placement services to persons with disabilities so that they are able to secure, retain and advance in employment both in the public and private sectors. Unfortunately, the number of employed persons with disabilities is relatively small due to inadequate awareness of the rights, capabilities and potentials of people with disabilities and negative attitudes on the part of employers which is why the Government is considering the proposal for mandating work placement quotas.

82. The Government will continue to sensitize prospective employers on these issues to enhance the employability of people with disabilities in both the public and private sectors and also follow up on the performance of the persons with disabilities who have already been employed to ensure that they are performing their duties to the required standard.

83. The Government of Malawi does not have data and statistical information, disaggregated by sex and age, on the number of persons with disabilities employed in the open labour market.

## **Adequate standard of living and social protection (art. 28)**

### **Reply to paragraph 25 of the list of issues**

84. Persons with disabilities, particularly older persons with disabilities in rural areas and children with disabilities and their families to meet disability-related expenses, are considered under the Social Cash Transfer Programme which is being implemented by the Government, with assistance from development partners. The programme provides unconditional cash transfers to the beneficiaries. Unconditional cash transfers currently take place on a bi-monthly basis in 22 districts of Malawi and are delivered 'over-the-table' (District teams hand over physical Kwacha to recipients on allotted paydays). For the remaining 6 districts of the country, unconditional cash transfers take place on a monthly basis via e-payments. The criteria for eligibility are that the household must be ultra-poor (unable to meet most basic needs: food, essential non-food items etc.) and labour constrained (a household is labour constrained if there are no 'fit to work' members in the household, or if the dependence ratio of unfit-to-fit exceeds three). Household members that are defined as 'unfit' are those who are below 18 and above 64 years of age, or within the age bracket of 18–64 but have a chronic illness or disability, or are otherwise unable to work. As of September 2022, the Social Cash Transfer Programme is providing bi-monthly/monthly cash transfers to 297,138 households across all 28 Districts in Malawi, which translates to around 7% of the country's household population. Within these 297,138 households, there are over 1.4 million household members, showing over 7% of the country's population benefits from the Social Cash Transfer Programme. Most persons with disability in rural areas fit the criteria, therefore benefit from the programme. The specific number of persons with disabilities benefiting from the programme will be provided during the review.

## **Participation in political and public life (art. 29)**

### **Reply to paragraph 26 of the list of issues**

85. The legal guarantees stated in paragraphs 213 to 219 of our State Party report continue to be present. However, the Government of Malawi notes that there are no specific legal guarantees on how to ensure that persons with psychological or intellectual disabilities meaningfully participate in the electoral process. This is an area that the Government will look into, in consultation with the relevant stakeholders.

86. The provisions of the Presidential and Parliamentary Elections Act (No. 10 of 2023) make provision for ensuring that persons with disabilities can vote in secrecy, during elections, specifically, section 84 of the Act stipulates that a voter who is blind or is affected by disease or other physical disability may vote while accompanied by another registered voter of his or her choice or, by a polling station officer, who shall assist such person in casting the vote and the other registered voter or polling station officer shall act faithfully to the wish expressed by such person and with absolute secrecy regarding the vote cast by such person.

87. The Government of Malawi undertakes to provide statistical data on the number of persons with disabilities that occupy decision-making positions at all levels of Government during the review of the State Party report.

## **Participation in cultural life, recreation, leisure and sport (art. 30)**

### **Reply to paragraph 27 of the list of issues**

88. The Government of Malawi will continue to work towards ensuring that persons with disabilities have access to places of recreation, culture and sport. The new sports complexes are being constructed taking into consideration universal design. The Government intends to consider strengthening the obligations to ensure physical access to these facilities.

89. The Government of Malawi continues to ensure that children with disabilities participate in play, leisure and recreation and sporting activities including in school. The Government, through the Ministry of Youth and Sports, is implementing the National Sports Policy. The Policy recognises that sports can be for competition or recreation and that the participation of children with disabilities is based on motivation to join in sporting activities. The Policy, therefore, considers vulnerable and disadvantaged groups as a crosscutting issue. The Policy provides that Government will ensure that sport is accessible to all people regardless of *inter alia*, disability.

90. The Ministry of Youth and Sports works closely with the MoGCDSW (Department for Disability Affairs) and MACOHA and Malawi Disabled Sports Association (MADISA) to ensure that children with disabilities participate in leisure and recreation.

91. However, more work is required to ensure that children with disabilities participate in leisure and recreation fully. The Government will continue to work towards making this a reality.

## **C. Specific obligations (arts. 31–33)**

### **Statistics and data collection (art. 31)**

#### **Reply to paragraph 28 of the list of issues**

92. The Government of Malawi has in place various mechanisms at national and local levels to provide platforms for meaningful consultation and participation of persons with disabilities including the process of designing, implementing, and monitoring data-collection systems. These mechanisms include:

(a) The National Advisory and Coordinating Committee on Disability Issues (NACCODI) established under section 5(2) of the Disability Act. NACCODI is mandated to 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. The NACCODI is composed of representatives from various government ministries, disability organizations, and other stakeholders. Representative organisations such as FEDOMA have an equal say as other members in the process of advising the Government and monitoring the implementation of disability-related programmes. The NACCODI's

activities include developing and implementing disability policies and strategies, providing technical support to government ministries and agencies, advocating for the rights of persons with disabilities, and promoting public awareness of disability issues.

(b) The National Disability Affairs Technical Working Group which plays the role of coordinating the implementation of various disability-related activities. The representative organisations such as Malawi Union of the Blind (MUB), Disabled Women in Development (DIWODE), Malawi National Association of the Deaf (MANAD), Association of Persons with Albinism of Malawi (APAM), and Association of Persons with Physical Disability in Malawi (APPDM) are members of the Technical Working Group. The Technical Working Group considers reports from District Executive Committees and District Disability Forums on the implementation of disability-related interventions at the district level.

(c) At the district level, there are District Executive Committees (DECs) and District Disability Forums (DDFs) which coordinate the implementation of disability-related programmes at the district level. In these committees, representative organizations for persons with disabilities operating in the district are members of the committees.

(d) At the community level, there are Area Development Committees, and Village Development Committees which are responsible for coordinating the implementation of activities for realising the rights of persons with disabilities at the community level. In these committees, persons with disabilities are supposed to be members, however, they are not members in every community. The Government of Malawi, through the MoGCDSW (Department of Disability Affairs), is working with NGOs and development partners to sensitize communities on the importance of including persons with disabilities in the membership of these committees.

93. Malawi would consider using the Washington Group set of questions on disability in its statistical data-collection policy and programmes. In fact, when the Population and Housing Census was conducted in 2018, the Government used disability measures based on the International Classification of Functioning, Disability and Health (ICF) and uses the concept of activity limitations (difficulty seeing, hearing, walking, speaking, learning or concentrating and self-care) to identify persons with disabilities and also used the Washington Group set of questions on disability in data collection. As such, available data cover types of disabilities for persons 5 years and older except for Albinism and Epilepsy whose age started from 0 and developmental delay whose age range was 0 to 8 years. Further, using the Washington Group definition shows the lowest prevalence rates of 1.4 per cent as opposed to 11.6 per cent and 10.4 per cent when persons with albinism and epilepsy are included and excluded respectively.

94. Most of the statistical data particularly those produced by the National Statistical Office is available only in regular printed copies and electronically, through the National Statistical Office's website.

## **International cooperation (art. 32)**

### **Reply to paragraph 29 of the list of issues**

95. Persons with disabilities and their representative organizations are consulted and involved in decisions on international agreements through consultative meetings which are held at a regional level. The organizations are invited to these consultative meetings. These consultative meetings inform the direction which Government takes whether to sign or ratify any international agreement.

## **National implementation and monitoring (art. 33)**

### **Reply to paragraph 30 of the list of issues**

96. The focal points for advancing the implementation of the Convention are the MoGCDSW through the Department of Disability Affairs.

97. The National Advisory and Coordinating Committee on Disabilities Issues in Malawi established under section 5(2) of the Act was operationalised in 2018 and plays the role highlighted in paragraph 50 of this reply.

98. The Disability Trust Fund will soon be operational. The Government of Malawi promulgated the Disability Trust Fund Regulations in 2019 to operationalize the Trust Fund. Efforts are now being put in place to recruit the appropriate personnel to operate the Trust Fund.

99. The Human Rights Commission is tasked with independently monitoring the promotion and protection of rights under the Convention. The Human Rights Commission has “A” status in accordance with the Paris Principles. It has a Division responsible for Disability issues. This Division promotes and protects the rights of persons with disabilities and monitors the implementation of the Convention including persons with albinism through the raising of awareness and conducting of civic education, investigations of human rights violations and monitoring places of detention and care institutions and reviewing of existing legislation. The Human Rights Commission has conducted an inquiry into the abduction and killings of persons with albinism and a study on access to social services by persons with disabilities.

100. The Government of Malawi funds the Commission to discharge its functions, through sums appropriated by Parliament each financial year. The funding levels for the Commission since the 2018/2019 financial year have increased from K789,065,236 (USD 768,320) to K1,064,182,804 (USD 1, 036, 205) in the 2020/2021 financial year. However, due to the country’s economic challenges, the funding for the 2021/2022 financial year was adjusted downwards to K911,021,442 (USD 887,070). In the 2022/2023 financial year, the Parliament of Malawi appropriated K 2,059,448,312 (USD 2,005,305). The Commission has a total establishment of 124 personnel, of which 61 positions are filled, representing a staffing level of 49.1 per cent.

101. To ensure the effective participation of persons with disabilities and their representative organizations in the process of monitoring the Convention, the Government uses available national and local structures as platforms to consult and involve persons with disabilities and their representative organizations in the process of monitoring the Convention effectively and meaningfully. Such structures include National Advisory and Coordinating Committee on Disability Issues (NACCODI) and the National Disability Affairs Technical Working Group (NDA-TWG).

### **III. Conclusion**

102. The Government of Malawi looks forward to providing any more information the Committee may require, during the review of the combined initial and second periodic report.

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