



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the combined initial and second periodic reports of Malawi*

I. Introduction

1. The Committee considered the combined initial and second periodic reports of Malawi¹ at its 654th and 655th meetings,² held on 15 and 16 August 2023. It adopted the present concluding observations at its 679th meeting, held on 1 September 2023.
2. The Committee welcomes the combined initial and second periodic reports of Malawi, which were prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies³ to the list of issues prepared by the Committee.⁴
3. The Committee also welcomes the constructive dialogue held with the high-level delegation of the State party, which covered a wide array of issues and included representatives of relevant government ministries and Members of Parliament.

II. Positive aspects

4. The Committee welcomes the measures taken by the State party since its ratification of the Convention in 2009 to review domestic laws and policies and harmonize them with the Convention.
5. The Committee welcomes in particular the legislative and policy measures taken to promote the rights of persons with disabilities, namely:
 - (a) The launch of a review of the Mental Treatment Act of 1948 aimed at ensuring that it complies with the provisions of the Convention and of the Presidential, Parliamentary and Local Government Elections Act of 2023 relating to the right of persons with disabilities to vote in secrecy during elections;
 - (b) The adoption of the Access to Information Act of 2017, which came into force on 30 September 2020, enabling persons with disabilities to access information held by the State or any of its organs should such information be crucial in assisting them to uphold their rights;
 - (c) The adoption of the Disability Act of 2012, which provides for disability mainstreaming in law-making and policymaking and establishes a disability trust fund to support the implementation of disability-related measures;

* Adopted by the Committee at its twenty-ninth session (14 August–8 September 2023).

¹ CRPD/C/MWI/1-2.

² See CRPD/C/SR.654 and CRPD/C/SR.655.

³ CRPD/C/MWI/RQ/1-2.

⁴ CRPD/C/MWI/Q/1-2.



(d) The adoption of the National Disability Policy, which was designed to improve compliance with the Convention;

(e) The adoption of the National Sexual and Reproductive Health Rights Strategy (2021–2025);

(f) The adoption in 2019 of the National Disability Mainstreaming Strategy (2018–2023) and its corresponding implementation plan and the ongoing efforts to implement the Strategy across the education, health, employment, social protection and other sectors;

(g) The adoption of the National Action Plan on Persons with Albinism in Malawi (2018–2022), which provided for measures to reduce violence against persons with albinism;

(h) The adoption of the National Inclusive Education Strategy (2017–2021), which prioritized the development of inclusive education and financing and of the corresponding governance and management framework.

6. The Committee welcomes the State party’s efforts to improve its institutional and policy framework for the implementation of the Convention, in particular the establishment of the National Advisory and Coordinating Committee on Disability Issues and, at the district and community levels, of district executive committees, district disability forums, area development committees and village development committees, which are responsible for coordinating the implementation of disability-related programmes. It expresses appreciation for the consultations held by the State party with stakeholders to consider the possibility of ratifying the Optional Protocol to the Convention.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

7. The Committee notes with concern:

(a) The fact that the review of several pieces of legislation and policies, in particular the Disability Act of 2012, and the repeal of the Handicapped Persons Act of 1971 have yet to be completed so that new, comprehensive legislation can be adopted to replace them and that changes have been made to the persons with disabilities bill, which is soon to be enacted, without consulting or involving persons with disabilities, through their representative organizations;

(b) The lack of an explicit reference to women and girls with disabilities in both the Disability Act and the persons with disabilities bill;

(c) The delay encountered in adopting disability-related policies and programmes to implement the Convention and the lack of priority accorded to them;

(d) The use of discriminatory language against and negative portrayals of persons with disabilities, including derogatory terminology in laws, by public authorities and in the media.

8. The Committee recommends that the State party:

(a) **Complete as expeditiously as possible its review of the Disability Act of 2012 and the repeal of the Handicapped Persons Act of 1971 and ensure that the new legislation enacted to replace them and existing legislation in all areas of law, including family relations, mental health, property and personal security, are in line with the Convention and the human rights model of disability;**

(b) **Ensure the involvement of organizations of persons with disabilities throughout the process of enacting the new persons with disabilities bill and ensure that proposals made by persons with disabilities are appropriately considered and addressed at all stages of that process;**

(c) Ensure that the new legislation that is being developed to replace the Disability Act recognizes the rights of women and girls with disabilities and incorporates measures to address their marginalization and discrimination against them. The State party should address the proposals made by women with disabilities, through their representative organizations, in the position paper presented to the Ministry of Justice;

(d) Provide information to organizations of persons with disabilities concerning the administration of the disability trust fund, ensure that appropriate financial resources are allocated to it and establish criteria for the distribution of resources for the benefit of all persons with disabilities, regardless of type of impairment. The State party should gather disaggregated data on budget allocations and ensure periodic and accessible accountability procedures;

(e) Review and amend legislation and public policies with the aim of removing derogatory terminology concerning persons with intellectual and/or psychosocial disabilities and persons with albinism, and ensure that training for public officials includes modules on women and girls with disabilities, gender equality and persons with disabilities in marginalized situations.

9. The Committee notes with concern:

(a) The lack of periodic consultations between persons with disabilities and the National Advisory and Coordinating Committee on Disability Issues and the underrepresentation of organizations of persons with intellectual and/or psychosocial disabilities and of women with disabilities in consultative processes, in particular in discussions on sectoral strategies and programmes;

(b) The fact that organizations of persons with intellectual and/or psychosocial disabilities lack the financial resources to conduct advocacy and participate in public consultations.

10. Recalling its general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, the Committee recommends that the State party:

(a) Adopt a national legislative framework for close consultations with and the active involvement of persons with disabilities, through their representative organizations, ensuring mechanisms for the participation of organizations of women and girls with disabilities, persons with intellectual and/or psychosocial disabilities and children with disabilities in the implementation, enforcement and funding of programmes aimed at supporting the rights of persons with disabilities;

(b) Support organizations of persons with intellectual and/or psychosocial disabilities, including by providing them with independent and self-managed funding, encourage their access to funding from abroad as part of international cooperation and development aid and cover expenses relating to their participation in consultations.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

11. The Committee notes with concern:

(a) The lack of legislative and executive measures to give effect to the constitutional guarantees of equality and prohibition of discrimination for persons with disabilities, in particular women and girls with disabilities and persons with albinism, and the inadequacy of enforcement mechanisms, including those for ensuring the provision of reasonable accommodation;

(b) The decline in and current low number of cases of discrimination on the basis of disability dealt with by the Malawi Human Rights Commission, and the lack of information about remedies and redress in cases of discrimination;

(c) The absence of information on measures to prevent discrimination on the ground of disability and its intersection with other grounds and on measures to give effect to section 20 of the Constitution, which guarantees the protection of children with disabilities from discrimination.

12. Recalling its general comment No. 6 (2018) on equality and non-discrimination and targets 10.2 and 10.3 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Enact specific and comprehensive anti-discrimination legislation to enforce constitutional provisions on non-discrimination, prohibit discrimination on the ground of disability and its intersection with any other grounds, including age, sex, race, ethnicity and gender identity, and recognize the denial of reasonable accommodation as a form of discrimination. The State party should set up a framework for the provision of remedies and penalties in relation to discrimination, including the granting of compensation and non-pecuniary remedies;

(b) Adopt measures to raise awareness of the right of persons with disabilities to equality and non-discrimination under the Convention and the possibility of seeking redress. The State party should disseminate information about complaint mechanisms in Easy Read and other accessible formats and provide free legal aid for persons with disabilities seeking judicial and administrative remedies;

(c) Establish research programmes to identify inequalities, discriminatory practices and patterns of disadvantage affecting persons with disabilities, including intersectional discrimination, and adopt, in close consultation with persons with disabilities, through their representative organizations, a strategy to prevent and tackle intersectional discrimination, including discrimination against children with disabilities in all areas covered in the Convention.

Women with disabilities (art. 6)

13. The Committee is concerned that:

(a) Gender-based violence and access to justice and economic empowerment for women and girls with disabilities are insufficiently addressed in the laws and policies relating to persons with disabilities;

(b) Laws and policies relating to women and girls, such as the Gender Equality Act of 2013, the Deceased Estates (Wills, Inheritance and Protection) Act of 2011 and the National Plan of Action to Combat Gender-Based Violence in Malawi (2014–2020), have not sufficiently addressed issues affecting women and girls with disabilities;

(c) The budget allocation for mainstreaming disability in the public policies of the Ministry of Gender, Children, Disability and Social Welfare is low.

14. Recalling its general comment No. 3 (2016) on women and girls with disabilities and targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Mainstream the rights of women and girls with disabilities into disability policies and programmes and into gender equality legislation and policies, in particular the new persons with disabilities bill, the Gender Equality Act of 2013, the Deceased Estates (Wills, Inheritance and Protection) Act of 2011 and policies to combat gender-based violence, while ensuring consultation with and the active involvement of women and girls with disabilities in the design and implementation of gender- and disability-related policies and programmes;

(b) Strengthen budget allocations for the design, implementation and evaluation of programmes and measures to empower and ensure the inclusion of women and girls with disabilities in all areas of life, combat gender-based stereotypes and promote their involvement and equal participation in all public decision-making processes.

Children with disabilities (art. 7)

15. The Committee is concerned about:

(a) The absence of measures to protect the rights of children with disabilities in the Child Care, Protection and Justice Act of 2010 and the lack of implementation of programmes to address the situation of children with disabilities;

(b) The deprivation and marginalization of children with disabilities and their high vulnerability to child poverty, malnutrition, abandonment, institutionalization and de facto inequality and discrimination in education and health. In particular, it notes with concern that, compared with other children, children with disabilities have lower school attendance rates at all levels, higher rates of moderate and severe growth stunting and lower participation in early childhood education and benefit less from social transfers;

(c) The limited coverage of programmes to provide social support to children with disabilities, including through early intervention or cash transfers.

16. **Recalling its joint statement with the Committee on the Rights of the Child on the rights of children with disabilities, the Committee calls upon the State party:**

(a) **To complete the process of reviewing the Child Care, Protection and Justice Act of 2010 and enact provisions to protect and fulfil the rights of children with disabilities on an equal basis with other children;**

(b) **To adopt and implement a comprehensive strategy for the inclusion of children with disabilities, as recommended by the Committee on the Rights of the Child.⁵ The strategy should be developed in close consultation with organizations of persons with disabilities, including organizations of children with disabilities, prioritize community-based inclusive strategies and programmes at the national and local levels and provide for measures to address child poverty and deprivation, prevent abandonment and ensure the accessibility of information and communications, transportation and community settings, such as schools, health-care facilities, libraries and sports centres;**

(c) **To gather statistics on and monitor the coverage of the disability-related expenses of children with disabilities as part of the Malawi Social Cash Transfer Programme⁶ and develop social protection for children with disabilities whose families are not covered by the Programme.**

Awareness-raising (art. 8)

17. The Committee is concerned about reports of disability stereotypes and prejudices that portray persons with disabilities as being in need of protection, mystical or abnormal, which particularly affect persons with intellectual and/or psychosocial disabilities, women and girls with disabilities and persons with albinism, as such stereotypes and prejudices underpin harmful practices, such as confinement, abductions, forced sterilizations and killings. It is also concerned that awareness-raising initiatives have been unsystematic, overlook specific groups of persons with disabilities and lack specific goals and progress assessments.

18. **The Committee recommends that the State party, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations, develop strategies to raise awareness of the dignity and rights of persons with disabilities, including campaigns, human rights education, training and media outreach. In close consultation with organizations of persons with disabilities, through their representative organizations, the State party should provide persons with disabilities and wider society with information about the rights of persons with disabilities in accessible formats, such as Easy Read and Braille, and by means of augmentative and alternative forms of communication, focus on changing negative attitudes, ensure the direct involvement of persons with disabilities in their diversity,**

⁵ CRC/C/MWI/CO/3-5, para. 32.

⁶ CRPD/C/MWI/RQ/1-2, para. 84.

target community leaders, religious leaders, school communities, families and the media and establish mechanisms of periodic assessment.

Accessibility (art. 9)

19. The Committee is concerned about the absence of public plans or programmes to develop accessibility in all areas covered by the Convention and the fact that measures taken by public and private stakeholders are limited to the physical environment, such as the provision of ramps. It is also concerned about the absence of mandatory accessibility criteria in public procurement at all levels and the fact that measures have not been taken to assess accessibility barriers at the community level.

20. **Recalling its general comment No. 2 (2014) on accessibility, the Committee recommends that the State party, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations:**

(a) **Enact legislation to ensure the right of persons with disabilities to access, on an equal basis with others, the physical environment, transportation, information and communications, including information and communications technologies, and other facilities or services open to or provided for the public, in both urban and rural areas;**

(b) **Ensure the adoption and implementation of the Malawi Standard on Accessibility and Usability of the Built Environment;⁷**

(c) **Develop a national action plan on the accessibility of the physical environment, transportation and information and communications, including information and communications technologies. The action plan should:**

(i) **Include accessibility measures that address the diversity of barriers encountered by all persons with disabilities in all areas of life and settings, including water and sanitation facilities and services, schools, hospitals, public buildings, courtrooms, shops and short- and long-term goals;**

(ii) **Introduce alternative, accessible transportation services, including for the transportation of passengers by water;**

(iii) **Adopt measures to assess progress and penalties for non-compliance in the public or private sectors;**

(d) **Introduce mandatory accessibility and universal design criteria into public procurement at all levels of government and monitor their implementation.**

Right to life (art. 10)

21. The Committee is concerned about:

(a) The fact that the right to life is not explicitly protected under the Disability Act of 2012;

(b) The expiry of the National Action Plan on Persons with Albinism in Malawi in 2022 and reports that persons with albinism continue to experience violent attacks, which are sometimes fatal, and disappearances owing to misconceptions and beliefs that hinder their right to life and the enjoyment of other rights;

(c) The lack of implementation of the National Action Plan on Persons with Albinism in Malawi and the lack of financial resources for its implementation, which limits its effectiveness in protecting the right to life of persons with albinism.

22. **The Committee recommends that the State party, in close consultation with and with the involvement of persons with disabilities, through their representative organizations:**

⁷ Ibid., para. 24.

- (a) **Include the right to life as an explicit right to be protected in the new persons with disabilities bill;**
- (b) **Review the National Action Plan on Persons with Albinism in Malawi promptly with a view to renewing it for implementation beyond 2022, ensuring close consultation with and the active involvement of persons with albinism, including women and girls with albinism and children with albinism, through their representative organizations;**
- (c) **Allocate sufficient financial resources to implement the National Action Plan on Persons with Albinism in Malawi with a view to making it more effective in protecting the right to life of persons with albinism.**

Situations of risk and humanitarian emergencies (art. 11)

23. The Committee notes with concern that persons with disabilities have been particularly affected during the coronavirus disease (COVID-19) pandemic and in the context of disasters, including Cyclone Freddy and the subsequent floods. However, the Committee notes that the emergency response and the measures taken during the recovery period did not address the specific risks for and impact on persons with disabilities. In particular, it notes with concern:

- (a) The fact that the disaster response policy framework, including the National Climate Change Management Policy of 2016, the Disaster Preparedness and Relief Act of 1991 and the National Multi Hazard Contingency Plan for 2021/22, lacks a focus on women and girls with disabilities, and reports that women and girls with disabilities are often the last to access rescue services during a crisis;
- (b) The lack of systematic data collection on the impact of emergencies and disasters on persons with disabilities, including the situation of the at least 52,211 persons with disabilities who were internally displaced as a consequence of Cyclone Freddy, and on the emergency response provided to them;
- (c) The continuing impact of the COVID-19 pandemic on persons with disabilities, which has yet to be addressed, including the loss of personal assistance support;
- (d) The lack of measures to provide persons with disabilities with early warning information in accessible formats.

24. **The Committee recommends that the State party, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations:**

- (a) **Be guided by the Sendai Framework for Disaster Risk Reduction 2015–2030 and introduce measures that explicitly refer to persons with disabilities, including women and girls with disabilities, in its policy framework concerning situations of risk and humanitarian emergencies and in respect of all phases, namely prevention and preparedness, rescue, recovery, reconstruction and reconciliation. The State party should expand the coverage and types of disaster response and humanitarian aid available for women and girls with disabilities;**
- (b) **Be guided by the Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action and establish a system to collect data on persons with disabilities in emergency situations aimed at identifying the impact of emergencies, barriers in access to assistance and gaps in the resources and assistance available for persons with disabilities, including internally displaced persons with disabilities;**
- (c) **Expand the scope of the measures addressing persons with disabilities in the Malawi Socio-Economic Recovery Plan (2021–2023), adopted in response to the COVID-19 pandemic, in particular by adopting measures and progress indicators concerning equal access to vaccine programmes, effective access to social protection schemes, the deinstitutionalization of persons with disabilities, including children with disabilities, and access to the support needed to live in the community;**

(d) **Develop, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations, disability and gender-inclusive and accessible warning systems and evacuation protocols.**

Equal recognition before the law (art. 12)

25. The Committee is concerned about the deprivation of persons with intellectual and/or psychosocial disabilities of legal capacity, including in the areas of political participation, property rights, marriage and family relations, and of the right to give their free and informed consent, in the absence of measures to provide support for decision-making. It notes that prevailing stereotypes in society lead to instances of de facto guardianship of persons with disabilities.

26. **Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

(a) **Amend or repeal legislation that denies legal capacity on the basis of disability, recognize the right of persons with disabilities to equal recognition before the law and establish a system of supported decision-making measures that respects a person's autonomy, will and preference. The State party should adopt measures to combat both formal and informal substitute decision-making;**

(b) **Recognize a broad range of formal and informal support mechanisms, including advance planning for support and decision-making;**

(c) **Collect disaggregated data on cases in which persons with disabilities have had their legal capacity restricted and set up mechanisms to restore their legal capacity;**

(d) **Develop programmes to raise awareness among persons with disabilities, notaries, judges and court staff, health-care providers, financial service providers and other actors involved in the exercise of legal capacity (decision-making supporters, family members and communities) of the rights of persons with disabilities to legal capacity and to request support for decision-making.**

Access to justice (art. 13)

27. The Committee is concerned about:

(a) The fact that persons with intellectual and/or psychosocial disabilities are not recognized as witnesses in criminal proceedings and the lack of measures across the legal system to recognize defendants who are persons with disabilities, including women with disabilities and persons with intellectual and/or psychosocial disabilities, and to provide them with the procedural accommodation required;

(b) Physical and attitudinal barriers in rural areas, which lead to underreporting and a lack of remedies for women and girls with disabilities who are survivors of gender-based violence. In particular, it is concerned that women and girls with disabilities cannot access police stations and file complaints and that cases of violence against women and girls with disabilities are often disregarded by the village head;

(c) The lack of information provided in accessible formats and through sign language interpretation about legal proceedings, which limits access to justice for women with intellectual and/or psychosocial disabilities, women with hearing impairments and deafblind women;

(d) The fact that legal aid lawyers, police officers and members of the judiciary lack information and training on working with and representing persons with disabilities, in particular women with disabilities.

28. **Recalling the International Principles and Guidelines on Access to Justice for Persons with Disabilities and target 16.3 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Ensure that the right of persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, to participate in judicial proceedings, including as defendants and witnesses, is recognized in law, and introduce a legal duty**

to provide persons with disabilities with procedural, age-appropriate and gender-sensitive accommodations;

(b) Conduct research and establish mechanisms at the community level to ensure that community justice systems hear and adjudicate on cases, including cases of gender-based violence against women and girls with disabilities, and provide redress to survivors. The State party should develop programmes to raise awareness of the rights of persons with disabilities among community leaders who play a role in managing community-based programmes;

(c) Ensure the provision of interpretation services at all stages of judicial proceedings and disseminate information in accessible formats, including Braille and Easy Read, and through the use of augmentative and alternative forms of communication;

(d) Set up systematic training, in cooperation with organizations of persons with disabilities, academia and the Malawi Law Society, for the legal profession, in particular legal aid lawyers, police officers and members of the judiciary, on the Convention and the application of the human rights model of disability in their functions and work.

Liberty and security of person (art. 14)

29. The Committee is concerned about:

(a) The provision made for deprivation of liberty on the basis of disability in the Mental Treatment Act of 1948, which affects persons with intellectual and/or psychosocial disabilities;

(b) The provisions of the Criminal Code and the Criminal Procedure and Evidence Code (art. 135) under which persons with intellectual and/or psychosocial disabilities may be exempted from criminal responsibility and deprived of their liberty in psychiatric hospitals, “with or without limitation” of time;

(c) Reports that women in prison, including women with disabilities, were transferred to prisons away from their families during the COVID-19 pandemic and have therefore been deprived of material and social support;

(d) The reported lack of accessibility measures and reasonable accommodation in relation to persons with disabilities held in custody and in prisons.

30. In accordance with its guidelines on the right to liberty and security of persons with disabilities,⁸ the Committee recommends that the State party, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations, in particular organizations of persons with psychosocial and/or intellectual disabilities:

(a) Complete the review of mental health legislation and abolish involuntary mental health treatment in psychiatric hospitals and other settings on the basis of disability. The State party should incorporate person-centred, community-based and participatory support into mental health provision;

(b) Repeal all legal provisions that deny persons with disabilities the full protections afforded to defendants in criminal proceedings, including the presumption of innocence, and that result in penalties or referrals to diversion mechanisms that are more severe than regular criminal penalties, such as deprivation of liberty of undefined or indefinite duration and involuntary or forced medication or treatment;

(c) Ensure that women with disabilities in prisons can remain close to their families and receive essential support;

(d) Take measures to ensure that all places of detention, including prisons, police cells and reformatory centres, are accessible to persons with disabilities and that

⁸ A/72/55, annex.

reasonable accommodation is provided. The State party should incorporate disability requirements into the Prisons Act and regulations and provide training for prison staff on the rights of persons with disabilities.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

31. The Committee is concerned about the absence of measures to prevent and protect persons with disabilities from torture and ill-treatment in detention facilities, including psychiatric hospitals, and of accountability and remedies for persons with disabilities. It is also concerned about the risk of persons with disabilities being subjected to corporal punishment in the context of prison-wide searches and collective disciplinary punishments.

32. **The Committee recommends that the State party:**

(a) **Expedite the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in line with the recommendation, supported by the State party, made in the context of the universal periodic review in 2020;⁹**

(b) **Enact legislation to prohibit and recognize as criminal offences acts of torture and ill-treatment, including treatments and interventions such as the non-consensual administration of drugs, chemical or physical restraints, isolation, solitary confinement, non-consensual medical, scientific or social experimentation, behaviour modification and growth-attenuation therapy, in all detention settings, including residential institutions for children and adults with disabilities and orphanages, and ensure that the penalties for torture are commensurate with the gravity of the conduct;**

(c) **Recognize in law the right not to be subjected to medical treatment without free and informed consent and the right to refuse treatment, and introduce protocols and accessible information on the right not to be subjected to medical or scientific experimentation without freely giving consent;**

(d) **Raise awareness in the community and among health-care professionals of the right to freedom from torture and ill-treatment and provide counselling in the community to support persons with disabilities and their families who have been subjected to torture in any form;**

(e) **Introduce in law measures to ensure that acts of ill-treatment or torture are investigated, that perpetrators are prosecuted and that persons with disabilities who have been subjected to such acts receive fair and adequate compensation, reparation and rehabilitation.**

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

33. The Committee is concerned about:

(a) Cases of violence, neglect and abuse against persons with disabilities, including persons with albinism, in the family, schools and the community, and the fact that current legislation, including the Disability Act of 2012, the Penal Code and the Prevention of Domestic Violence Act of 2006, lack provisions to combat all forms of exploitation, violence and abuse against persons with disabilities;

(b) The prevalence of sexual violence, including sexual abuse and harassment, against women and girls with disabilities, including girls with intellectual and/or psychosocial disabilities in special schools, in the absence of investigations, prosecutions and redress for survivors;

(c) The fact that criminal law provisions on sexual offences, in particular those contained in the Penal Code, and programmes to address gender-based violence, such as the

⁹ [A/HRC/46/7](#), para. 122.

National Guidelines for Provision of Services for Physical and Sexual Violence of 2015, do not contain specific mechanisms to support women and girls with disabilities;

(d) The lack of accessibility, including the lack of sign language interpretation and reasonable accommodation, and underfunding of victim support units at police stations and shelters for victims of violence;

(e) Information about girls with disabilities and children with intellectual disabilities who are forced to beg, including by their guardians, in the absence of any dignified opportunity for self-realization.

34. Recalling its statement of 24 November 2021, in which it called for action to be taken to eliminate gender-based violence against women and girls with disabilities, and targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Ensure that persons with disabilities and the harmful practices affecting them are addressed in legislation criminalizing, protecting against and preventing all forms of violence, abuse and neglect. The State party should introduce remedies, redress and reparations for victims, including appropriate compensation and age-appropriate and gender-sensitive psychosocial rehabilitation for survivors of violence;

(b) Set up a process to expeditiously investigate cases of sexual abuse against children with disabilities at special schools and in other settings, hold perpetrators accountable and raise awareness among parents, school personnel and the community of the gravity of such conduct. The State party should adopt reparations for children affected by acts of violence, consider the immediate closure of special education settings and task the Malawi Human Rights Commission with periodically monitoring all facilities and programmes designed for persons with disabilities, including special schools and institutions where cases of violence against children with disabilities have been reported;

(c) Ensure that legislation and programmes adopted for the recovery, rehabilitation and social reintegration of victims of sexual violence, abuse and exploitation include women and girls with disabilities, and provide them with guidance on identifying cases of violence and accessible forms and protocols for submitting complaints in cases of violence and abuse;

(d) Allocate resources to strengthen victim support units and shelters for victims of violence, in particular to ensure physical accessibility, accessibility of information and disability-inclusive protocols that provide guidance on conducting interviews and on addressing the situation of persons with disabilities seeking support;

(e) Adopt a national strategy to combat violence and all forms of exploitation, including forced begging, against persons with disabilities in the private and public spheres. This strategy should:

(i) Include actions to prevent all forms of violence and provide information in accessible formats;

(ii) Strengthen the support available for survivors of violence, including counselling and psychosocial rehabilitation;

(iii) Prioritize the development of social support services and community networks for preventing and combating poverty and deprivation.

Protecting the integrity of the person (art. 17)

35. The Committee notes with concern reports of forced abortions and reports that women and girls with disabilities under guardianship may be subjected to forced sterilization on the basis of consent given by third parties, including family members or guardians. It is concerned about the absence of objective discussions and awareness-raising campaigns on sterilization and the lack of sexual and reproductive health education for persons with disabilities.

36. **The Committee recommends that the State party:**

- (a) **Prohibit sterilizations of persons with disabilities without their free and informed personal consent, including sterilizations requested by third parties such as courts, guardians or family members;**
- (b) **Adopt protocols applicable across all health-care services to promote respect for the sexual and reproductive rights of persons with disabilities, in particular women and girls with disabilities, including the right to retain their fertility, and the provision of related information and services;**
- (c) **Set up awareness-raising and education campaigns on sexual and reproductive health and the rights of persons with disabilities.**

Liberty of movement and nationality (art. 18)

37. The Committee is concerned about:

- (a) Reports that refugees with disabilities and persons with disabilities in refugee-like situations, in particular children with disabilities hosted at the Dzaleka camp, have had their freedom of movement restricted across the territory of the State party and that persons who have left refugee camps have been dealt with under the criminal law;
- (b) The fact that refugees with disabilities are unable to seek livelihood opportunities and access schooling owing to restrictions on freedom of movement at refugee camps;
- (c) The lack of measures to ensure the inclusion of migrant, asylum-seeking and refugee persons with disabilities in the education system, which affects children and young persons with disabilities in particular.

38. **The Committee recommends that the State party:**

- (a) **Ensure that refugees with disabilities and persons with disabilities in refugee-like situations can exercise their right to freedom of movement and to choose a place to live, and consider lifting the current restrictions in place at the Dzaleka camp;**
- (b) **Speed up the enforcement of its commitments under the comprehensive refugee response framework, ensuring that refugees and asylum-seekers with disabilities benefit from national development plans, including with regard to access to support, health, water and sanitation, settlement opportunities and work and employment;**
- (c) **Adopt measures to ensure that migrants, refugees and asylum-seekers with disabilities have access to mainstream education in the community by addressing existing barriers, such as lack of transportation, limited facilities, inadequate food and the unavailability of assistive devices.**

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

39. The Committee is concerned about:

- (a) The lack of measures to recognize and realize the right of persons with disabilities to live in the community and have choices equal to others and the fact that persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, often become dependent on their families and face isolation and confinement at home or in institutions;
- (b) The fact that persons with disabilities are over-reliant on “well-wishers” in the absence of individualized support, in particular personal assistance to facilitate their participation in the community;
- (c) The fact that persons with disabilities are prevented by lack of income, employment and social protection from achieving the autonomy and standard of living needed to participate in the community;

(d) The fact that community services and facilities are not accessible, limiting the participation of persons with disabilities in society.

40. **Recalling its general comment No. 5 (2017) on living independently and being included in the community and its guidelines on deinstitutionalization, including in emergencies,¹⁰ the Committee recommends that the State party:**

(a) Ensure the recognition of the rights of persons with disabilities, irrespective of age, gender and impairment, to live in the community and to choose where and with whom they live. The State party should address the stigma and stereotypes that lead to isolation and confinement at home;

(b) Put in place legal and policy measures for the deinstitutionalization of persons with disabilities and their effective inclusion in the community, in close consultation with and with the involvement of persons with disabilities, through their representative organizations;

(c) Strengthen community rehabilitation programmes and adopt measures to ensure the economic and social autonomy of persons with disabilities and their families;

(d) Ensure that community services for the general population take an inclusive approach throughout the State party, including by strengthening the role of organizations of persons with disabilities in supporting persons with disabilities in accessing the labour market, transportation, housing, education, health care, recreation and other publicly accessible facilities and services.

Personal mobility (art. 20)

41. The Committee notes with concern the absence of mechanisms for ensuring access by persons with disabilities, including children, to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries. It also notes the absence of training in mobility skills for persons with disabilities and specialist staff working with persons with disabilities.

42. **The Committee recommends that the State party:**

(a) Adopt measures, including through public procurement, to ensure that persons with disabilities have access to the required personal mobility aids, devices, other assistive technologies and forms of live assistance and intermediaries that are affordable, of acceptable quality, based on universal design principles and responsive to individualized requirements and that enhance the autonomy of persons with disabilities;

(b) Adopt programmes to promote research on and the development, design and production of mobility aids, devices and other assistive technologies that address all aspects of mobility for persons with disabilities;

(c) Provide training to persons with disabilities, including children with disabilities, and to specialist staff on mobility skills and raise awareness among persons with disabilities and their representative organizations of the legal measures and services for accessing mobility aids and the provision of mobility aids, assistive devices and other assistive technologies and forms of assistance.

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

43. The Committee is concerned about:

(a) The lack of recognition in law of Malawi sign language and the fact that private media organizations still do not provide sign language interpretation on their broadcasts and that there is reportedly a shortage of qualified sign language interpreters;

(b) The lack of measures to ensure the availability of information intended for the general public in accessible formats;

¹⁰ CRPD/C/5.

(c) The lack of progress made in updating official websites and making them accessible to persons with disabilities, including persons with visual impairments.

44. The Committee recommends that the State party:

(a) **Recognize Malawi sign language in law as one of its official languages and adopt measures to set up programmes to train Malawi sign language interpreters, ensuring that such training is available in all 32 districts;**

(b) **Make it compulsory for all public and private television stations to offer sign language interpretation, in particular on news and national events broadcasts;**

(c) **Take measures to ensure the availability of information intended for the general public in formats accessible to all persons with disabilities, including through the provision of such information in Braille, sign language and Easy Read format and the use of other augmentative means of communication;**

(d) **Work in consultation with representative organizations of persons with disabilities to make its websites accessible to all persons with disabilities, including persons with visual impairments.**

Respect for privacy (art. 22)

45. The Committee is concerned about the absence of provisions to protect the privacy of persons with disabilities in such areas as health care and support services for persons with disabilities and in other situations in which data is collected.

46. The Committee recommends that the State party introduce legal provisions to protect the privacy of all persons with disabilities in all situations, in line with the Convention.

Respect for home and the family (art. 23)

47. The Committee is concerned that sections 14 and 77 (1) (c) of the Marriage, Divorce and Family Relations Act of 2015 deny persons with intellectual and/or psychosocial disabilities the legal capacity to marry. It notes with concern the lack of support available for parents with disabilities, including women heads of household, and for the families of children with disabilities and the fact that children with disabilities are denied the right to be raised by their parents and are subjected to institutionalization in special needs centres and orphanages.

48. The Committee recommends that the State party:

(a) **Revise sections 14 and 77 (1) (c) of the Marriage, Divorce and Family Relations Act of 2015 and abolish measures that deny persons with intellectual and/or psychosocial disabilities the legal capacity to marry;**

(b) **Provide support to single women with disabilities who are heads of household and prevent them from being separated from their children on the basis of disability;**

(c) **End alternative care arrangements involving the placement of children with disabilities in institutions, support families to raise their children and adopt measures to ensure the availability of alternative care within the wider family.**

Education (art. 24)

49. The Committee is concerned about:

(a) The fact that the national inclusive education policy does not cover all types of disabilities and that segregated education for children with disabilities continues to be provided alongside inclusive education, in the absence of a time frame for full transition;

(b) Challenges to inclusive education, such as resistance on the part of teachers and the wider school community, the inaccessibility of school premises, the low number of trained personnel, the inadequacy of teaching materials, the lack of water and sanitation, the

long distances that must be covered to access schools and inadequate road infrastructure, and inadequate material and financial resources;

(c) Reports that school-age girls and adolescents with disabilities are often unable to attend class for a whole week at a time owing to a lack of access to essential menstrual hygiene products and taboos around menstruation;

(d) Discriminatory attitudes towards children with disabilities that prevent them from enrolling in education;

(e) The absence of measures to track and record the participation and achievement of learners with disabilities in inclusive settings.

50. Recalling its general comment No. 4 (2016) on the right to inclusive education and target 4.5 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) **Implement the education-related aspects of its legal and policy framework to ensure the full adoption of quality inclusive education and a transition from special schools;**

(b) **Include an inclusive education component in regular teacher training programmes to cover such topics as the use of sign language, Braille and other assistive techniques;**

(c) **Conduct regular needs assessments to ensure that children with disabilities in inclusive education settings receive the appropriate support and attention;**

(d) **Ensure adequate funding for inclusive education for children with disabilities to cover materials and reasonable accommodation;**

(e) **Modify assessment methodologies to cater to the individual needs of students with disabilities;**

(f) **Carry out an audit of the accessibility of information and infrastructure to children with disabilities in regular schools.**

Health (art. 25)

51. The Committee is concerned about:

(a) The absence of specific provisions to address stigma, prejudice and discriminatory attitudes affecting persons with disabilities in policy instruments adopted by the Ministry of Health;

(b) Reports that women and girls with disabilities are subjected to discriminatory and dismissive attitudes on the part of medical professionals when seeking health care in the context of pregnancy and sexual and reproductive health, which is often fuelled by a belief that women with disabilities should not be engaging in sexual relations;

(c) Barriers to the participation of persons with disabilities, through their representative organizations, in the development of health-related legislation and policies, including the recent Health Sector Strategic Plan II;

(d) The lack of availability of medication and protective items, including sunscreen, for persons with albinism across health services.

52. The Committee recommends that the State party:

(a) **Ensure that existing health legislation, policies and programmes include specific provisions to address stigma, prejudice and discriminatory attitudes towards persons with disabilities, in particular women with disabilities seeking sexual and reproductive health services, on the part of health personnel;**

(b) **Raise awareness among health personnel at all levels, in particular among nurses, on the health rights of persons with disabilities, including through appropriate training;**

(c) **Ensure close consultations with and the active involvement of persons with disabilities, through their representative organizations, in the development of health-related legislation, policies and programmes in order to reaffirm the effective inclusion of their concerns in relation to health;**

(d) **Take appropriate measures to address the challenges of adequately providing health services for persons with albinism in view of their health needs and of providing essential health services for persons with psychosocial disabilities by addressing the acute shortage of the necessary medical personnel;**

(e) **Address the problem of the inaccessibility of the built environment and equipment in health facilities in both rural and urban areas, including by providing suitable beds for women with physical disabilities on labour wards.**

Habilitation and rehabilitation (art. 26)

53. The Committee is concerned about the lack of measures to provide habilitation and rehabilitation and the fact that community-based rehabilitation is available in only a few districts owing to lack of funding.

54. **The Committee recommends that the State party ensure that its policies and programmes provide for adequately funded community-based rehabilitation across the country. It also recommends that the State party promote the local production of assistive devices to enhance the habilitation and rehabilitation of all persons with disabilities in both urban and rural areas.**

Work and employment (art. 27)

55. The Committee is concerned about:

(a) The limited scope and lack of implementation of provisions on the employment of persons with disabilities in general employment and equal opportunity laws;

(b) The delay, following the review of the Disability Act of 2012, in adopting the persons with disabilities bill, which proposes to strengthen provisions on the employment of persons with disabilities;

(c) The lack of effective and meaningful participation of persons with disabilities, through their representative organizations, in the development of employment policies, in particular in the preparation of employment strategy and the ongoing review of the Disability Act of 2012;

(d) The prevalence of negative attitudes among employers regarding the rights of persons with disabilities and the slow progress made in raising awareness of the rights, capabilities and potential of persons with disabilities;

(e) Insufficient education and vocational training for persons with disabilities, which prevents their access to employment;

(f) The lack of accurate data and statistical information disaggregated by sex and age concerning level of education and training and employment status, which impedes appropriate planning.

56. **Recalling its general comment No. 8 (2022) on the right of persons with disabilities to work and employment, and in line with target 8.5 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Strengthen the provisions of general labour laws relating to the employment of persons with disabilities and urgently make progress towards the enactment of the new persons with disabilities bill, which is to replace the Disability Act of 2012, ensuring the right of persons with disabilities to access employment in the open labour market;**

(b) **Ensure close consultation with and the active involvement of persons with disabilities, through their representative organizations, in particular in the review of the Disability Act and the development of employment policies;**

- (c) **Work in close consultation with and with the active involvement of persons with disabilities, through their representative organizations, to raise awareness of the rights, capabilities and potential of persons with disabilities and combat negative attitudes on the part of employers;**
- (d) **Raise the standard of education and vocational training for all persons with disabilities to prepare them for the world of work;**
- (e) **Gather and appropriately disseminate data and statistical information disaggregated by sex, age, level of education and training and employment status in both the public and the private sectors to facilitate planning.**

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

57. The Committee is concerned:

- (a) That the existing social protection cash transfer programme reportedly targets poor households rather than specific persons with disabilities and therefore ends up being administered by the registered head of household, often without any consultation with, participation by or consideration of the individual with a disability;
- (b) That the cash transfer allocation does not reflect disability-related costs, as it is the same for all recipients;
- (c) That almost three quarters of persons with disabilities reportedly have no access to affordable and accessible housing and that social protection does not include any support for access to housing.

58. **The Committee recommends that the State party establish a specific social protection scheme with adequate financing to cover and provide direct payments to all individuals with disabilities who have no other form of income and ensure that the scheme covers an individual's disability-related costs as well as her or his housing costs.**

Participation in political and public life (art. 29)

59. The Committee notes with concern:

- (a) The existence of legislation that denies persons with intellectual and/or psychosocial disabilities the enjoyment of their right to vote and restricts their exercise of the right to stand for election;
- (b) The slow progress made in ensuring the accessibility of polling booths and the lack of electoral information and materials in accessible formats;
- (c) The limited participation of persons with disabilities in political parties and entities responsible for implementing disability policies at the community level, such as area development committees and village development committees, and the decrease in the number of persons with disabilities appointed to senior positions in the public sector.

60. **The Committee recommends that the State party, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations:**

- (a) **Review all legislation, including the Constitution, to recognize the right of persons with intellectual and/or psychosocial disabilities to vote and to stand for election;**
- (b) **Set up a plan and allocate human, technical and financial resources to ensure that the voting environment, including the premises, polling booths and electoral information and materials, are accessible to all persons with disabilities, including through the provision of information in Easy Read format and the use of augmentative and alternative and all other accessible means and modes of communication;**
- (c) **Adopt guidelines to ensure the inclusion of persons with disabilities in political parties, introduce positive measures to encourage and facilitate the involvement of persons with disabilities in entities responsible for implementing disability-related policies at the community level and address the gap in the**

representation of persons with disabilities in public positions, including at the senior level.

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

61. The Committee is concerned that section 19 of the Disability Act of 2012, which recognizes the right of persons with disabilities to participate in cultural life, recreation, leisure and sport, is not enforced. It notes that sports and recreation infrastructure and places for cultural performances and services are not accessible to persons with disabilities. It is concerned about the lack of measures to enable persons with disabilities to develop and utilize their creative, artistic and intellectual potential.

62. **The Committee recommends that the State party:**

(a) **Take measures, including legislative and policy measures, to improve the accessibility of sports and leisure infrastructure, including theatres, museums, cinemas, libraries and tourist sights, to all persons with disabilities and provide cultural and leisure information materials in formats accessible to all persons with disabilities;**

(b) **Encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels and on an equal basis with others;**

(c) **Collaborate with persons with disabilities to incentivize them to utilize their creative, artistic and intellectual potential for their own benefit and that of wider society.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

63. The Committee is concerned that many persons with disabilities, their representative organizations and local government officials are not aware of the number of persons with disabilities living in their respective districts, making planning very uncertain. It is also concerned that persons with disabilities were not meaningfully involved in training enumerators in the last census and contested the findings of the census with regard to the number of persons with disabilities.

64. **The Committee recommends that the State party:**

(a) **Make accurate disability data and statistical information disaggregated by sex, age, level of education and training, employment status and any other factors necessary for planning available to persons with disabilities, through their representative organizations, and to all local government officials and other stakeholders;**

(b) **Ensure the participation of persons with disabilities, through their representative organizations, in all disability-related data-collection processes, including at the planning stages and in the training of enumerators and assessment of data-collection tools.**

International cooperation (art. 32)

65. The Committee is concerned about:

(a) The lack of participation of persons with disabilities, through their representative organizations, in international cooperation discussions, including those concerning projects addressing their issues;

(b) The lack of measures to involve persons with disabilities in national and international processes to implement the 2030 Agenda for Sustainable Development and the Sustainable Development Goals.

66. **The Committee recommends that the State party:**

- (a) Provide opportunities for and ensure close consultation with and the active involvement of persons with disabilities, through their representative organizations, in international cooperation discussions, in particular those concerning projects that affect them;
- (b) Ensure the mainstreaming of disability-, gender- and age-sensitive programmes and projects as part of international cooperation initiatives;
- (c) Establish a monitoring and accountability framework to assess the impact on persons with disabilities of international cooperation programmes, projects and policies, including those aimed at implementing the 2030 Agenda and the Sustainable Development Goals, such as the follow-up and review processes;
- (d) Ensure that persons with disabilities meaningfully participate in discussions regarding and the planning and implementation of the Sustainable Development Goals at the local and national levels.

National implementation and monitoring (art. 33)

67. The Committee is concerned about:

- (a) The limited information on the capacity and coordination mechanisms of the community-level disability focal points and the fact that the National Advisory and Coordinating Committee on Disability, through which it is expected that persons with disabilities will participate in the monitoring and implementation of the Convention, is not operational;
- (b) Reports that the Malawi Human Rights Commission faces challenges in operating freely, has limited funding and is seriously understaffed, which undermines its role as an independent monitor of human rights, including in the area of disability rights;
- (c) The absence of measures to ensure the participation of persons with disabilities and their representative organizations in monitoring the rights recognized in the Convention.

68. **Recalling its guidelines on independent monitoring frameworks and their participation in the work of the Committee,¹¹ the Committee recommends that the State party:**

- (a) Ensure the continued functioning of the National Advisory and Coordinating Committee on Disability, appoint disability focal points at the community level and provide appropriate training and coordination mechanisms to strengthen their role in implementing the Convention;
- (b) Strengthen the capacity of the Malawi Human Rights Commission to perform its independent monitoring role under article 33 (2) of the Convention, including by allocating appropriate funding, granting it the authority to freely determine its priorities and activities, filling the more than 50 per cent of positions that remain vacant and ensuring that it operates in accordance with the principles relating to the status of national institutions for the protection and promotion of human rights (the Paris Principles);
- (c) Ensure the provision of appropriate resources for persons with disabilities and their representative organizations, including support in the form of independent and self-managed funding, to enable them to meaningfully take part in the independent monitoring of the Convention and to work directly with the Malawi Human Rights Commission as the designated independent monitoring mechanism.

¹¹ CRPD/C/1/Rev.1, annex.

IV. Follow-up

Dissemination of information

69. The Committee emphasizes the importance of all the recommendations contained in the present concluding observations. With regard to urgent measures that must be taken, the Committee would like to draw the State party's attention to the recommendations contained in paragraphs 8, on legislation and policies, 14, on women with disabilities, and 68, on national implementation and monitoring.

70. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to Members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

71. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

72. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, including Easy Read, and to make them available on the government website on human rights.

73. The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities, for the purpose of obtaining guidance and assistance in the implementation of the Convention and of the present concluding observations.

Next periodic report

74. The Committee requests the State party to submit its combined third to sixth periodic reports by 27 September 2031 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.
