

Multi-Country Study on Inclusive Education (MCSIE)

Comparative Policy Review for Cambodia, Malawi, and Nepal

Sub-award under 7200AA18CA00009

Produced by Inclusive Development Partners

Submitted July 2020

DISCLAIMER

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development (USAID) or the United States Government.

Acknowledgement

This document was developed with the support of the United States Agency for International Development (USAID) through the Multi-Country Study on Inclusive Education (MCSIE). The lead authors of the document are Anne Hayes and Chris Johnstone, and the document is based upon reports also written by Megan McClowsky and Michael Schwartz. We would like to thank Rud Turnbull for his expertise and guidance on three country documents used to develop this comparative. Thank you as well to Valerie Karr, Hayley Niad, Eileen Dombrowski, Stephanie Peña, Padam Bahadur Pariyar, and Sophak Kanika Ngoun for their support throughout this process. Thank you also to Catherine Frazier for her thoughtful review and editing of the document.

Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECD	Early Childhood Development
ESIP	Education Sector Implementation Plan
HDI	Human Development Index
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IDP	Inclusive Development Partners
IEAP	Inclusive Education Action Plan
IP	Implementing Partner
LASER PULSE	Long-Term Assistance and Services for Research Partners for University-Led Solutions Engine
LMIC	Low- and Middle-Income Country
MCSIE	Multi-Country Study on Inclusive Education
MoEST	Ministry of Education, Science, and Technology
NDMS&IP	National Disability Mainstreaming Strategy and Implementation Plan
NESP	National Education Sector Plans
NGO	Non-Governmental Organization
NSIE	National Strategy on Inclusive Education
OHCHR	Office of the High Commissioner for Human Rights
SGD	Sustainable Development Goal
SSDP	School Sector Development Plan
UNDP	United Nations Development Program
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
WASH	Water, Sanitation, and Hygiene
WHO	World Health Organization
WIPO	World Intellectual Property Organization

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1. Executive Summary

Educational policies define and clarify a government's commitments, rules, and procedures with regard to how students will be educated within the country. The understanding of existing laws and policies within a country is essential context in conducting in-country programming, including evaluations. The United States Agency for International Development (USAID) is supporting the Multi-Country Study on Inclusive Education (MCSIE), funding it to evaluate three of its largest inclusive-education projects, namely those in Cambodia, Malawi, and Nepal. The purpose of the review is to secure a clear understanding of what works and how best to support inclusive education globally in the future. Inclusive Development Partners (IDP), a woman-owned small business working to improve the rights of persons with disabilities worldwide, is implementing MCSIE.

As part of MCSIE, IDP conducted an analysis of policies, statutes, guidelines, and strategies in each of the three study countries. This document represents the comparative review of policies and IDP's findings for Cambodia, Malawi, and Nepal. Each analysis assessed the degree to which a national normative framework promoting and protecting the right to education for children with disabilities is in place and what legislative and other gaps related to MCSIE remain to be filled (if any). Findings from this analysis are useful to inform the development of interview guides and other research instruments designed to address the core research questions listed below. The policy analysis also complements the comprehensive literature review conducted for each country and identifies policy areas in which the three countries all exhibit progress as well as potential gaps towards fulfilling the country's international commitments.

This report attempts to analyze the legal framework of three countries and is organized in six sections: background, normative framework, legislative framework, findings and analysis, relevance to MCSIE, and conclusion. When these documents were examined through the lens of the Convention on the Rights Persons with Disabilities (CRPD), IDP found that although policies within the three countries demonstrate progressive realization towards inclusive education, many policies and strategies continue to support and oftentimes call to strengthen segregated education systems (noting the exception for students who are deaf or hard of hearing who require sign language-rich environments), indicating policy dualism and possible dilution of resources for inclusive models.

In this report, the key findings and analyses are listed both by type of legislation (such as anti-discrimination, education, or special/inclusive education) as well as thematic issues relevant to MCSIE. These findings include 1) conceptual understanding of inclusive education/educational setting; 2) identification of students with disabilities; 3) teacher training; 4) instructional approaches; 5) accommodations; 6) sign language and deaf education; 7) gender and the intersectionality of disability; and 8) recognizing the heterogeneity of disability. See sections 7.2 and 7.3 for additional information on these findings.

All of these findings help better inform MCSIE research and data collection methods. Below are some of the considerations MCSIE will examine throughout the evaluation. These core elements were selected as they either directly relate to MCSIE's evaluation questions or were core cross-cutting elements of programming within the three countries. These findings include:

- **Conceptual Understanding of Inclusive Education/Educational Settings.** Children with disabilities are protected under law but may attend school in a wide range of settings (including segregated settings), thus influencing how they are taught literacy and their potential literacy outcomes. Often a clear conceptual understanding on inclusive education is not consistent across countries, signifying MCSIE should be sensitive to how the respective countries define inclusion.
- **Identification of Children with Disabilities.** Identification is likely occurring in all countries, but little is known about the procedures of identification, the validity of tools, or the human rights implications of current practice. MCSIE should endeavor to capture the consequences in practice that may ensue from an unclear policy stance on the identification of disability.
- **Teacher Training.** The SDGs call for “inclusive, quality education for all” (United Nations, 2015). To produce quality education, teacher training is important and explicitly referenced in all three countries with Cambodia's policy having less specificity on the need to train general education teachers along with special education teachers. MCSIE evaluators should endeavor to capture the practical impact of varying policy landscapes as they relate to teacher training.
- **Instructional Approach.** All three countries reference instructional approach but do not provide details. MCSIE evaluators should endeavor to capture the practical impact through supports, accommodations, and diversification of curriculum.
- **Accommodations.** The respective countries often reference accommodations to varying degrees but often lack detailed guidance or details. MCSIE evaluators should attempt to capture the extent and quality to which the three countries provide legally prescribed educational accommodations for persons with disabilities in school settings.
- **Sign Language.** All three countries prioritized sign language in policies, but only Nepal indicated a specific sign language for development. Sign language may be inconsistently taught across MCSIE countries.
- **Gender and Intersectionality.** Cambodia and Nepal specifically address the unique needs of girls with disabilities, but Malawian legislation does not specifically address this right. MCSIE evaluators should ensure data collection tools and methods engage men

and women equally and that the tools and methods include both closed and open-ended questions that investigate stakeholders' perspectives about the intersectional nature of gender and disability.

- **Heterogeneity of Disability.** Although legislation in the countries address a variety of disabilities, learning disabilities are largely not recognized by law. MCSIE evaluators should capture how different disabilities are addressed in practice, and where possible, evaluation activities should investigate the impact, if any, of not having learning disabilities recognized in law within the three countries.

The report is organized into seven sections: introduction, background, the countries' global commitments to inclusive education, national legislative framework, findings and analysis, and conclusion.

2. Introduction

This section introduces the purpose of this policy review, the broader aims of MCSIE, and information on the CRPD, its role as a normative framework, and the importance of progressive realization.

2.1 Purpose

The policy review provides legislative and systemic context for the countries in which MCSIE operates. This information will help inform the evaluators of the various national policy objectives, goals, and strategies articulated by the governments of Cambodia, Malawi, and Nepal. It will later help identify the ways in which program implementation derives from or is consistent with policy objectives. The policy review uses the CRPD as the normative framework and helps to shed light on the extent to which the three countries' national policies and strategies align with their international commitments. Using the CRPD as a normative framework also allows for MCSIE to compare the various policies using a standard to which all countries—Cambodia, Malawi, and Nepal—are State Parties.

2.2 Multi-Country Study on Inclusive Education

Through the Long-Term Assistance and Services for Research Partners for University-Led Solutions Engine (LASER PULSE) mechanism led by Purdue University, Inclusive Development Partners (IDP) is conducting a three-and-a-half year, \$3.585 million evaluation of three USAID inclusive-education activities in Cambodia, Malawi, and Nepal. The study will investigate USAID programming in these three countries in order to identify what works to sustainably advance teaching and learning outcomes for children with disabilities in varying contexts and, ultimately, inform current and future programming through recommendations to current implementing partners (IPs) at midline and broader recommendations for USAID at endline.

Five key themes provide a framework for the current study (process, identification, training, instruction, and consequences). The following questions inform the evaluation of individual country programs as well as the evaluation of programming across the three countries:

1. What worked well/poorly in the process of setting up an efficient, effective, and sustainable system to focus on improving the quality of education for learners with disabilities? (Process)
2. What methods worked best to identify learners with disabilities? (Identification)
3. What training model(s) worked best to provide teachers with the resources and support they need to best meet the needs of learners with disabilities? (Training)
4. What instructional models worked best to improve classroom instruction and reading outcomes among learners with disabilities? (Instruction)
5. Were there any unintended consequences of the activity? What were they? (Consequences)

Each question includes the following sub-questions:

- How does the method/model work?
- Why does it work/not work?
- How costly is it?
- In which contexts is it likely to work best?
- How sustainable (both in terms of capacity and financial resources) is it? What is the impact on gender?

This policy analysis provides an understanding of the rights guaranteed under law as well as potential legal barriers that impact various projects being implemented within MCSIE countries.

2.3 CRPD and the Role of Progressive Realization

A strong policy framework committed to inclusion is critical for students with disabilities because these students often encounter barriers to accessing education on an equal basis as students without disabilities. Students with disabilities worldwide are routinely denied the right to access a quality education. As just one example, a 2016 research project conducted by the United Nations Children's Fund (UNICEF) covering 15 low- and middle-income countries (LMICs) found that 85 percent of primary-aged children with disabilities who were out of school had never attended school (Mizunoya et al., 2016).

The CRPD, adopted in 2006, provides a clear international normative framework that obligates State Parties to ensure the full and equitable education of all students with disabilities (see section 5.1 of this review for more information). The CRPD calls for inclusive education, which extensive research has shown leads to better learning and social outcomes for students with disabilities

(National Council on Disabilities, 2018).^{1 2} To conform to that normative framework, many countries worldwide have developed new national policies. These new policies address national education needs of children with disabilities and restructure or commit to the restructuring of policy and service-delivery systems that align with the CRPD.

The CRPD also calls for international cooperation to support States Parties in meeting their objectives and in promoting inclusion of persons with disabilities in international development programs (United Nations, 2006, Art. 32). In response, bilateral and multilateral donors increasingly seek means for ensuring additional and more effective approaches to support inclusive education efforts within LMICs. USAID is supporting MCSIE, funding it to review three of its largest inclusive education projects: Cambodia, Malawi, and Nepal. This review aims to secure a clear understanding of what works and how best to support inclusive education globally in the future.

The three MCSIE countries have radically different national histories, language contexts, cultural traditions, and economic circumstances. Cambodia's, Malawi's, and Nepal's governments, however, all share a common commitment to ensuring the rights of persons with disabilities. Cambodia, Malawi, and Nepal are three of the 181 nations in the world that have ratified the Convention on the Rights of Persons with Disabilities (CRPD), signifying all three countries have joined a global community of nations seeking to transform policy, law, economic opportunities, and human services for persons with disabilities. The CRPD represents a common policy aspiration among the three countries that can provide a framework for comparative analysis. MCSIE represents an opportunity to support countries to achieve their voluntary international commitments through identifying areas of alignment and possible gaps.

Education policy, everyday practice, and USAID technical support vary in how countries approach disability and inclusive education. The CRPD—specifically Article 24 (on education) and General Comment No. 4 (about inclusive education)—yields an opportunity for providing normative feedback for implementing partners and policy makers in the three countries. The CRPD General Obligations state countries must “adopt all appropriate legislation, administrative and other measures for the implementation of the rights recognized in the present Convention,” and States must “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities”

¹ Most of the research on inclusive education and learning outcomes has taken place in high-income countries with only recently similar research being conducted in LMICs with similar positive outcomes.

² Inclusive education can be roughly defined as students with disabilities being educated in their local schools in age-appropriate classrooms with students without disabilities where they receive appropriate supports and services to reach their full academic potential. For this research, IDP also follows the World Federation of the Deaf's definition of inclusive education where students who are deaf are educated in sign language-rich environments where they can communicate freely with peers, teachers, and administrators.

(United Nations, 2006). Put simply, the elimination of discriminatory policy is the first priority for all countries who sign and ratify the CRPD.

The CRPD's stance on discrimination against persons with disabilities provides a framework for evaluation that can be used to examine baseline and progress in the areas of infrastructure, educational practices, and social structures to include all children with disabilities in mainstream education settings and deliver appropriate deaf education in a sign language-rich environment. The framers of the CRPD acknowledged that economic, cultural, and social inclusion is a process that takes time, but must always be guided by policies that allow every child to pursue an education in inclusive or sign language-rich environments. Within the framework of the CRPD, then, policies must not discriminate in any way, and any breaches of human rights must be addressed immediately. The societal changes needed to uphold such policies can be "progressively realized" through government investment, improved practice with identification and teaching, international agency cooperation, and education sector improvements.

3. Methodology

To ensure consistency in data collection and analysis across all countries, IDP developed a policy analysis protocol with suggestions for search techniques and a tentative outline for the final report. The analysis was primarily limited to relevant laws, policies, and related strategies, as well as reports prepared by the respective governments and submitted to international bodies, primarily the treaty bodies associated with the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR), where relevant. It was supplemented on a limited basis by third-party evaluations and analyses uncovered during the literature review for this study.

3.1 Sample

A total of 31 legislative documents were reviewed for the three countries (10 for Cambodia, 11 for Malawi, and 10 for Nepal) as well as 76 other relevant documents, including policy evaluations and other publicly available materials. This literature review also coded any relevant information concerning commitments to international treaties, disability laws, education laws, and inclusive-education laws. For the broader literature review, more than 250 documents were reviewed in total. This policy review acts as a synthesis of separate literature reviews conducted for each MCSIE country. Legislation and strategies reviewed under this analysis for Cambodia, Malawi, and Nepal are summarized in Exhibit 1.

Exhibit 1: Laws Reviewed for Policy Analysis

Legislation Category	Country Laws and Strategies and Legislation Type ³		
	Cambodia	Malawi	Nepal
National Anti-Discrimination Laws	<p>Constitution of the Kingdom of Cambodia (1993) (<i>Constitution</i>)</p> <p>Law on the Protection and Promotion of the Rights of Persons with Disabilities (2009) (<i>Statute</i>)</p> <p>National Disability Strategic Plan (2014-2018) (<i>Executive Plan</i>)</p> <p>National Disability Strategic Plan (2019-2023) (<i>Executive Plan</i>)</p>	<p>Constitution of Malawi (1994) (<i>Constitution</i>)</p> <p>National Policy on the Equalization of Opportunities of Persons with Disabilities (2005) (<i>Statute</i>)</p> <p>Disability Act (2012) (<i>Statute</i>)</p> <p>National Disability Mainstreaming Strategy and Implementation Plan (2018-2023) (<i>Executive Plan</i>)</p> <p>Gender Equality Act (2013) (<i>Statute</i>)</p>	<p>National Constitution of Nepal (2015) (<i>Constitution</i>)</p> <p>National Policy and Plan of Action on Disability (2006) (<i>Regulation</i>)</p> <p>Act on the Rights of Persons with Disabilities Act (2017) (<i>Statute</i>)</p> <p>Child Rights Act (2018) (<i>Statute</i>)</p>
National Legislation and Strategies on Education	<p>Education Law (2007) (<i>Statute</i>)</p> <p>Education Strategic Plan (2014-2018) (<i>Executive Plan</i>)</p> <p>Education Strategic Plan (2019-2023) (<i>Executive Plan</i>)</p>	<p>Education Act (2012) (<i>Statute</i>)</p> <p>National Education Policy (2013) (<i>Statute</i>)</p> <p>National Education Sector Plan (2008-2017 extended to 2020) (<i>Executive Plan</i>)</p>	<p>Nepal Education Act (1972) Ninth Amendment (<i>Statute</i>)</p> <p>National Education Policy (2019) (<i>Unknown</i>)⁴</p> <p>The Act Relating to Compulsory and Free Education (2018) (<i>Statute</i>)</p>

³ These terms can be roughly defined as follows. Constitution: the supreme laws of a country and the fundamental principles and laws that determine the powers of the government and guarantee certain rights to citizens. Statute: a law enacted by the legislative branch of a government. Regulation: a law promulgated by the appropriate federal/national executive secretariat or department. Executive Plan: interpretive documents that supplement regulations and clarify how they will be operationalized.

⁴ As this document is unavailable in English, IDP could not confirm it as a statute, regulation, or executive plan.

			School Sector Development Plan (2016/17-2022/23) (<i>Executive Plan</i>)
Education Legislation and Strategies for Students with Disabilities	<p>Policy on Education for Children with Disabilities (2008) (<i>Regulation</i>)</p> <p>Policy on Special Education for People with Special Needs (2018) (<i>Regulation</i>)</p> <p>Inclusive Education Action Plan (IEAP) (2019-2023) (<i>Executive Plan</i>)</p>	<p>Special Needs Education Implementation Guidelines (2008) (<i>Guidelines</i>)</p> <p>Education Sector Implementation Plan II (2013/14-2017/18) (<i>Executive Plan</i>)</p> <p>National Strategy on Inclusive Education (2017-2021) (<i>Executive Plan</i>)</p>	<p>Special Education Policy (1996) (<i>Regulation</i>)</p> <p>Inclusive Education Policy for Persons with Disability 2072 (2016) (<i>Regulation</i>)</p>

In addition to reviewing information and determining findings for the different areas of legislation, the report also provides findings on key technical issues. These technical issues include 1) conceptual understanding of inclusive education/educational setting; 2) identification of students with disabilities; 3) teacher training; 4) instructional approaches; 5) accommodations; 6) sign language and deaf education; 7) gender and the intersectionality of disability; and 8) recognizing the heterogeneity of disability. These core elements were selected as they either directly relate to MCSIE's evaluation questions or were core cross-cutting elements of programming within the three countries. Due to the importance of the issues addressed across legislations and policies, IDP developed initial findings for each of these technical issues as well as suggestions on how these findings can inform MCSIE.

3.2 Limitations

This policy review addresses only the written and publicly-available policies and legislation of Cambodia, Malawi, and Nepal. This review does not incorporate information on why the policies were developed, stakeholder views on the policies, or the status of these policies' implementation in practice. This scope limits the research team's ability to address whether some of the policies have been replaced or superseded by other policies, unless explicitly stated within the new policies. The intention of this process is not to fully understand the policy environment and its implementation, but rather to review what policies exist related to the education of students with disabilities and how this information can better inform MCSIE. In addition, the policy review included only disability non-discrimination and education policies but does not include social protection, health, or similar policies that may still have relevance within schools. Therefore, this

review does not presume to include all relevant policies in the various countries, but only those related to education and non-discrimination.

4. Background

This section provides important background on MCSIE and provides general information on the situation of education in Cambodia, Malawi, and Nepal, including the current state of education for children with disabilities in the countries.

4.1 General Information on Cambodia, Malawi, and Nepal

To understand the policy review, the general country context of Cambodia, Malawi, and Nepal must be acknowledged. This understanding can also help provide context for the findings and how MCSIE should consider these findings. The three countries of focus are culturally and linguistically diverse, but all share challenges related to the economic poverty of persons with disabilities and the barriers to educational opportunities experienced by children with disabilities. Malawi, for example, is one of the poorest countries in the world. More than half of Malawi's population lives below the poverty line, and 25 percent of those citizens below the line live in extreme poverty (International Monetary Fund African Department, 2017). Malawi ranks 172 out of 189 countries on the 2019 United Nations Human Development Index (HDI). Cambodia is also a country experiencing limitations in development outcomes. It currently ranks 146 on the HDI, indicating the country is among the lowest in the world in economic development, health outcomes, and educational outcomes (United Nations Development Program [UNDP], 2019). For example, as of 2015, 25 percent of Cambodia's population (3.8 million people) did not have access to safe water, and 44 percent (6.8 million people) did not have access to quality sanitation (World Bank, 2019). Cambodia is followed directly by Nepal, which ranks 147 on HDI rankings (UNDP, 2019). In Nepal, close to one in four persons fall below the poverty line (UNDP, 2019). Cambodia and Nepal have higher rankings on the United Nations Human Development Index than Malawi, but all countries in this study face challenges of widespread economic poverty.

Reliable statistics on the total number of persons with disabilities remain a challenge in all three countries. According to the 2013 Cambodia Inter-Censal Population Survey (CIPS), approximately 2.06 percent of the population has a disability and approximately 10.63 percent of children between the ages of birth to 14 years have a disability (National Institute of Statistics, 2018). Nepal's 2011 census reported only 1.94 percent of people having disabilities (Central Bureau of Statistics, 2011). Malawi has slightly higher rates of disability prevalence with recent estimates suggesting 3.3 percent of children (aged two to 17 years) and 9 percent of adults (aged 20 years or more) have a disability (Eide & Munthali, 2018). Exhibit 2 shows a comparative estimate of the total number of persons with disabilities across countries. In each country, however, the validity of these estimates is often questioned. For example, one source in Malawi stated the estimated prevalence rate in the country may be inaccurate as it might have substantially understated the prevalence rate among children, especially those with intellectual disability (Tataryn et al., 2017). In all cases, these rates are substantially lower than the World

Health Organization (WHO) estimate of 15 percent of any given population having a disability (WHO and the World Bank, 2011), suggesting that these countries do not have lower prevalence rates but may have challenges with census and data-collection methods or discrepancies in how these countries understand disability in comparison to international organizations like WHO.

Exhibit 2: Disability Prevalence Rates for Cambodia, Malawi, and Nepal

Country Disability Prevalence Rates		
Cambodia	Malawi	Nepal
2.06 %	9%	1.94%

Source: National Institute of Statistics, Ministry of Planning, 2013; Nepal Central Bureau of Statistics, 2018; Eide & Munthali, 2018

4.2 Situation of General Education in Cambodia, Malawi, and Nepal

In addition to country context, understanding the general education in all three countries and the current overview of inclusive education is useful when reviewing existing policies and strategies. Although the three countries offer students the same number of years for primary and secondary school education, each country faces very unique challenges. Cambodia's primary education (grades 1-6) has an impressive enrollment rate of 97.8 percent with an 82.7 percent completion rate. However, challenges such as limited resources and high student-teacher ratios (61:1) makes student learning outcomes poor (Kingdom of Cambodia, 2019a). Transitional rates from primary to lower secondary (grades 7-9) is 59.2 percent and drops to 28.5 percent for upper secondary (grades 10-12), partially due to the low quality and limited geographic reach of the schools as well as very limited access to safe water or electricity (Kingdom of Cambodia, 2019a). Malawi and Nepal's educational structure follows an 8-4-4 pattern, with eight years of primary, four years of secondary, and four years of university (GIZ, 2019; NIRT & AIR, 2017). One of the main structural issues in Malawi, as a result of over enrollment from universal primary education, is the limited number of secondary schools in relation to the amount of children enrolled in primary schools. This has led to a very competitive process since entrance to secondary schools is based off of primary school exam scores. However, it is important to note that children with disabilities have been given affirmative action, and, therefore, only need to pass exams in order to reserve a place in secondary school (Croft, 2006; Banks & Zuurmond, 2015).

Student-teacher ratios in Malawi vary more than Cambodia with 36 to 120 students per teacher, with some schools having more than 400 students in a single class. As a result, there is a significant lack of resources and space available, often leading to classes being held outdoors (Lynch & Lund, 2011). These issues also impact the special education system, as records show Malawi needs an additional 2,749 resource rooms, to their current 100, in order to accommodate all children with special needs (Mkandawire, 2016). Resource classrooms, which are defined as a separate, segregated classroom attached to schools that "support[s] learners with special education needs and disabilities through direct, specialized instruction and academic remediation as well as assistance with homework and related assignments as individuals or in groups" (GIZ, 2019, p. 14), are also used in Nepal's integrated schools. As of 2016, there were 380 resource classrooms throughout Nepal with more than 4,000 students being supported (Eide, Neupane, &

Hem, 2016). Nepal has the smallest teacher-student ratio among the three countries with an average of 24.8 in primary and 27.4 in secondary schools; however, this low ratio is not correlated with high achievement learning outcomes when compared to other South Asian statistics (NIRT & AIR, 2017).

5. International Normative Framework for Inclusive Education and International Commitments

There is a strong international and regional normative framework that promotes and protects the rights of children with disabilities to education on an equal basis with their peers without disabilities. This section provides a comparative summary of the three countries' commitments to international and regional human rights treaties. As noted above, the analysis of these policies is framed within international commitments made by each of the three countries in an effort to identify both strengths and gaps of discrimination-free policies.

5.1 Global Commitments to Inclusion of Children with Disabilities in Education

The CRPD articulates the clearest recognition of the rights of persons with disabilities in international human rights law and represents a powerful global commitment to those rights. The CRPD calls on States Parties to ensure the full realization of all human rights for all persons with disabilities, including children, and obligates States Parties to eliminate all legislative and administrative measures and practices that are discriminatory (United Nations, 2006, Arts. 4 and 7). It also obligates States Parties to ensure the accessibility of schools, among other public facilities, and recognizes the right of persons with disabilities to an education on an equal basis with others (United Nations, 2006, Arts. 9 and 24). In particular, Article 24 of the CRPD requires States Parties to guarantee an inclusive education system that promotes the full development of the human potential of children with disabilities and ensures that they:

- are not excluded from general education systems on the basis of disability;
- can access an inclusive, quality, and free primary and secondary education on an equal basis with others;
- are provided reasonable accommodation of any individual requirements;
- receive the support required, within the general education system, to facilitate an effective education; and
- are provided individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion (United Nations, 2006, Art. 24).

To meet these objectives, States Parties must ensure instruction is delivered in the most appropriate languages and means and modes of communication for each child, including those who are blind, deaf, or deaf/blind. States Parties also are obliged to train and employ qualified teachers and staff familiar with educational techniques and materials to support learners with disabilities (United Nations, 2006, Art. 24).

The CRC, adopted in 1989, similarly recognizes and protects the human rights of children, including children with disabilities. The CRC calls on States to respect and protect the rights of all children to be free from discrimination (Art. 2); it recognizes the right of children with disabilities to live a full life with active participation in their communities (United Nations, 1989, Art. 23); and it further recognizes the right of all children to an education (United Nations, 1989, Art. 28).

The CRC and CRPD each have monitoring committees responsible for overseeing and evaluating the steps States Parties take to implement the respective conventions. States Parties must submit regular reports to the respective committees detailing how they are implementing the rights set out in the conventions. Committees examine each report along with submissions from civil society organizations and respond by making suggestions and general recommendations for further compliance.

In addition, the monitoring committees have the authority to issue guidance regarding the meaning of particular treaty terms and address specific issues relating to compliance. To more clearly define States Parties' obligations related to inclusive education, in 2016, the CRPD committee published General Comment No. 4 on Inclusive Education. The General Comment highlights common barriers to inclusion, emphasizes that inclusive education is a fundamental human right of all learners, and advises States Parties that, to ensure inclusive education, a "whole systems" approach is required, one that eliminates all legal, administrative, and structural disadvantages that exclude children with disabilities. It further emphasizes States Parties cannot maintain both segregated and general education systems and remain in compliance with the CRPD (United Nations, 2016).

In addition to the binding obligations in the CRPD and the CRC, the 2015 Sustainable Development Agenda, adopted unanimously by the United Nations General Assembly, includes the goal of "ensur[ing] inclusive and equitable quality education and promot[ing] lifelong learning opportunities for all" (United Nations, 2015, Goal 4). Its targets include a commitment to "build and upgrade education facilities that are child, disability, and gender sensitive and provide safe, non-violent, inclusive, and effective learning environments for all" (United Nations, 2015, Target 4.A). At the World Education Forum in 2015, representatives of over 160 countries adopted the Incheon Declaration for Education 2030. The Incheon Declaration includes a comprehensive Framework for Action to achieve Sustainable Development Goal (SDG) 4; the Framework is premised on the principle that no education target should be considered met unless it is met for all, including children with disabilities. The Framework recognizes four modalities to implement an inclusive and equitable education strategy, including 1) governance, accountability, and partnerships; 2) effective coordination; 3) monitoring, follow-up, and review for evidence-based policies; and 4) financing (UNESCAP, 2018).

Cambodia, Malawi, and Nepal are each party to a number of international treaties that promote and protect human rights. Exhibit 3 provides a summary of the different treaties ratified by the three countries and the date of ratification.⁵

Exhibit 3: International Treaties Ratified and Date of Ratification

International Convention	Cambodia Ratification Dates	Malawi Ratification Dates	Nepal Ratification Dates
International Covenant on Civil and Political Rights (ICCPR)	May 26, 1992	December 22, 1993	May 14, 1991
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	May 26, 1992	December 22, 1993	May 14, 1991
Convention on the Elimination of Discrimination Against Women (CEDAW)	October 15, 1992	March 12, 1987	April 22, 1991
Convention on the Rights of the Child (CRC)	October 15, 1992	January 2, 1991	September 14, 1990
Convention on the Rights of Persons with Disabilities (CRPD)	December 20, 2012	August 27, 2009	May 7, 2010

Source: United Nations Office of the High Commissioner for Human Rights (OHCHR), 2020

All State Parties are required to submit regular reports to the CRPD Committee. Malawi submitted its first report to the CRPD committee on February 27, 2017, two years after its due date of September 27, 2015 (United Nations Office of the High Commissioner for Human Rights [OHCHR], 2020). Nepal submitted its first report to the CRPD Committee on August 29, 2014, also approximately two years after the initial report was due to the committee (OHCHR, 2020). Cambodia, however, was due to submit a report to the CRPD Committee on January 20, 2015, (three years after ratification), but it does not appear Cambodia has filed any State Party reports to the Committee since its 2012 ratification.⁶ In the cases of Malawi and Nepal, non-governmental organizations (NGOs) have also submitted parallel reports to either support or dispute claims on disability inclusion presented by the governments.

⁵ Although there are nine core human rights treaties, this paper only references those clearly linked to education and disability.

⁶ The UN Treaty Body Database for Cambodia discloses a report from the country was due January 20, 2015, but there is no indication it was either submitted or published. See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=KHM&Lang=EN. The absence of a report and concluding observations from the Committee deprives Cambodia of a key benchmark in measuring its progress.

5.2 Regional Recognition of Asia on the Rights of Children with Disabilities

Several other charters and guiding documents are pertinent to Cambodia. For example, the Asian Human Rights Charter, adopted in 1998, references “differently-abled persons” and recognizes such persons experience discrimination in education, employment, and housing, among others (Asian Human Rights Commission, 1998). The Charter also recognizes persons with disabilities “have a right to live in dignity, with security and respect, and to have opportunities to realize their full potential.” The Association of Southeast Asian Nations (ASEAN) Human Rights Declaration (2012) further recognizes the rights of persons with disabilities “are an inalienable, integral, and indivisible part of human rights and fundamental freedoms” (Association of Southeast Asian Nations, 2012).

In 2012, the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) launched the Incheon Strategy to “Make the Right Real” for Persons with Disabilities. The Incheon Strategy was developed in order to create and prioritize strategies to achieve the SDGs, and, thus, they are intrinsically linked. The Incheon Strategy is the first set of regionally-agreed disability-inclusive development goals and covers a range of development issues, including poverty reduction and employment, political participation, accessibility, social protection, and education (UNESCAP, 2012). The Strategy adopts 10 goals including Goal 5 to expand early intervention and education of children with disabilities, along with 27 targets and 62 indicators to monitor and evaluate its implementation. Target 5.B calls for halving the gap in enrollment rates for primary and secondary education between students with and students without disabilities (UNESCAP, 2012). Notably, like the CRPD, the Incheon Strategy also recognizes girls and women with disabilities face multiple and overlapping forms of discrimination, and they are often left out of gender-equality programs, including programs intended to prevent violence and advance access to sexual and reproductive health services. Targets 6.C and 6.D call for measures to ensure women and girls with disabilities have access to sexual and reproductive health services and benefit from measures to reduce all forms of violence, which would include violence and abuse in schools (UNESCAP, 2012).

The 2017 Beijing Declaration and Action Plan to Accelerate the Implementation of the Incheon Strategy, agreed to in 2017 by UNESCAP Member States, proposes strategic measures to bridge the gap between policy and effective implementation. With respect to the Incheon Strategy’s Goal 5 on including children with disabilities in education, the Action Plan calls for governments to, among other things, adopt and strengthen programs to train and educate families, caregivers, and service providers on child development and early detection of and interventions for children with developmental delays and disabilities. It also calls for governments to promote the rights of children with disabilities to receive services; review and revise education policies to make them more inclusive; audit the accessibility of school facilities, including water and sanitation facilities, education materials, and teaching methods; and implement pre-service and in-service training programs for educators and staff to promote information-sharing, to develop skills to meet the needs of diverse learners, and to enable learning-friendly school environments (UNESCAP, 2012).

At the regional level, Cambodia and Nepal have either signed or participated in the following regional policies and legal frameworks that support the education of children with disabilities:

- United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) Decades on Disability (1993–2002 and 2003–2012)
- The Biwako Millennium Framework for Action Towards an Inclusive, Barrier-Free, and Rights-Based Society for Persons with Disabilities in Asia and the Pacific (UNESCAP, 2011)
- Incheon Strategy to “Make the Right Real” for Persons with Disabilities of 2013 (UNESCAP, 2013)
- Education 2030 Incheon Declaration Framework for Action Towards Inclusive and Equitable Quality Education and Lifelong Learning for All

5.3 Regional Recognition of Africa and the Rights of Children with Disabilities

The African Charter on the Rights and Welfare of the Child (1999) (Organization of African Unity, 1999, Arts. 3 and 11) and the Protocol to the African Charter on Human and People’s Rights on the Rights of Persons with Disabilities (2018) collectively protect the human rights of children with disabilities and prohibit discrimination on the basis of disability, including the right to education on an equal basis with others (Organization of African Unity, 2018, Arts. 4 and 16). Article 16 of the Disability Protocol partially tracks the language of the CRPD and specifically requires States Parties to, among other things:

- ensure persons with disabilities can access free, quality, and compulsory basic and secondary education;
- ensure reasonable accommodation of individual requirements is provided and learners with disabilities receive the support they require to facilitate their effective education; and
- provide reasonable, progressive, and effective individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion.

In addition, the Protocol obligates States Parties to ensure “appropriate schooling choices are available to persons with disabilities who may prefer to learn in particular environments” (Organization of African Unity, 2018, Art. 16). The Protocol also obligates States Parties to equip educational institutions with teaching aids, materials, and equipment to support the education of students with disabilities; train teachers and school staff, on how to educate and interact with children with specific learning needs; ensure schools undertake “multi-disciplinary assessments” to determine what accommodations are needed; ensure support measures are appropriate for learners with disabilities; and provide early intervention and regular assessments and certifications for all learners regardless of disability (Organization of African Unity, 2018, Art. 16).

At a regional level, Malawi has ratified the below regional policies and legal frameworks:

- African Charter on the Rights and Welfare of the Child (ratified in 1999), and

- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) (ratified in 2005).

6. National Legislation that Promotes the Right to an Inclusive Education

As parties to the CRPD and the CRC, Cambodia, Malawi, and Nepal are obligated to respect and protect the right of children with disabilities to an inclusive education. These countries have thus adopted a national framework that takes important steps toward advancing the rights of persons with disabilities generally and promoting greater inclusion within the educational system. In each country, specific strategies supplement the legislative framework. This section summarizes the three countries' commitments to international and regional human rights treaties, anti-discrimination laws, education laws, and, finally, specific laws and strategies related to the education of students with disabilities.

6.1 Relevant National Anti-Discrimination Laws

All countries have strong national legal frameworks prohibiting discrimination against persons with disabilities and protecting the rights of women and children. These legislations and strategies are compared and described more below.

Constitutional Rights

The constitutions within all three countries reference and mandate the rights of persons with disabilities with varying degrees. The Constitution of Cambodia of 1993 in Article 31 offers a broad statement of non-discrimination that recognizes the rights of citizens to be equal before the law and enjoy the same rights and freedoms without regard to race, color, sex, language, and other factors including social status "or other status" (Kingdom of Cambodia, 1993, Article 31). The rights of persons with disabilities is mentioned only within the context that the government is to assist "the disabled and the families of combatants who sacrificed their lives for the nation," but there is no detail regarding what assistance might be intended (Kingdom of Cambodia, 1993, Article 74). The 1994 Constitution of Malawi more explicitly references the rights of persons with disabilities, calling for measures to advance gender equality, eliminate illiteracy, promote greater access to education, and ensure persons with disabilities can participate in Malawian society to the fullest extent possible (Government of Malawi, 1994, Ch. III, para. 13(a), (f)-(h)). Nepal's 2015 Constitution states all citizens are equal before the law and opposes general discrimination or oppression of citizens. These articles do not explicitly reference the rights of persons with disabilities, but Nepal's Constitution permits the adoption of special measures to protect, empower, or advance the rights of certain marginalized groups, including women, youth, children, and persons with disabilities (Government of Nepal, 2015, Art. 18). Therefore, in all countries, the constitutions provide some sort of language on antidiscrimination with Malawi and Nepal also addressing the general rights of persons with disabilities in society.

The right to education for general citizens is also guaranteed by the constitutions in all three countries, but only Nepal's constitution references disability and, even then, only specifically

addresses the rights of persons who are blind or have physical disabilities. In Nepal, the 2015 Constitution recognizes the rights of students who are blind to receive an education with access to braille, and Article 39, likewise, guarantees all children the right to an education while providing for a right to “special protection” from the State for children who are “helpless, orphaned, [or] physically impaired” (Government of Nepal, 2015, Art. 39). While Cambodia’s Constitution references the right to education in general terms, it does not specifically address the rights of students with disabilities to access education (Kingdom of Cambodia, 1993). This is also the case in Malawi as the constitution references the right to education but does not specifically address the rights of persons with disabilities to receive an education (Government of Malawi, 1994).

Disability Policies and Law

All three countries have overarching disability-specific, anti-discrimination laws that address the education of students with disabilities in some manner. Cambodia’s Law on the Protection and the Promotion of the Rights of Persons with Disabilities (2009) has six articles (Article 27-31) that address the rights of students with disabilities to receive an education. Several of these articles align with the requirements of the CRPD—such as Article 30 which requires students with disabilities have access to books and materials—yet elements of the law allow for students with disabilities to be educated in a segregated manner.

Similarly, education is one of the four main objectives of Malawi’s National Policy on the Equalization of Opportunities of Persons with Disabilities (2005). This policy has some very strong components such as highlighting disability as a cross-cutting issue that touches upon all aspects of life, recognizing the multiple layers of discrimination faced by women and girls with disabilities, addressing the need to educate parents of children with disabilities, promoting the use of technologies and assistive devices in education, stressing the need for accommodations within curriculum and assessments, and promoting teacher training. The policy, however, also suggests “establishing specialist education resource centers throughout the country” without clarity if these centers would serve as a means to segregate students or if they would serve as a resource to promote inclusion (Malawi Ministry of Persons with Disabilities and the Elderly, 2006, p. 23).

Nepal’s principal disability law, the Persons with Disabilities Act 2017, draws upon language used in the CRPD. Article 20 guarantees children with disabilities the right to obtain an education and obligates the government to “make appropriate provision on curricula, course books, and teaching and learning matters” so as to meet the learning needs of “children with intellectual disabilities, mental disabilities, autism, mental paralysis, or hearing and sight disabilities” (Government of Nepal, 2017, Art. 20). The policy also requires accessible infrastructure in school buildings and promotes the development of Nepali Sign Language. However, the act emphasizes the protection of persons with disabilities, indicating a charity or medically-focused approach to disability rather than a rights-based approach. Nepal’s Persons with Disabilities Act of 2017 implies disability is a medical condition and does not recognize the diversity of disability. Lastly, the three laws in the three countries do not address unique learning needs of students who are deaf, and right to receive an education using sign language.

National Disability Strategic Plans

Both Cambodia and Malawi have disability strategies, yet no such strategy exists in Nepal. The Cambodia National Disability Strategic Plan 2019-2023 addresses the right to education and vocation in one (Goal 3) of its nine strategic goals. Although this strategy does not address the educational setting in which students should receive an education, it does discuss the importance of raising awareness, identifying students with disabilities, training teachers including those who can teach in sign language, improving standardized learning materials, establishing legal standards to ensure inclusive education in private institutions, and encouraging inclusive recreation and extracurricular activities (Kingdom of Cambodia, 2019b).⁷

In Malawi, the National Disability Mainstreaming Strategy and Implementation Plan (NDMS&IP) (2018-2023) promotes disability-inclusive development at all levels including education. The NDMS&IP identifies access to education as a priority area but recognizes key challenges: limited capacity for early identification and intervention at pre- and primary-school levels, especially for students with communication challenges, deaf-blindness, and developmental delays; inadequate teacher capacity; overcrowded classrooms; poor sanitation facilities (especially for girls with disabilities); inaccessible and poor school infrastructure; inadequate involvement of parents; and inadequate assessment systems, among others (Malawi Ministry of Gender, Children, Disability, and Social Welfare, 2018). This strategy also addresses that funding for inclusive education should come from the Disability Trust Fund once established. Thus, although both Malawi and Cambodia mention the rights to education for students with disabilities in their respective disability strategies, both strategies could be improved by detailing how inclusion or progressive realization towards inclusion will be realized.

6.2 National Legislation and Strategies on Education

Cambodia, Malawi, and Nepal all have robust, specific education policies accompanied by education sector plans. How disability is included within these policies, however, varies by country. The paragraphs below provide an overview of laws and strategies specific to education that impact children with disabilities.

Education Laws

Although Cambodia's and Nepal's education laws address the rights of students with disabilities, these references are quite limited. Cambodia's Education Law 2007 specifically addresses the right of students with disabilities to receive an education in Articles 38 and 39. These articles specify that students with disabilities have the same rights as students without disabilities and even have additional "special rights." The articles then describe the rights of students with disabilities to be educated or not in inclusive settings depending on the student's ability to learn (Government of Nepal, 2018, Arts. 3(7), 2(e)). This approach is not consistent with international

⁷ The current National Disability Strategic Plan 2019-2023 is currently not available in English. The above translation is from IDP and is not an official government-approved English translation of the text.

treaties such as the CRPD which promotes inclusive education independent of a student's ability to adapt to an inclusive setting.

In the case of Nepal, there are two relevant education acts—the Education Act (1972) Ninth Amendment and the Act related to Compulsory and Free Education (2018)—which minimally mention students with disabilities. The Education Act mandates the education of children with disabilities be the same quality as the education of students without disabilities without detailing the setting in which students should be educated or accommodated and the supports that should be provided. In addition, this policy uses the terminology “deaf/dumb” to describe students who are deaf, demonstrating poor awareness of deaf education and the importance of using more appropriate and contemporary language related to this category of disability. The Act Related to Compulsory and Free Education more overtly allows for segregated education by stating that different types of disabilities or “conditions” should be placed in separate groups when providing education (Government of Nepal, 2018, Arts. 3(7), 2(e)).

Malawi's Education Act of 2013 is vague in terms of how children with disabilities access schooling. The Act states education should be provided to every child below 18 years of age but lacks specific reference to provisions made for students with disabilities (Government of Malawi, 2013).

Across the three countries, when education laws consider children with disabilities, they either promote segregated education or lack details on how educational supports will be provided. In Malawi, the lack of detail about children with disabilities may present a challenge in guaranteeing the right to education for this population. However, the support of segregated education in Cambodia and Nepal reflects an approach that may promote further discrimination of children with disabilities in the country and does not align with international treaties such as the CRPD.

Education Strategies

Education strategies are often more specific and reflective of current practice than laws or policies. Often developed at the Ministerial level, strategies do not require Parliamentary approval (as do laws). These documents articulate the specifics on how education for students with disabilities will be achieved in a directive way, which was largely absent in the broader education policies. Further, the more recent a strategic plan, the more likely it aligns with the CRPD or other agreements as countries often update strategies every few years.

For example, Cambodia's education laws are supplemented by two education strategies: the Education Strategic Plan (2014-2018) and the Education Strategic Plan (2019-2023). The first strategy provides explicit information on how the education of children with disabilities in Cambodia can be achieved. The document addresses issues such as the importance of early childhood education for children with disabilities, inclusive education training, and disability identification but omits reference to the term “inclusive education” within the document. The more recent plan promotes “inclusive, equitable education and...lifelong learning opportunities for all” and also addresses inclusive infrastructure, training, and adapted materials in alignment with the

SDGs (Kingdom of Cambodia, 2019a, Preface). The discursive shift in Cambodia's Strategic Plans represents a progression between the two documents with the latter document providing additional details about inclusive education and, therefore, aligning more clearly with the SDGs and the CRPD.

Malawi also has two education sector plans: the National Education Sector Plan (NESP) (2008-2018) and the Education Sector Implementation Plan (ESIP) II (2013/14-2017/18). Both documents address the educational rights of students with disabilities. The NESP calls for increasing the enrollment of students with disabilities and expanding the facilities equipped to provide education for students with disabilities. Although the document provides projected costs, it fails to provide accessibility standards that guide schools and resource centers (Malawi Ministry of Education, Science, and Technology [MoEST], 2008). The ESIP II emphasizes the need to increase the enrollment of students with disabilities and also addresses the important issues of quality education and the governance and management of "special needs education"; however, specificity on how these core elements will be achieved is absent. For example, although inclusive education is stated as the aspirational goal of the SDGs and CRPD, Malawi's strategies do not explicitly call for such inclusion.

Of the educational strategies within the three countries, Nepal's School Sector Development Plan (SSDP) 2016/17-2022/23 provides the most information on the education of students with disabilities. The strategy promotes increasing opportunities for early childhood development (ECD), strengthening identification and referral mechanisms, strengthening institutional capacity to provide inclusive education, constructing or reconstructing safe schools, and improving accessible infrastructure including water, sanitation, and hygiene (WASH) facilities (Government of Nepal, 2016). However, despite the specificity of this document on factors related to enabling environments for children with disabilities, there is contradictory language in the strategy related to inclusive education. Although the term "inclusive education" is used throughout the document, the SSDP calls for the expansion of segregated classrooms as well as segregated schools and residential facilities at the secondary-school level.⁸ This use of "inclusive education" while promoting a segregated educational environment shows an unclear understanding of inclusive education compared to how the SDGs, the CRPD, or the Incheon Strategy frame inclusive education. Although all countries mention students with disabilities in their strategic plans, plans often do not promote inclusion and are not always aligned with the respective countries' inclusive education policies which are detailed further in the next section.

⁸ Although residential secondary schools are also used by students without disabilities, these students are provided with the choice to either attend a residential school or a local school. As there is not an element of choice for students with disabilities and these residential schools are still segregated, this is not consistent with inclusive education.

6.3 Legislation for Students with Disabilities

A frequent outgrowth of broad-based disability policies are specific policies focused on students with disabilities. Cambodia, Malawi, and Nepal all have policies and strategies that specifically address the rights of students with disabilities. Although each country has some sort of specific policy or official document that addresses the education of students with disabilities, not all of these legislative frameworks are consistent with the principles articulated in international agreements. For example, Article 24 of the CRPD provides an overview of globally agreed upon practices for inclusive education, calls for an end to segregated education, and differentiates inclusive and integrated education.⁹ Of the three countries, Nepal's Inclusive Education Policy for the Persons with Disabilities 2072 (2016) represents one of the more progressive legislations. The policy promotes inclusive education as well as details the demand for a functional assessment of needs; the adaption of curriculum, textbooks, and learning materials based on disability type; and the need to ensure all schools, universities, and education institutions promote technology to further learning. The policy also recognizes the need to promote girl-friendly schools for students with disabilities as well as the need to address violence against students with disabilities (Government of Nepal, 2016).

Cambodia has two policies which have progressively become more aligned with the global expectations for inclusive education outlined in the CRPD and the Incheon Strategy. Cambodia's policies for students with disabilities promote disability awareness, identification practices, and teacher training. Notably, both of Cambodia's policies also address the need for female students to receive an equitable education, a mandate often missing in Malawi's and Nepal's documents. Another advancement within Cambodia's newly revised policy is the commitment to "give priority to lea[r]ners with disabilities in taking an entrance exam to become teachers in the government" (Kingdom of Cambodia, 2018, p. 6), a strong departure from previous government mandates requiring teachers to be "free of disabilities" (Council of Ministers, 1995, cited in Kalyanpur, 2011). Cambodia, however, also has contradictory language in its policies related to segregation, integration, and inclusion. For example, the country's Action Plan on Inclusive Education (2019-2023) promotes sign language and braille usage, but also allows education to take place in either segregated, integrated, or inclusive settings (Kingdom of Cambodia, 2019c), which opens opportunities for justified exclusion of children with disabilities. While education for students who are deaf or hard of hearing in segregated settings is consistent with the World Federation of the

⁹ CRPD General Comment No. 4 describes the difference between integration and inclusion: "Integration is the process of placing persons with disabilities in existing mainstream educational institutions with the understanding that they can adjust to the standardized requirements of such institutions. Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures, and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences" (United Nations, 2015, p. 4).

Deaf's definition of the inclusive education for learners who deaf and hard of hearing, this approach is not consistent with international standards for students who are blind.

In Malawi, the Implementation Guidelines for the National Policy on Special Needs Education (2009) and the National Strategy on Inclusive Education (NSIE) (2017-2021) represent Malawi's two core inclusive education legal documents. The Special Education policy has many strong elements such as addressing the need to ensure an effective and efficient system for identification, increasing teacher training including general education teachers, providing information in braille, providing assistive devices to children, and engaging parents. The document fails, however, to clearly articulate the right to inclusive education even though the policy provides a definition of "least-restrictive environment,"¹⁰ which could potentially allow for segregated education to continue to take place based on the judgement of educators (Government of Malawi, 2009). The more recent NSIE departs from the Special Education Policy by defining inclusive education as "a process of reforming the education system, cultures, policies, and practices to address and respond to diverse needs of all learners" (Malawi MoEST, 2017, p. 15). The strategy takes a universal approach to reforming systems through inclusive education and also specifically outlines issues such as management and financial resources for the education of students with disabilities.

In all three countries, there appears to be a political will for inclusive education outlined in policies for students with disabilities. At the same time, Cambodia's and Malawi's policies explicitly also allow for segregation of children with disabilities. Further, Malawi's 2009 Special Needs Education policy also allows for non-inclusive environments. Recent global treaties (such as the CRPD) have clearly stated that segregation cannot exist in inclusive environments. Nepal's policy represents the policy that is most aligned with the CRPD and can serve as a possible model for the other countries.

7. Findings and Analysis

As noted above, IDP's review of international treaties, national policies, and contemporary research on inclusive education indicates there are eight major factors that contribute to enabling environments for children with disabilities. These factors align closely with the overall aims of MCSIE and contemporary thinking related to inclusive education from international organizations, advocacy groups, and governments. Each enabling environment factor is listed below along with a summary of key findings from this review of Cambodia's, Malawi's, and Nepal's policy

¹⁰ "Least-restrictive environment" is defined as "a supportive learning setting designed to meet individual learners' needs" (Government of Malawi, 2009, p. 7). This definition is very different than the definition of "least-restrictive environment" defined by the United States Individuals with Education Act (IDEA), in which "least-restrictive environment" is defined as to "the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled" (United States Department of Education Office for Civil Rights, 2010).

infrastructure. The enabling environment factors reviewed below are 1) conceptual understanding of inclusive education/educational settings; 2) identification of students with disabilities; 3) teacher training; 4) instructional approach; 5) accommodations; 6) sign language and deaf education; 7) gender and intersectionality of disability; and 8) addressing the non-homogeneous nature of disability.

7.1 Progressive Realization Toward Inclusive Education

As stated in the Introduction, policies should reflect international commitments in which countries are State Parties, and progressive realization toward inclusive education should be demonstrated in countries' strategies and other areas of implementation. As this review does not assess policy implementation but rather reviews legislation, progressive realization can only be demonstrated by a review of legislation and not by a review of actual services of programs. Likewise, a review can only look to see how laws are either aligned or not aligned with the CRPD and whether laws are moving towards alignment of the CRPD. All countries' policies demonstrate progressive realization to varying degrees.

Cambodia's legislations are progressively becoming more aligned with the CRPD. Although two laws—the Law on the Protection and Promotion of the Rights of Persons with Disabilities (2009) and the Education Law (2007)—were both established before Cambodia ratified the CRPD and clearly call for strengthening segregated education, subsequent legislations (Policy on Inclusive Education 2018 and the Action Plan on Inclusive Education 2019-2023) promote educating students with disabilities in inclusive environments. Similarly, Nepal's 2016 Inclusive Education Policy aligns with the CRPD and clearly departs from the country's 1996 Special Education Policy, which only provided specific provisions to a limited number of disability groups and promoted segregated education. However, even after the ratification of the CRPD and the adoption of the Inclusive Education Policy, general education policies, such as the 2019 National Education Policy, do not consistently follow the guidance outlined in the 2016 Inclusive Education Policy. For example, the National Education Policy promotes and envisions the development of segregated schools for a variety of types of disabilities, compared to the Inclusive Education Policy which promotes education in the mainstream environment. This inconsistency is also seen with the School Sector Plan 2016/17-2022/23 that suggests developing and strengthening segregated schools. The presence of a strong inclusive education policy that does not fully align with broader education policies and strategies suggests additional work may be needed to ensure all elements of Nepal's education system are inclusive.

Although policy for Malawi has evolved, especially after ratifying the CRPD, educating students in a segregated environment is still a policy norm. The National Strategy on Inclusive Education (2017-2021) has many strong elements—such as the need for teacher training, responsibilities of stakeholder, identification practices, and parent and community engagement—that were relatively absent in the previous Guidelines for the National Policy on Special Needs Education (2009). However, the updated strategy continues to promote the strengthening and expansion of segregated schools in the country.

7.2 Policy Findings and Analysis Organized by Type of Legislation

Below are the findings and analytical summary organized by the types of legislation.

Finding 1: International Commitments to Human Rights Treaties. All countries have signed and ratified the CRPD as well as other key international and regional treaties. Although all countries have developed either policies or strategies related to inclusive education, the policies of Cambodia and Nepal more align with the CRPD than the Inclusive Education Strategy developed by Malawi.

Finding 2: Relevant National Anti-Discrimination Laws. All countries have anti-discrimination laws in place that address the right to education for children with disabilities. In addition, Nepal's Constitution of 2015 specifically addresses the rights of student with disabilities, particularly those who are physically "impaired," and mentions the right of persons who are blind to access braille. The right to education is mentioned in the constitutions of Cambodia and Malawi as well, but the constitutions do not specifically address the rights of persons with disabilities. In addition, Nepal and Cambodia developed national legislations on the rights of persons with disabilities after ratifying the CRPD while Malawi's national legislation predates ratification and, thus, is less aligned with the principles and articles of the CRPD.

Finding 3: National Legislation and Strategies on Education. All countries have broader education policies and strategies that address the educational rights of students with disabilities; however, these laws are not always consistent with the specific inclusive education strategies and policies in the respective countries. For example, Nepal's national education laws often address the needs of students with disabilities, mandating that this population receive the same quality of education, but also allow for students with disabilities to be educated in a segregated environment. Similarly, the educational policies in Malawi call for expanding the building of segregated infrastructure. This is also consistent with Cambodia's Educational Law, which states students with disabilities should be educated in segregated settings if attempts to promote inclusion are not successful.

Finding 4: Education Policies and Strategies for Students with Disabilities. Nepal's 2016 Inclusive Education Policy most closely aligns with the CRPD and could serve as a model to other countries. The policy details the rights of students with disabilities to achieve an inclusive education and also provides several other innovative measures, such as the need for technology, the need for inclusion in disaster response, and the need to address possible violence against persons with disabilities in schools. Although Cambodia and Malawi also have specific policies or strategies, Cambodia's and Malawi's policies lack specificity on how inclusion will be realized.

7.3 Policy Finding and Analysis by Topics Relevant to MCSIE

Below are the findings and analytical summary organized by the topics relevant to MCSIE that were detailed in section 6. In addition, below also details the implication of these findings on the MCSIE evaluation. The findings and MCSIE considerations by topic are as follows:

Conceptual Understanding of Inclusive Education/Educational Settings

Across the three countries, laws, policies, and strategies are often very general in how they conceptualize educational opportunities. Vagueness is often preferred in policy in order to allow for local-level implementation decisions. The way inclusive education is framed in the three MCSIE countries provides a lens through which USAID programs may create impact. Each of the three countries framed inclusive education as an aspirational goal but with allowable limitations and affordances for sanctioned segregation.

In all countries, all people have equal rights under the law; however, persons with disabilities are not always framed as equal citizens. For example, although the Nepal Inclusive Education policy of 2016 is very progressive, specific educational strategies allow for students with disabilities to be educated in a segregated school based on their perceived ability to learn (Government of Nepal, 2018b). In Cambodia, recent policy allows education to take place in integrated, segregated, or inclusive settings as allowable options (Kingdom of Cambodia, 2019c). Finally, Malawi guarantees the right to education for children with disabilities and does not explicitly call for inclusive settings (Malawi Education Sector Implementation Plan II, 2013/14-2017/18).

In summary, education for children with disabilities is considered a right in all three countries but not necessarily in inclusive settings. Policy documents indicate the three MCSIE countries aspire to be inclusive but allow provisions for continued segregation. The impact of such segregation is unknown, but children with disabilities will likely receive lower quality or diminished literacy expectations in special school settings.

Consideration for MCSIE: Children with disabilities are protected under law but may attend school in a wide range of settings (including segregated settings), thus influencing how they are taught literacy and their potential literacy outcomes. Often a clear conceptual understanding on inclusive education is not consistent across countries, signifying MCSIE should be sensitive to how the respective countries define inclusion.

Identification of Children with Disabilities

An important element in providing tailored education for children with disabilities is identifying which children need supplemental supports. Each of the MCSIE countries outlined a need for identification in recent policy documents. Cambodia, for example, declared a need for identification among other needs in its National Disability Strategic Plan (2019-2023). Further, Malawi pointed to identification as a key barrier for children with disabilities accessing education in its National Disability Mainstreaming Strategy and Implementation Plan (2018-2023) and called for an “effective and efficient” system for identification (NSIE, 2017-2021). Finally, the Government of Nepal (2016) mentioned strengthening referral and identification mechanisms as

a core strategy for enhancing inclusive education, which is also reinforced in the Inclusive Education Policy.

In all cases, the countries' governments acknowledged that inclusive education systems relied on the effective identification of children with disabilities. Such identification allows for initial entry for out-of-school children into schools, individualized education programs for children in schools, and ongoing monitoring of student progress for students with disabilities. MCSIE will help identify which specific practices of identification appear to be most effective or potentially harmful in alignment with national policies.

Consideration for MCSIE: Identification is likely occurring in all countries, but little is known about the procedures of identification, the validity of tools, or the human rights implications of current practice. MCSIE should endeavor to capture the consequences in practice that may ensue from an unclear policy stance on the identification of disability.

Teacher Training

The SDGs call for “inclusive, quality education for all” (United Nations, 2015). Such quality is often delivered by teachers in classrooms, which requires investment in teacher development by governments. All three countries' policies called for improved teacher training. The Government of Malawi recognized the connection between quality education and teachers through language in its National Disability Mainstreaming Strategy and Implementation Plan (2018-2023). This plan, among other goals, aims to address “inadequate teacher capacity.” The plan specifically identifies general education teachers as potential targets for training. The Kingdom of Cambodia's Education Strategic Plan also calls for investing in teacher training in order to improve inclusive opportunities for all (Kingdom of Cambodia, 2019a). The plan spells out that teachers who can teach sign language are needed within a wider range of teachers who can support inclusive education. Nepal's Inclusive Education Policy mandates special education should be an element of both general education and special education trainings.

Teachers were recognized as important supporters of enabling environments for students in inclusive education settings. An important question for MCSIE, given teacher development was identified explicitly as a support for inclusive education in two of the three countries, is the degree to which particular aspects of teacher training may support children's literacy and inclusion.

Consideration for MCSIE: To produce quality education, teacher training is important and explicitly referenced in all three countries with Cambodia's policy having less specificity on the need to train general education teachers along with special education teachers. MCSIE evaluators should endeavor to capture the practical impact of varying policy landscapes as they relate to teacher training.

Instructional Approach

Policy review is important because it can help identify the high-level priorities of a country. In this case, policies will not provide details on what happens day-to-day in classrooms but can

demonstrate what approaches governments attempting to promote inclusion prefer. The Government of Malawi (2005) identified several specific instructional approaches that align well with the global understanding of inclusive education. They called for parent education, classroom technologies, assistive devices, learning accommodations, and assessment accommodations in order to improve access to education. Among the three countries, this instructional approach was the most prescriptive and detailed.

Nepal's Persons with Disabilities Act is less specific, only requiring stakeholders to "make appropriate provision" in curriculum and teaching for children with disabilities. The Inclusive Education Policy, however, does address the need to adapt curriculum, materials, and other supports to ensure persons with disabilities can access learning. Cambodia's National Disability Strategic Plan (2019-2023) also outlines broad strategies for promoting inclusion, such as improving learning materials.

Malawi's policy allows for careful evaluation to understand the degree to which specific instructional approaches are carried out in classrooms and how USAID implementing partners align with governmental recommendations. In Cambodia and Nepal, identifying the presence of learning materials and the source of their inspiration would be helpful to understand the impact of policy on inclusive education.

Consideration for MCSIE: As the countries reference instructional approaches but do not provide details, MCSIE evaluators should endeavor to capture the practical impact through supports, accommodations, and diversification of curriculum.

Accommodations

CRPD Article 24 outlines "reasonable accommodation" as a pillar to the realization of the right to education, without discrimination, in inclusive systems (United Nations, 2006). Accommodations are central to inclusive systems because they allow for degrees of learning and assessment flexibility within the high standards of the national curriculum. Despite the centrality of accommodations to effective inclusive education practice, there were scant mentions of accommodations in policy. The government of Nepal, as noted above, implied accommodations and alternative formats by calling for "appropriate provision on curricula, course books, and teaching and learning matters" (Government of Nepal, 2017, Article 20). The Inclusive Education Policy also addresses accommodations for all types of disabilities.

Malawi's National Policy on the Equalization of Opportunities of Persons with Disabilities (2005) explicitly calls for accommodations within curriculum and assessment. Both Nepal's 2015 Constitution and Malawi's National Strategy on Inclusive Education (2017-2021) call for increased braille usage in schools. There were no explicit references to accommodations in Cambodia's reviewed documents.

In general, the role of accommodations is crucial to inclusive practice, which allows for learners with different profiles, abilities, and preferences to pursue educational opportunities in the same

classroom. Accommodations allow for diverse students to participate equally even when delivery and response expectations vary. The limited mention of accommodations appears to be a policy gap in the MCSIE countries.

Consideration for MCSIE: MCSIE evaluators should attempt to capture the extent and quality to which legally prescribed educational accommodations exist for persons with disabilities in school settings.

Sign Language

The use of sign language is sometimes considered an accommodation in practice (see discussion above), but according to the CRPD, sign language is a matter of educational access and linguistic identity (see Article 24). According to CRPD General Comment No. 4, learners who are deaf have a right to learn in *their own* language through trained teachers or interpreters and innovative technology use (United Nations, 2006). The Government of Nepal (2017) identified this need and called for the development of Nepali sign language in schools as well as promotes access to sign language interpreters in order for students to participate in other related educational activities. The Kingdom of Cambodia (2019c) further calls for training teachers who can teach in sign language. Cambodia's Action Plan on Inclusive Education (2019-2023) also promotes sign language and braille usage. Malawi's National Disability Strategy and Implementation Plan (2018-2023) identifies barriers for students with communication challenges and deaf-blindness but does not propose sign language as a way of addressing such challenges.

Calls to action in policies around sign language range from a specific call to place sign language in schools (Nepal), to the call to train teachers (Cambodia), to the call to identify challenges that students face; however, there is no acknowledgement of how sign language could be used to meet such challenges. The use of sign language is a core educational access tool for deaf learners. Likewise, tactile sign language is a core educational access tool for deaf-blind learners. This review indicates that sign language is present across all countries to varying degrees, but most explicitly present in Nepal.

Consideration for MCSIE: All three countries prioritized sign language in policies, but only Nepal indicated a specific sign language for development. Sign language may be inconsistently taught across MCSIE countries.

Gender and Intersectionality

All MCSIE countries have constitutions, laws, and policies that protect the rights of all individuals under law. In all of these documents, individuals are deemed as equals within the context of national governments. In several circumstances, particular groups are named in policies as a result of historic discrimination or marginalization that still occurs to date. Women, youth, and children with disabilities, for example, are named as marginalized groups in Nepal's 2015 Constitution. Issues of gender and the need to address violence against students with disabilities are also reinforced by the Inclusive Education Policy.

Among all documents examined for this evaluation, only Malawi's National Policy on the Equalization of Opportunities for Persons with Disabilities (2005) explicitly identifies disability as a cross-cutting issue influenced by one's economic, gender, and other identities. Malawi does not use the term "intersectional" but acknowledges that disability categories and lived experiences cannot be addressed in isolation of other societal vulnerabilities, including gender.

Consideration for MCSIE: Cambodia and Nepal specifically address the unique needs of girls with disabilities, but Malawian legislation does not specifically address this right. MCSIE evaluators should ensure data collection tools and methods engage men and women equally and that the tools and methods include both closed and open-ended questions that investigate stakeholders' perspectives about the intersectional nature of gender and disability.

Heterogeneity of Disability

Similar to the arguments above, a core theme of inclusive education is "diversity". CRPD General Comment No. 4 stipulates that inclusive education is designed to meet the "diverse needs" of all learners (United Nations, 2006). Such diversity exists both between population groups and within groups, such as children with disabilities. An enabling environment for inclusive education recognizes diversity within and across learner groups. All national policies acknowledge different categories of disability but not diversity within such categories. In particular, the three countries often do not clearly articulate or recognize the rights of students with learning disabilities. Categorization is not in and of itself a recognition of diversity within disability although this is the most commonly found approach among policies reviewed by IDP.

Consideration for MCSIE: Although legislation in the countries address a variety of disabilities, learning disabilities are largely not recognized by law. MCSIE evaluators should capture how different disabilities are addressed in practice, and where possible, evaluation activities should investigate the impact, if any, of not having learning disabilities recognized in laws within the three countries.

8. Conclusion

This policy review has drawn upon national policies, international frameworks (primarily the CRPD), and an assessment of enabling environment factors for children with disabilities. The review has considered and compared international commitments, anti-discrimination legislation, national legislation, and strategies on education broadly, as well as the policy application for students with disabilities specifically. Policy findings have been articulated in accordance with the core areas of review. Furthermore, policy findings have also described the extent to which the legislative environment addresses conceptual understandings of inclusion, identification of students with disabilities, instructional approaches, and teacher training, among other themes. Finally, the report has taken note of the ways in which MCSIE should consider and respond to the findings generated in the context of Cambodia, Malawi, and Nepal. For a fuller understanding of the implications of this review and the work conducted through MCSIE, this report should be

read in concert with the literature reviews and stakeholder mappings, produced as additional deliverables.

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