

# Multi-Country Study on Inclusive Education (MCSIE)

## Malawi Policy Review

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## Abbreviations

ACHPR	African Commission on Human and People's Rights
CCPR	Convention on Civil and Political Rights
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
DPOs	Disabled Persons' Organizations
DIWA	Disabled Women of Africa
ESIP	Education Sector Implementation Plan
FEDOMA	Federation of Disability Organizations in Malawi
GEA	Gender Equality Act
HI	Humanity and Inclusion
IDEA	Individuals with Disability Education Act
IPs	Implementing Partners
IDP	Inclusive Development Partners
LASER PULSE	Long-Term Assistance and Services for Research Partners for University -Led Solutions Engine
LMICs	Low-and Middle-Income Countries
MACOHA	Malawi Council for the Handicapped
MoEST	Ministry of Education, Science and Technology
MoGCDSW	Minister of Gender, Children, Disability, and Social Welfare
MCSIE	Multi-Country Study on Inclusive Education
NDMS&IP	National Disability Mainstreaming Strategy and Implementation Plan
NESP	National Education Sector Plan
NSIE	National Strategy on Inclusive Education
NGOs	Non-governmental Organizations
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
UDL	Universal Design for Learning
WHO	World Health Organization

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## 1. Executive Summary

Policies are often the aspirational guidelines that inspire educational practice. Further, policies provide a general framework and accountability frame for nations as they develop education systems. The Multi-County Study on Inclusive Education (MCSIE) examines inclusive education developments in Cambodia, Malawi, and Nepal at both the national level and through the lens of USAID activities. As part of the MCSIE project, Inclusive Development Partners (IDP) conducted a background analysis of policies, statutes, guidelines and strategies in each of the three study countries. 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 this right (if any) remain to be filled. 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 as well as understanding the unique policy contexts of each country. The policy analysis complements the comprehensive literature review conducted for each country and identifies policy areas as well as areas of progress in each country in relation to international norms of disability rights and inclusive education.

This report analyzes the legal framework for inclusive education currently in effect in Malawi. It is organized into the following sections: Introduction, Background, International Normative Framework, Malawi's Legislative Framework, Findings and Analysis, Relevance to the MCSIE project, and Conclusions. The key findings and analysis are listed both by type of legislation (such as anti-discrimination, education or special/inclusive education) as well as indicators of enabling environments for inclusive education identified by IDP and informed by the Convention on the Rights of Persons with Disabilities (CRPD). In the pages below, we report policy findings then summarize the findings through the lens of specific indicators of: 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 are either directly related to MCSIE's evaluation questions or are a core cross-cutting element of programming within the three countries.

The policy reviews for all three countries followed the same methodology. In each country, relevant policy documents were downloaded from online sources or emailed to IDP staff from USAID contacts or implementing partners in countries. Each document was read in its entirety and coded using both inductive thematic coding (examining and naming specific themes that were present in policy documents) and thematic analysis (specifically identifying themes that related to the enabling environment indicators described in the paragraph above. IDP staff followed a specific protocol for searching and analyzing information which is described in detail in Annex A.



Findings indicate that Malawi's laws and policies have gradually focused more attention on children with disabilities over the past few decades, but appear to be developing a dual system of education for children with disabilities. Focus on "special needs education" from the early 2000s to present through pre- and in-service education and schooling structure has primarily focused on special and adaptive education for children with disabilities, generally in segregated settings. More recently, Malawi has adopted an inclusive education strategy that seeks to prepare teachers, schools, and inspectors for educating children with disabilities in mainstream environments. When examined through the lens of CRPD, Malawi's policies appear to lack both a full commitment to inclusive schooling for children with disabilities (noting the exception for students who are deaf and hard of hearing) and a commitment to sign-language rich environments for deaf education. Recent policy shifts have directed greater attention to inclusive and sign language-rich education, but continued support for special needs models also indicate a policy dualism and possible dilution of resources for inclusive models.

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

- **Conceptual understanding of inclusive education/educational settings.** As there is not a clear conceptual framework on inclusive education that is closely aligned with the CRPD, it is feasible that the concept of inclusive education may be understood very differently amongst stakeholders. Therefore, MCSIE staff and consultants should provide a clear understanding of how they are using the term "inclusive education" and ensure that this understanding is aligned with the CRPD.
- **Identification of students with disabilities.** The policy analysis reveals that the importance of identification is reflected within Malawi's policy landscape. However, there may be little understanding of how this will be achieved, the best practices related to identification, or how identification can support educational planning for children.
- **Teacher training.** The importance of teacher training for all teachers is mandated within Malawi's legal framework. Both pre-service and in-service training were identified as target areas in strategies. Governmental focus appears to be on in-service training and supervisory activities with preservice training delivered by teacher training colleges.
- **Instructional approach.** Though mentioning of the need to differentiate and adapt curriculum is referenced within Malawi's policies and strategies, there is no national guidance on how this would be achieved.
- **Accommodations.** Accommodations such as the right to braille materials and assistive devices is mandated by law, but the application of these laws in practice remains unclear. More data is needed on the role of accommodations and assistive devices in supporting inclusion.

- **Sign language and deaf education.** Students who are deaf have the right to access education in sign language, but there remains a lack of direction on other key elements of deaf education in policies. MCSIE staff and consultants should understand this may be an emergent area within the education sector that is distributed across governmental and non-governmental actors.
- **Gender and intersectionality of disability.** Given Malawi's and USAID's emphasis in gender equity, MCSIE should be sure to use a "gender lens" in all of its programming and collection and reporting of data.
- **Heterogeneity of Disability.** The MCSIE project should clearly understand the rights of students with specific learning disabilities is not clearly articulated in policy and may be a new area of support within the country.

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

## 2. Introduction

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

### 2.1 Purpose

The purpose of the policy review is to provide legislative and systemic context for the countries in which MCSIE is operating. This information will help inform the evaluators of the various national policy objectives, goals, and strategies articulated by the Government of Malawi. It will later help to identify the ways in which programmatic 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 Malawi's national policies and strategies are aligned 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) will conduct 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 the 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 Malawi.

### 2.3 Analytic Frame: The CRPD and the Role of Progressive Realization

A strong policy framework committed to the right to inclusion is critical for students with disabilities because these students often encounter barriers to accessing education on an equal basis with 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. The CRPD calls for inclusive education, which extensive research has demonstrated predicts learning and social outcomes of students with disabilities (National Council on Disabilities, 2018) except students who are deaf.<sup>1 2</sup> To conform to the CRPD's normative framework on human rights and

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<sup>1</sup> 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.

<sup>2</sup> 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

inclusion for persons with disabilities, ratifying countries worldwide have developed new national policies that align with the convention. These new policies address national educational needs of children with disabilities and restructure - or commit to the restructuring - policy and service-delivery systems that align with the rights-based framing of the CRPD.

The CRPD also calls for international cooperation to support State 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 are increasingly seeking means for ensuring additional and more effective approaches to support inclusive education efforts as well as sign language medium educational opportunities for deaf children within LMICs. USAID's support of the MCSIE study represents a commitment to inclusive education (for non-deaf children with disabilities) and sign language focused education for children who are deaf in Cambodia, Malawi, and Nepal. The purpose of the review is to secure a clear understanding of what works in these three countries and how best to support USAID's engagement in inclusive education globally.

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 that all three countries have joined a global community of nations that seek 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. The MCSIE study represents an opportunity to support countries to achieve their voluntary international commitments through identifying areas of alignment and possible gaps.

Across all countries, educational policy, everyday practice, and USAID technical support vary in how disability and inclusive education is approached. CRPD - specifically its Article 24 (on education) and General Comment Number 4 (about inclusive education) – provides an opportunity for providing normative feedback for implementing partners and policy makers in the three countries. The CRPD General Obligations state that 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” (UN, 2006). Put simply, the elimination of discriminatory policy is the first priority for all countries who sign and ratify CRPD.

The CRPD's stance on discrimination against people with disabilities provides a framework for evaluation that can then 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.

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who are deaf are educated in sign-language rich environments where they can communicate freely with peers, teachers, and administrators.

The framers of CRPD acknowledged that economic, cultural, and social inclusion is a process that takes time, but must be always guided by policies that allow every child to pursue an education in inclusive or sign language-rich environments. Within the framework of 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 strategies 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 limited to the text of relevant legislation, related strategies, and reports prepared by the respective governments and submitted to international bodies, including the treaty bodies associated with the 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 Convention on Civil and Political Rights (CCPR), where relevant. It was supplemented on a limited basis by reference to third-party evaluations and analyses uncovered during the literature review for this study.

#### 3.1 Sample

For Malawi, 11 legislative documents and 30 additional documents were reviewed. A full listing of policy documents reviewed is found in Exhibit 1 on the following page. The policy reviews for all three countries followed the same methodology. In each country, relevant policy documents were downloaded from online sources or emailed to IDP staff from USAID contacts or implementing partners in countries. Each document was read and coded using both inductive coding (examining and naming specific themes that were present in policy documents) and thematic coding (specifically identifying themes that related to the enabling environment indicators described in the paragraph above). IDP staff followed a specific protocol for searching and analyzing information which is described in detail in Annex A.

**Exhibit 1: Legislation and Strategies Reviewed for Policy Analysis**

Legislation Category	Malawi Laws and Strategies	Legislation Type <sup>3</sup>
National Anti-Discrimination Legislation	Constitution of Malawi (1994)	Constitution
		Statute

<sup>3</sup> These terms can be roughly defined as the following: Constitution: the supreme laws of a country and provides the fundamental principles and laws of a nation 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.

	National Policy on the Equalization of Opportunities of Persons with Disabilities (2005)	
	Disability Act (2012)	Statute
	National Disability Mainstreaming Strategy and Implementation Plan (2018-2023)	Executive Plan
	Gender Equality Act (2013)	Statute
National Legislation and Strategies on Education	Education Act (2012)	Statute
	National Education Policy (2013)	Statute
	National Education Sector Plan (2008-2017 extended to 2020)	Executive Plan
Education Legislation and Strategies for Students with Disabilities	Special Needs Education Implementation Guidelines (2008)	Guidelines
	Education Sector Implementation Plan II (2013/14-2017/18)	Executive Plan
	National Strategy on Inclusive Education (2017-2021)	Executive Plan

In addition to reviewing textual information in policies and determining findings for the different areas of legislation, the report also provides findings on key technical issues. These technical issues are identified in CRPD and provide a framework for enabling environments for inclusive education. The enabling environment indicators that are informed by policy data in this report 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 are either directly related to MCSIE's evaluation questions or are 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 the Government of Malawi. 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 have a full understanding of 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 the MCSIE study.

## 4. Background Information

This section provides important background on the country of Malawi and the situation of education in Malawi, including the current state of education for children with disabilities in the country.

### 4.1 General Situation of Disability in Malawi

The situation of persons with disabilities in Malawi is couched in the broader context of its history and economic circumstances. This section provides an overview of statistics related to children with disabilities in Malawi as well as a brief review of contemporary context that may inform how education policies emerge. Malawi is a landlocked country that is considered “low income” by World Bank income indicators. At present, more than half of its population is living below the poverty line and 25 percent of those citizens live in extreme poverty (International Monetary Fund African Department, 2017).

Worldwide, poverty impacts persons with disabilities at disproportionately high rates. Such disproportionality also appears to be present in Malawi. As many as 2/3 of Malawians with disabilities, for example, are poor and many of them are among Malawi’s poorest citizens (Chilemba, 2014; Disability Data Portal, n.d.). Individuals with disabilities and households with a member who has a disability are disadvantaged compared to individuals without disabilities on a variety of measures, including socio-economic status, income, access to information, and dietary diversity. Women with disabilities, especially rural women, appear to face intersectional discrimination and are generally worse off economically than men with disabilities (Eide & Munthali, 2018; UNICEF, 2013). Recent estimates of disability prevalence in Malawi suggest that over 10% of Malawi’s population has a disability (Malawi National Statistics Office, 2019). Disability incidence is relatively even for men and women (9.7% for male and 11% for female), but social aspects of disability may be experienced differently by gender, rural status, and degree of economic exclusion or poverty.

As a group, children with disabilities are also vulnerable in their communities because they may be misunderstood or service providers may lack training in disability-friendly service delivery. According to a report by Atlas Alliance (2019), children with disabilities may encounter challenges including being neglected or overprotected by family, not being treated equally with other children at home and in the local community, being discriminated against by health workers, and not being able to access educational services (Atlas Alliance, 2019). Rohwerder (2018) reports that human trafficking impacts persons with disabilities as well. Specifically, kidnapping of persons with albinism in Malawi has been reported, the result of such kidnapping may result in murder and sale of body parts for witchcraft purposes. Neither Atlas Alliance nor Rohwerder reported specific statistics nor regional variations in their reports, but it is likely that the discriminatory or criminal activities reported by authors vary in incidence by region.

In response to everyday discrimination and extreme cases of trafficking and murder, the Government of Malawi has launched a number of task forces and policy provisions to protect the rights of persons with disabilities, including ratifying CRPD. Persons with disabilities and their families and caregivers, however, are often unaware of the rights they hold and the policies designed to include them, and may be unfamiliar with the mechanisms they can use to claim rights (Eide & Munthali, 2018; Particip, 2019). For this reason, a written account of the policies that are present in Malawi to protect and uphold the rights of persons with disabilities is an important initiative when evaluating educational opportunities for children with disabilities and for international partners such as USAID.

## 4.2 Educational Considerations for Children with Disabilities in Malawi

Over the past several decades, Malawi has made significant progress increasing enrollment and completion rates for primary education (McConnell & Mpuwaliywa, 2016). Educational opportunities, for some, are plentiful. However, Malawi's educational system faces many challenges such as poor infrastructure, a limited number of qualified teachers, shortages of teaching resources, and increased absenteeism and high dropout rates (Malawi Ministry of Education, Science, and Technology [MoEST], 2017). As of 2012, the average primary student-to-classroom ratio was 124:1, leading to severe overcrowding in classrooms (Government of Malawi, 2013b). Recent Census data also reveals educational outcome discrepancies across Malawi. For example, Zomba, Blantyre, and Mzuzu Cities had literacy rates of over 90%, but literacy rates in Mangochi and Nsanje Districts were 56 and 53 percent respectively (Malawi National Statistics Office, 2019). Further, the 2014 net enrollment rate of those in the lowest economic quintile in Malawi, for example, was just 5 percent (Data Disability Portal, n.d.; McConnell & Mpuwaliywa, 2016). Overall, the number of out-of-school children in Malawi for secondary school is 82% (Malawi National Statistics Office, 2019). In general, outcomes and opportunities vary across income and community in Malawi, but lack of educational opportunity appears to impact Malawi's poorest citizens, rural dwellers, girls, and persons with disabilities in disproportional ways.

In education, for example, overall challenges in the educational pipeline are exacerbated for children with disabilities as there is a shortage of teachers with specialized knowledge and experience teaching children with disabilities, in both primary and secondary school. Atlas Alliance identified in 2019 that there was a lack of knowledge among teachers in general with regard to how to serve children with disabilities, insufficient and inadequate learning materials, inaccessible school buildings, a lack of accessible toilets, a lack of assistive devices, and no disability-inclusive early childhood development curriculum in the country (Atlas Alliance, 2019). Moreover, Nyanda (2017) found that when children with disabilities enroll in school, they may face discrimination from peers or teachers. In response, parents often refuse to send their disabled children to school out of embarrassment or a desire to protect them from stigma, leaving them socially isolated and with few opportunities to learn life skills (Nyanda, 2017). Inaccessible physical environments, long distances to schools, and the threat of violence and verbal abuse both in school and on the way to and from school are all additional barriers that keep children with disabilities out of schools (Atlas Alliance, 2019; Nyanda, 2017; Particip, 2019). For these reasons,

the Government of Malawi has developed a series of policy responses in an attempt to reduce the discrimination and stigma faced by students with disabilities.

The Ministry of Education, Science, and Technology (MoEST) is the national executive agency having jurisdiction over education, including special needs and inclusive education (Eide & Munthali, 2018). The Ministry and its Department of Special Needs Education oversee attempts to provide adequate education for children with disabilities. The Ministry and its Departments, however, have struggled with limited funding, a circumstance that has hindered adequate program implementation (UNICEF, 2013). As a result, changes have occurred in the past two decades in Malawi, but disparities still exist. Specifically, children with disabilities are less likely than their peers without disabilities to attend school at every level; just 16 percent of children with disabilities complete primary school compared with 22 percent of children without disabilities, and only 8 percent with disabilities complete secondary school compared with 13 percent of children without disabilities (Disability Data Portal, n.d). An estimated 25 percent of persons with disabilities have never attended school at all, compared with 13 percent of those without disabilities (Eide & Munthali, 2018).

## 5. International Normative Framework for Inclusive Education and Malawi's International Commitments

This section reviews international and regional normative policy frameworks that promote and protect the rights of children with disabilities to education on an equal basis with their peers without disabilities. The policy infrastructure includes international and regional treaties as well as non-binding agreements. The most relevant of these to the MCSIE project are discussed briefly below.

### 5.1 Global Commitments to Inclusion of Children with Disabilities in Education

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 Convention 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). CRPD also obligates State 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 State Parties to guarantee an inclusive education system that promotes the full development of the human potential of children with disabilities and that 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, State Parties must ensure that 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. In the case of deaf students, this means a school or environment in which students can use sign language for academic and social purposes. State Parties also are obligated 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 Convention on the Rights of the Child (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 that are responsible for overseeing and evaluating the steps State Parties take to implement the respective conventions. State 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 State 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 State 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 that State 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 UN 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 4A). 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).

Malawi became a party to the Convention on the Rights of the Child in 1991 and the Convention on the Rights of Persons with Disabilities in 2009. In addition to the CRPD and the CRC, Malawi is party to a number of international treaties that promote and protect human rights. Exhibit 2 provides a summary of the different treaties ratified by Malawi and the date of ratification.

**Exhibit 2: International Treaties Ratified by Malawi and Date of Ratification**

International Convention	Date Ratified
Convention on the Elimination of Discrimination Against Women	March 12, 1987
Convention on the Rights of the Child	January 2, 1991
Covenant on Civil and Political Rights	December 22, 1993
Covenant on Economic, Social, and Cultural Rights	December 22, 1993
Convention on the Rights of Persons with Disabilities	August 27, 2009

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

Malawi submitted its first report to the CRPD committee on February 27, 2017 (United Nations Office of the High Commissioner for Human Rights, 2020). The consulting organizations Disabled Women of Africa (DIWA), a Disabled Persons' Organization, together with Humanity and Inclusion (HI), and international non-governmental organization, submitted a joint shadow report on January 20, 2020. In this report, which independently reviewed Malawi's progress implementing the CRPD, the organizations noted advances in the socioeconomic, educational, and health rights of Malawians, but also raised concerns including the need to reform secondary school selection policies to be more inclusive of children with disabilities and the need to reduce education-related fees, such as examination fees, that tend to exclude the poorest children (Disabled Women of Africa and HI, 2020). In CRPD reports, Malawi's Disabled Peoples' Organizations were also lauded for their advocacy work on behalf of persons with disabilities. The CRPD committee has not yet scheduled a time to review Malawi's initial report.

All international agreements ratified before Malawi adopted the 1994 Constitution are integrated into Malawi's laws, while those ratified after the 1994 Constitution require an Act of Parliament (Government of Malawi, 2013a). The Constitution authorizes Malawi's courts to consider international law when interpreting the Constitution, making international human rights law a potentially powerful persuasive source of law (Government of Malawi, 2013a). Malawian courts have applied ratified treaties and incorporated them into national law in a handful of cases, none of which deals with disability discrimination (Chilemba, 2014). However, these decisions have affirmed that, in the absence of an Act of Parliament specifically incorporating a particular international legal obligation, that obligation will be treated as persuasive only (Chilemba, 2014;

Government of Malawi, 2013a). In this case, Malawi has signed and ratified CRPD, and through its Disability Act (which is described below), persons who are discriminated against have legal recourse to take the state or other actors to court for not upholding particular rights.

## 5.2 Regional Recognition of the Rights of Children with Disabilities

At the regional level, 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 with respect to 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 that 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;
- 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). They are also obligated to ensure that educational institutions are equipped with the teaching aids, materials, and equipment to support the education of students with disabilities; train teachers and school staff, including persons with disabilities, on how to educate and interact with children with specific learning needs; ensure that “multi-disciplinary assessments” are undertaken to determine what accommodations; 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 the regional level, Malawi has also ratified the following relevant agreements:

- African Charter on Human and People's Rights (ratified in 1990)
- 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).

In 2013, Malawi submitted its first combined report to the African Commission on Human and People's Rights (ACHPR) on the ACHPR and the Maputo Protocol and included specific steps it was taking to prevent discrimination against persons with disabilities and women (African Commission on Human and People's Rights, 2015). These included enacting the 2012 Disability Act and the 2013 Gender Equality Act, both of which are discussed in more detail below.

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

As a party to the CRPD and the CRC, Malawi committed to an obligation to respect and protect the right of children with disabilities to an inclusive education. It has 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. The legislative framework is supplemented by specific strategies developed by the MoEST, including a strategy specific to inclusive education. This section provides a summary of Malawi's 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 Disability and Anti-Discrimination Law in Malawi

Malawi has a strong national legal framework prohibiting discrimination against persons with disabilities and protecting the rights of women and children. The 1994 Constitution of Malawi prohibits discrimination of any kind against persons with disabilities and guarantees them “equal and effective protection” before the law. (Ch. IV, ¶20(1)). The rights of persons with disabilities are further recognized throughout the Constitution, including particularly the right to education. National legislation, including most notably the 2012 Disability Act, builds on the Constitutional foundation and provides more specificity around the Constitution's prohibition against discrimination, particularly for persons with disabilities. The National Disability Mainstreaming Strategy and Implementation Plan (2018-2023) articulates the mechanisms through which the Disability Act is to be implemented. This legislative framework is described in more detail below.

#### Constitution of Malawi (1994)

The 1994 Constitution of Malawi prohibits discrimination of any kind against persons with disabilities (among others) and guarantees them “equal and effective protection” before the law (Government of Malawi, 1994, Ch. IV, para. 20(1)). The Constitution broadly recognizes that the “dignity of all persons [is] inviolable” (Government of Malawi, 1994, Ch. IV, para. 19(1)), and calls for measures to advance gender equality, eliminate illiteracy, promote greater access to education, and ensure that persons with disabilities have a right to participate in Malawian society to the fullest extent possible (Government of Malawi, 1994, Ch. III, para. 13(a), (f)-(h)). The Constitution also recognizes a right to an education belonging to “all persons” without exclusion (Art. 25), and further recognizes the right of women to be free from discrimination on the basis of their gender or marital status (Art. 24) (Government of Malawi, 1994).

The language of the Constitution is broad and encompassing in its calls for upholding universal rights (rights for all) as well as plural rights (those for particularly marginalized groups). Article 13(g), for example, calls for legislation to advance the goal of enhanced quality of life for persons with disabilities and calls on the State to ensure “adequate and suitable access to public places.” The Article does not specifically differentiate “spaces” from public services such as healthcare or education. Article 13(h) and Article 25, however, recognize a right to a free primary education for all children, implying (but not specifically stating) that children with disabilities can enjoy the right

to a free primary education. There is no mention of accessibility for children or persons with disabilities in order for them to enjoy this universal right to education.

Article 24 outlines the specific and plural rights of women and girls. The article delineates the rights of women to gender equality in employment, in the family, and in public affairs. There is no specific language regarding women or girls with disabilities in the Article (Government of Malawi, 1994). Articles outlining how the rights of persons with disabilities are conceptualized (adequate access) compared to women (rights to employment, in families, and public affairs) demonstrates that rights are valued for both all Malawians and specific Malawians, but the expectation of how particular groups will participate and enjoy these rights are not the same within the language of the Constitution.

Although the Constitution thus establishes a solid framework against disability discrimination and it requires the right to an education for all children, it is unclear whether “adequate access” includes enrollment in primary education, which is a right guaranteed to all Malawians but not specified for children with disabilities. CRPD mandates, for example, that children with disabilities are entitled to an education that provides *equal opportunity* to that available to their nondisabled peers or that they be able to exercise their right to an education on the same basis and in the same environment as their peers. Therefore, the slight distinction in the terms “equal opportunity” (CRPD language) and “adequate” (Malawi Constitution language) signifies spaces for possible discrimination. There are no guarantees of accommodation or accessibility in the constitution, simply adequate access. Malawi’s Disability Act of 2012 fills some of the gaps in the Constitution for persons with disabilities and is described in detail below.

### The Disability Act (2012)<sup>4</sup>

The 2012 Disability Act draws on the CRPD and recognizes the social model of disability, defining disability in the same language used in the CRPD as “a long-term physical, mental, intellectual, or sensory impairment, which, in interaction with various barriers, may hinder the full and effective participation in society of a person on equal basis with other persons” (Government of Malawi, 2012, Part 1, para. 2). The definition of reasonable accommodation in the Act is also taken verbatim from the CRPD (Art. 2), as is the definition of discrimination. The Disability Act recognizes numerous rights of persons with disabilities, including the right to health care, sexual and reproductive health services, access to the physical environment and transportation, and the right to employment.

Part IV, paragraph 10, of the Act incorporates the CRPD’s requirement of inclusive education. The Act defines inclusive education as “a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures, and communities

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<sup>4</sup> It should be noted that although the Disability Act post-dates the 1971 Handicapped Persons Act by several decades, it does not wholly supersede the HPA, which remains in force. The HPA established the Malawi Council for the Handicapped (MACOHA), which is a government agency responsible for promoting the welfare of persons with disabilities within the Government (Government of Malawi. (2017). Combined initial and second periodic reports submitted by Malawi under article 35 of the Convention [on the Rights of Persons with Disabilities], UN Doc. No. CRPD/C/MWI/1-2).

and reducing exclusion from and within education” (Government of Malawi, 2012, Part 1, para. 2). Paragraph 10 requires the Government to ensure that learners with disabilities are not excluded from the general education system at all levels and have access to a quality primary education; that educational policies take into account the “special requirements” of persons with disabilities, including providing assistive devices, teaching aids, and supporting assistants; and that low-income students with disabilities have access to scholarships, student loan programs, and other forms of financial assistance. The Act prohibits the denial of benefits or services to students with disabilities as well as their segregation from any event or activity (Government of Malawi, 2012).

The Act also allocates responsibility for its implementation to the Minister of Gender, Children, Disability, and Social Welfare, authorizing the Minister to coordinate policy, implement, monitor, and evaluate programs and mobilize resources to serve the objectives of the Act. The Act also creates a legal cause of action, justiciable in Malawi’s courts, for any person with a disability whose rights under the Act allegedly have been violated (Government of Malawi, 2012, para. 31).

Despite the progressive elements in the law, there are a number of ways in which the Act does not align with the CRPD. For example, the Disability Act does not adopt the CRPD’s explicit approach to the potential for compounding forms of discrimination against women and girls with disabilities. Whereas the CRPD recognizes that women and girls with disabilities are subject to multiple forms of discrimination and, because of that, may require particularized measures to ensure they are able to fully enjoy and exercise their rights, Malawi’s Disability Act includes no specific protections for women and girls with disabilities. Nyanda (2017) argues that the failure of the Act to protect against overlapping forms of discrimination, particularly with respect to the ability of girls with disabilities to exercise their right to an education, is an important factor in the exclusion of girls from schools.

Beyond the rights that the Disability Act enumerates, the Act also fails to mandate that various actors in Malawi’s society or agencies of its federal government should coordinate and cooperate with each in ensuring rights of persons with disabilities. Even though it calls for specific measures to prevent discrimination in healthcare, education, employment, housing, and political participation, among others, it allocates sole responsibility for the Act’s implementation to a single Ministry (Gender, Children, Disability, and Social Welfare) without providing a clear structure or framework for collaboration between government entities. Although the Ministry is empowered to hold institutions responsible for violations of the Act, it is not clear from the language of the Act whether the Ministry may direct the actions of other line ministries or otherwise hold them accountable for failing to implement relevant provisions. With regard to promoting inclusive education in particular, the formal allocation of responsibility to the MoGCDSW rather than the MoEST deviates from the recommendations outlined in General Comment No. 4. In this way, assigning responsibility for an Act may allow for efficiency and accountability, but also may limit implementation of the Act in educational settings without full MoEST cooperation and co-responsibility.

The Act also appears to be an unfunded mandate. There is no specific allocation of resources that accompany the Act. Our review of literature indicates that there are no required financial commitments beyond authorizing the Ministry to mobilize its own resources for the Act's implementation. The Act authorized the creation of a Disability Trust Fund (paras. 28-29) to support the implementation of programs, but the Fund has yet to be launched or funded, suggesting that reliance on such a mechanism is an inadequate replacement for concrete budgetary commitments (FEDOMA, 2018). As a result of advocacy from DPOs, the government has included the operationalization of the Disability Trust Fund within the Disability Bill, which is currently under review (Atlas Alliance, 2019).

### National Policy on the Equalization of Opportunities of Persons with Disabilities (2005)

The primary goal of the National Policy on the Equalization of Opportunities of Persons with Disabilities, also known as the Disability Policy, is to ensure persons with disabilities can access the same fundamental rights and responsibilities as all other Malawian citizens. The Disability Policy recognizes that disability is a cross-cutting issue that touches on all aspects of life and expressly identifies linkages with other legislation, including the Education Policy. The policy includes recognition of the diversity of persons with disabilities as one of the policy's guiding principles and calls for a twin-track approach that mainstreams disability across all government policies, plans, and programs, and identifies disability priority areas within each sector to be included in the individual budgets of all relevant line Ministries and departments (Malawi Ministry of Persons with Disabilities and the Elderly, 2006). The policy allows for Ministerial units to seek funding and pursue disability-related initiatives, but is reliant on broader budgetary debates because, as noted above, there is no requirement for disability-specific funding in Malawian law.

This being said, the Disability Policy has allowed for intersectional approaches to ensuring human rights. The Policy, for example, recognizes that women and girls with disabilities experience multiple forms of disadvantage as a result of their gender and age. It explicitly calls for the adoption of programs and projects that give both men and women with disabilities equal influence on the design, decision-making, and implementation and otherwise promote gender equality and equity (Malawi Ministry of Persons with Disabilities and the Elderly, 2006).

One of the main objectives of the Disability Policy is promoting equal access to and inclusion of persons with disabilities in education (Policy Statement 4.6). It proposes strategies including:

- Promoting awareness among parents and guardians of the need to send children with disabilities to school;
- Designing and developing appropriate technologies, assistive devices, and learning materials;
- Providing free and appropriate technologies, equipment, and resources to assist learners with disabilities;
- Reviewing and reforming the delivery of the national curriculum and examination system to respond to the needs of learners with disabilities, including those with intellectual impairments;



- Adapting and adopting communication systems appropriate for learners with special education needs in all centers of learning;
- Training specialist educators and incorporating special needs education in teacher-training curriculum;
- Establishing specialist education resource centers throughout the country; and
- Supporting and encouraging inclusive education (Malawi Ministry of Persons with Disabilities and the Elderly, 2006, p. 23).

The National Policy allocates responsibility for its implementation among line Ministries, including the MoEST, and incorporates an Action Program to ensure the policy is implemented. The Policy also specifies roles for disabled persons' organizations (DPOs), the Malawi Council for the Handicapped (MACOHA), non-governmental organizations (NGOs), and research institutions, among others, in carrying out its objectives. Importantly, the Disability Policy also calls for the systematic monitoring and evaluation of its implementation and tasks the Minister of Gender, Children, Disability, and Social Welfare (MoGCDSW), MACOHA, the Federation of Disability Organization in Malawi (FEDOMA), and the Human Rights Commission with putting a monitoring system in place (Malawi Ministry of Persons with Disabilities and the Elderly, 2006).

Although the Disability Policy is comprehensive in some ways, it has some important omissions. Beyond its provisions relating to education, there is little in the policy as a whole that specifically addresses the needs of children and young people with disabilities (Mannan et al., 2012). Additionally, the Disability Policy envisions an education system that allows for the segregation of some learners in “specialist education centers” or “special needs education” classrooms rather than the fully-inclusive system that incorporates and accommodates all learners within all levels of the education system that the CRPD requires, with the exception of deaf learners (who, according to CRPD, should be educated in a sign language-first environment). The National Strategy on Inclusive Education 2017-2021, which will be discussed in later sections, updates this approach.

### National Disability Mainstreaming Strategy and Implementation Plan (2018-2023)

Building upon the Strategic Plan on Disability (2004-2007), the National Disability Mainstreaming Strategy and Implementation Plan (NDMS&IP) is a multi-sectoral plan to promote disability-inclusive development at all levels. It defines disability mainstreaming as “the process by which Governments and other stakeholders address the barriers that exclude persons with disabilities from participating equally with others in any activity and service intended for the public, such as education, health, livelihoods, empowerment, and social” (Malawi Ministry of Gender, Children, Disability, and Social Welfare, 2018, p. 4). The NDMS&IP identifies access to education as a priority area but recognizes that key challenges include limited capacity for early identification and intervention at pre- and primary-school levels, especially for students with communication challenges, deaf-blindness, or developmental delays, as well as 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, p. 17). The NDMS&IP calls for steps to build technical capacity within directorates,

staff, and education planners at the MoEST, as well as regular and specialist teachers; increase enforcement of the Education Act and relevant legislation and policies; as well as promote action research to inform the design and delivery of quality and relevant education outcomes for learners with disabilities.

Notably, the implementation framework calls for the MoGCDSW to focus on building capacity among sectoral ministries, departments, and other institutions so they are able to effectively mainstream disability in their respective programs and services. It establishes a national structure for disability mainstreaming that provides for participation of civil society and the National Advisory and Coordinating Committee on Disability Issues. Financing is anticipated through the national budgeting process as well as the Disability Trust Fund, when it becomes active (Malawi Ministry of Gender, Children, Disability, and Social Welfare, 2018).

### The Gender Equality Act (2013)

The Gender Equality Act (GEA) prohibits less favorable treatment on grounds of sex and harmful practices, including gender-based violence, and authorizes civil and criminal penalties for sexual harassment. The GEA also affirms the right of every person to access education and obligates the Government to take specific measures to ensure girls and boys are taught the same curricula, receive the same examinations, benefit from teachers with equivalent qualifications, and have access to facilities of the same quality (Government of Malawi, 2013c, para. 14). An exception to the above provisions is provided for “cases of special need”, which are not defined or explained elsewhere in the text. This open-ended language may permit the segregation of girls with disabilities or justify a different—and lower—standard of quality for their education and the facilities and resources to which they have access. The GEA is entirely silent with respect to disability and includes no particularized protections for women and girls with disabilities, which may be necessary to achieve substantive equality for particularly vulnerable or marginalized groups.

The preceding section outlined disability-related and anti-discrimination laws in Malawi. The following section focuses on education specifically, introducing the main findings from recent educational acts, policies, and strategies.

## 6.2 Malawi’s National Legislation and Strategies on Education

The 2012 Education Act provides the overarching legal framework for Malawi’s educational system. The law is implemented by the National Education Sector Plan and Education Sector Implementation Plan II. Each of these are discussed in detail below.

### Education Act (2012)

The Education Act is general in nature and does little to advance the Disability Act’s commitment to ensuring inclusive education. Beyond the requirement that the Ministry of Education, Science, and Technology promote education for all without regard to gender, disability, or “any other discriminatory characteristics” (Government of Malawi, 2013b, para. 4), the Education Act is nearly silent about the rights of students with disabilities. Although primary education is free “for



every child below eighteen years of age” (Government of Malawi, 2013b, para. 13), there are no specific provisions relating to the accommodation of students with disabilities, the accessibility of facilities, or the criteria for teacher qualification or evaluation of students. Paragraph 41 permits “any person” to lodge a complaint if accommodations (referring to housing rather than classroom accommodations) or instruction at a given school are “not suitable”. “Suitability”, in this instance, is in reference to the age or sex of students, and there is no specific complaint process for failure to provide learning or testing accommodations for learners with disabilities.

### National Education Sector Plan (2008-2017)

The 2008 National Education Sector Plan (NESP) identifies federal agencies such as the Ministry of Education, Science, and Technology; Ministry of Finance; Ministry of Economic Planning and Development; Women and Child Development; and Youth Development and Sports as government partners in supporting quality education. It addresses the “improvement of quality, equity, relevance, access, and efficiency in Basic Education”. NESP forms the basis for all investment in the education sector by the Government and its development partners (Malawi MoEST, 2008). The plan appears to be governed by the rules outlined in the Education Act of 2013, but is not enforceable by law. In relation to children with disabilities, NESP sets priorities for Basic Education, including Early Childhood Development, that include promoting early detection, intervention, and inclusion for children with special health and education needs and designing an ECD curriculum for children with disabilities. It also calls for increasing the net enrollment and completion rates of those disadvantaged by “special needs,” gender or poverty, among other vulnerabilities, and expanding the number of classrooms and school facilities in hard-to-reach areas (Malawi MoEST, 2008). The Plan creates an infrastructure for increasing inclusion through early detection, intervention, and inclusion, but its priority to expand classrooms does not contain language about accessibility of schools or curriculum, creating a scenario in which new “access and equity” initiatives may need to be retrofitted for children with disabilities rather than established as inclusive from the beginning.

At the secondary school level, NESP calls for increasing enrollment of students with disabilities and constructing accessible housing for those students. NESP also calls to review the curriculum and “take into account special needs, gender matters, among others” (Government of Malawi, 2018, p. 16). Although ensuring all classrooms are accessible to students with disabilities is an important step, given the low rates of enrollment of students with disabilities and the barriers to continuing in school, especially for girls with disabilities, ensuring their ability to meaningfully participate in classes may require much more than physical accessibility alone.

NESP includes a detailed projection of costs and financing for anticipated programs, which are premised in part on an ambitious growth in GDP of at least 6 percent from 2008 forward (Malawi MoEST, 2008). World Bank (2019) data indicates that Malawi’s GDP experienced ups and downs from 2008-2018. The average overall growth within this decade was 3.2%.

## Education Sector Implementation Plan II (2013/14-2017/18)

The Education Sector Implementation Plan II (ESIP II) translates NESP by providing five-year goals. The document addresses many of the existing challenges to inclusive or special needs education such as the lack of braille materials and a lack of trained teachers. The document stresses the need to develop an Inclusive Education Strategy and the need to increase special education teachers. In addition to training special education teachers, the strategy proposes training 1,000 head teachers, teachers, and primary teachers on special education and inclusive education. ESIP II has the following three policy goals related to improving the education of students with disabilities:

1. Increase enrollment of learners with special educational needs
2. Improve quality and relevance of education for learners with special educational needs, and
3. Strengthen governance and management of special needs education (Government of Malawi, 2013b, pp. 115-116).

The policy goals are supported by a series of strategies with measurable goals. Publicly accessible data on the targets of ESIP II were not available for this review, so progress toward these goals is unknown at present. Strategies touched on a wide range of activities from community sensitization to identification of children with disabilities. Exemplar strategies include:

- Conduct sensitization workshops on student enrollment in communities.
- Carry out routine exercises for early detection of learners with special needs.
- Select and admit learners with special educational needs into secondary schools.
- Construct additional Resource Centers.
- Rehabilitate existing Resource Centers.
- Conduct training for specialist teachers.
- Monitor schools with learning centers for learners with special education needs.
- Develop Malawi Sign Language dictionary.
- Train specialist teachers in Malawi Sign Language.
- Procure and distribute specialized learning materials.
- Construct Special Needs Education Institute.
- Develop an inclusive education strategy.
- Disseminate inclusive education strategy.
- Disseminate implementation guidelines for Special Needs Education Policy.
- Review teacher training curriculum to accommodate more Special Needs Education and inclusive education issues.
- Provide grants for maintenance of Resource Centers.
- Provide mobility support for Itinerant Teaching Program.

ESIP II represents the most comprehensive educational strategy to date in Malawi. Its aims appear to be pursuing two forms of education for students with disabilities. On the one side there are plans to create more inclusive mainstream schools through community sensitization, teacher training, and learning materials. At the same time, Malawi seems to be building its infrastructure

for resource centers up to educate students with disabilities separately and possibly unequally. As noted above, deaf education in sign-language rich environment is encouraged by CRPD, but inception visit interviews indicated that there are only four special deaf schools and Malawi and an additional four resource centers that serve deaf students among the over 150 centers in total. These figures indicate that ESIP II is straddling a tension between expanding segregated and possibly unequal education for non-deaf students who have “special needs” and developing inclusive schools for others.<sup>5</sup> It is unclear from policy documents how placement decisions are made or how special centers support or counteract constitutional rights to “Free Primary Education”.

### 6.3 Malawi Policies for Students with Disabilities

In addition to the general anti-discrimination policies that address the rights of persons with disabilities and the educational rights of students with disabilities as well as the general education laws, Malawi also has two policy documents that specifically address the rights of students with disabilities. These are discussed in more detail below.

#### National Strategy on Inclusive Education (2017-2021)

The National Strategy on Inclusive Education (NSIE) was adopted in 2017 and is in force until 2022. The Strategy is intended to complement the Education Act, the Disability Act, and the Gender Equality Act, and to address the objectives of Malawi’s National Education Sector Plan and Malawi’s Growth and Development Strategy II (since superseded by MGDS III).<sup>6</sup> The intent of NSIE is to ensure an education system that “promotes access, participation, and achievement of diverse learners at all levels by 2022” (Malawi MoEST, 2017, p. 11). Explicitly departing from prior policies that associated learners with disabilities with segregated education, NSIE defines 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). It recognizes there are numerous categories of children likely to be excluded both from and within the education system, including not only children with disabilities but also orphans, street children, girls, children living with HIV/AIDS, displaced children, and others.

NSIE identifies eight priority areas the Strategy will address, which collectively demonstrate a comprehensive approach to realizing the rights of children with disabilities to an equal education. The areas are:

1. Capacity of inclusive education
2. Governance and management of inclusive education

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<sup>5</sup> From the policy review alone, there was no indication if the development of resource centers was part of a short or long-term plan or how students might ultimately move from these resources centers into an inclusive setting.

<sup>6</sup> Empowerment of persons with disability is identified as a cross-cutting area in Malawi’s 2018 Growth and Development Strategy (MGDS III). MGDS III provides a framework for implementation of the Sustainable Development Goals and sets education and skills development as a key priority area for the 2018-2023 period. (GOM, 2018). Other cross-cutting areas include gender balance and youth development. To meet the goal of improved quality and relevant education, the MGDS III calls for, among other things, the promotion and inclusion of children with special needs in Early Childhood Development programs, building and upgrading education facilities to ensure they are child, disability and gender sensitive and provide safe and effective learning environments; and construction of secondary school facilities that are disability and gender sensitive

3. Learner identification and assessment
4. Inclusive education management information system (EMIS)<sup>7</sup>
5. Teacher education and motivation
6. Partnerships for inclusive education
7. Enabling environment for teaching and learning
8. Financing inclusive education (Malawi MoEST, 2017, p. 20).

Each of the above priority areas is attached to proposed outcomes and specific activities. Regarding learner identification, NSIE proposes to develop identification tools for assessing learners with diverse needs; setting up a referral system to facilitate clinical and psychosocial assessments as well as case management, training caregivers, teachers, and teacher educators on the use of learner diversity assessment tools; procuring appropriate assistive devices for students; and training educators on assessment and curriculum differentiation to suit learners with diverse needs (Malawi MoEST, 2017).

In relation to preparing teachers, the main responsibility for preparing teachers for inclusive education in the Strategy appears to touch on multiple levels of the Ministry of Education. MoEST headquarters, for example, is responsible for strengthening “supervision, monitoring, and evaluation” as well as “capacity building” for inclusive education. Divisional offices’ role is to “provide advisory and inspection services” for inclusive education. Zonal officers appear to have the most direct contact with teachers related to inclusive education, and are required to “provide supervisory, advisory, and mentorship services to teachers on IE” (pp. 26-27). A noticeable omission from this list of responsibilities related to teachers is pre-service education. Tertiary institutions, for example, are encouraged to admit university students, but pre-service inclusive education teacher training appears to be the purview of teacher training colleges specifically without major inputs from MoEST.

Teacher training is mentioned five times in NSIE, and once as an outcome goal. NSIE authors acknowledged that:

“There is a need to build capacity for inclusive education at all levels in Malawi, so that Teacher Training Colleges (TTCs) and Montfort College can integrate inclusive education into the existing curricula. A more inclusive education system requires teachers and caregivers who have knowledge, skills, values and beliefs to enable them to teach learners with diverse needs” (p. 17).

Pre-service education, then, is the responsibility of TTCs while in-service education under NSIE is the responsibilities of MoEST and Malawi Institute for Education. According to NSIE, the role of development partners like USAID is to provide technical assistance, opportunities for research, assemblage, and sharing of experiences. NISI outlines the role of development partners as:

- Provide technical, material and financial support to implement inclusive education activities at all levels of education.

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<sup>7</sup> The “inclusive EMIS” strategy does not replace current EMIS but aims to collect disaggregated data on students with diverse learning needs.

- Promote better coordination strategies among partners to avoid duplications in inclusive education programmes, wastage of resources and inefficiency.
- Create a forum where different partners in inclusive education can share experiences in the implementation of inclusive education.
- Support research activities in order to improve the delivery of inclusive education.

An important component of NSIE is that it clearly identifies relevant stakeholders and allocates responsibilities among them. Stakeholders identified in NSIE include line ministries, such as MoEST, which is allocated the lead role to manage and coordinate implementation of the strategy, and local education offices and schools, which are responsible for ensuring inclusive budgets, equitable deployment of teachers and specialized staff, collecting and maintaining data on learners with diverse needs, and facilitating the enrollment, identification and assessment of learners. NSIE tasks civil society organizations with advocating for inclusive education, mobilizing and educate communities about what it means, supporting collaborative research, supporting government in the provision of inclusive vocational skills training and capacity building, and upholding child, gender, and disability-friendly policies in their own work and organizations (Malawi MoEST, 2017).

Parents and community members are tasked with promoting care and support services, assisting in the identification of children with diverse needs, protecting children from violence, encouraging all children to go to school and remain in school until completion, contributing to individualized education plans, supporting learning for children with diverse needs, participating in school improvement, and advocating on behalf of their children at the school level.

NSIE, unlike other plans, makes scant mention of separate resource centers as part of a plan of education. In his forward to the strategy, however, the Minister of Education Science, and Technology tells readers that

I recognize that teachers, parents and communities question the relevance of inclusive education to children and young people with severe disabilities and learning difficulties. Through this strategy, the government stands to preserve special schools and resource centres and use them as a resource to promote inclusive education. However this will be done with strong collaboration with mainstream schools in a bid to uphold social inclusion (p. 6).

Further mention of special schools is not found until the final pages of the strategy, in which centers are called upon to build skills for students, build skills for mainstream teachers, provide technical support for assessment of learners with special needs, collaborate with parents on developing individualized education plans, and link learners to technical/vocational education opportunities. These roles signify that resource centers within an inclusive strategy are intended to become “resources” to the broader community while maintaining a direct instructional role. The shift from the role from primarily instructional to community/school resource aligns with inclusive education movements worldwide (Johnstone, Hayes, Cohen, & Niad, 2020) but NSIE does not

indicate that there are plans for transitioning non-deaf students with disabilities from segregated schooling to mainstream schools, even with supports from centers.

NSIE represents movement toward inclusive aims and sets out a clear time frame for its implementation and importantly establishes a monitoring and evaluation framework with indicators. The indicators are primarily quantitative and focus on increasing the number of diverse learners in each level of the education system, increasing the number of schools monitored for inclusive education, increasing the number of learners screened for special needs, increasing the number of schools with disability-, child-, and gender-friendly infrastructure, increasing the number of teachers trained, etc. There are no indicators assessing the quality components or outcomes of the educational system, such as performance on national assessments or other determinants of the quality of education being provided, and no indicators assessing completion rates of students once enrolled.<sup>8</sup> There is also no clear mechanism for accountability if indicators are not met.

NSIE also does not call for disaggregated data that could identify whether schools were prioritizing meeting the needs of certain categories of learners over others, such as students with mobility disabilities over students with intellectual disability, or what kinds of needs may be most common to capture efficiencies in service provision. The indicators also do not appear to be gender-specific, so may also miss inequalities in how the Strategy is being administered.

One of the more significant gaps in NSIE is the absence of attention to the deployment of teachers with disabilities. While there is a significant emphasis on the training of teachers to meet the needs of diverse learners, NSIE is silent with respect to the recruitment of qualified teachers with disabilities who may be in the best position to understand the needs of diverse learners. Another significant gap is the absence of attention to stigma and how it may impact both learners likely to be excluded and those who are not, as well as teachers, parents, and other service providers (Mgomezulu, 2017). While learners are encouraged to offer peer support and report abuse or discrimination, there is little else in the strategy promoting the elimination of stigma or otherwise addressing the larger societal contexts in which exclusion is normalized.

While NSIE contains clear estimates of the cost of its various components on a year-by-year basis, it is not clear whether those funds have been allocated in or from the national government's budget, casting doubt on whether its ambitious goals are likely to be realized in practice. Another concern regarding implementation was raised by Duetsche Gesellschaft für Internationale Zusammenarbeit (GIZ) within their capacity assessment report, wherein they highlight the lack of dissemination of this strategy to districts and primary schools, and, therefore, a lack of awareness of the strategy beyond MoEST headquarters (GIZ, 2019).

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<sup>8</sup> One of the tasks allocated to the MoEST is to conduct tracer studies of graduates with disabilities to assess whether they find employment.

### Implementation Guidelines for the National Policy on Special Needs Education (2009)

The National Policy on Special Needs Education (NPSNE) is the policy that informs the strategies developed in NSIE. NPSNE reports a goal of guiding the “government and other stakeholders on how to include learners with special educational needs in the interventions and manage[ment of] Special Education programs” (Government of Malawi, 2009, p. 5). The policy identified three priority areas, namely, 1) access and equity; 2) quality and relevance; and 3) governance and management. The policy also addresses the need to ensure an effective and efficient system for identifying learners with disabilities; increase teacher training including training of general education teachers; provide information in braille; provide assistive devices; and engage parents.

NPSNE originally defined inclusive education as “a learning environment that provides access, accommodates, and supports all learners” but fails to state that students have the right to receive an education along with same-aged peers without disabilities (Government of Malawi, 2009, p. 7). In addition, NPSNE provided a definition of least-restrictive environment as “a supportive learning setting designed to meet individual learners’ needs” (Government of Malawi, 2009, p. 7).<sup>9</sup> NPSNE’s guidance does not clarify whether the “environment” is in a mainstream schooling environment (with the exception of deaf education) as called for in CRPD General Comment Number 4 and the right to “free primary education” outlined in Malawi’s constitution or another setting. NPSNE appears to reiterate the ESIP dualities that at once call for inclusive education and education for children with disabilities in separate settings. This highlights the difference between “special needs education” as it is framed in Malawi’s policy documents and “inclusive education” as it is defined in CRPD. As noted throughout, the situation of deaf education is a unique, language-focused form of education that does not always align with inclusive education initiatives, but it is unclear from NPSNE what students would experience the right to primary schools and what non-deaf students would be funneled to other options that were designed to be “supportive” but may lack the quality considerations, curriculum, and other opportunities that children not classified as “special needs” experience.

NPSNE sub-objective xii identified the need to “construct and maintain resource centres and special schools equitably throughout the country” (Government of Malawi, 2009, p. 16), exemplifying that “a learning environment that provides access, accommodates, and supports all learners” is thought to be impossible for some students. According to CRPD, this may be the case for deaf students who have unique language needs, but not the case for other students who can be accommodated in their local schools. NPSNE, then, presents new opportunities for providing educational opportunities for students with disabilities, but these opportunities are inconsistent with the CRPD in that NPSNE simultaneously calls for inclusion and developing infrastructure for segregated education for non-deaf students with disabilities. For students who are deaf, the document highlights the need to develop and utilize a national sign language for learners who are deaf or hard of hearing, but does not address the specific rights of students who are deaf to receive an education in a sign-language-rich environment.

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<sup>9</sup> This definition is very different than the definition of “least-restrictive environment” defined by the United States Individuals with Education Act (IDEA), which defines the concept as a presumption: “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.” (34 Code of Federal Regulations, Secs. 300.114(a) and 300.116(a)(2). See also IDEA itself: 20 U.S.C. Sec. 1412(a)(5) and Sec. 1413(a)(1).

Finally, the policy, similar to previous plans, detailed the roles of various stakeholders (including government entities, teachers, and communities) is provided. A notable inclusion in the policy is the connection to disabled peoples' organizations (DPOs) to support the implementation of the goals of the policy. This policy, like some of its predecessors, stops short of providing guidance on how the policy will be funded.

## 7. Summary of Findings

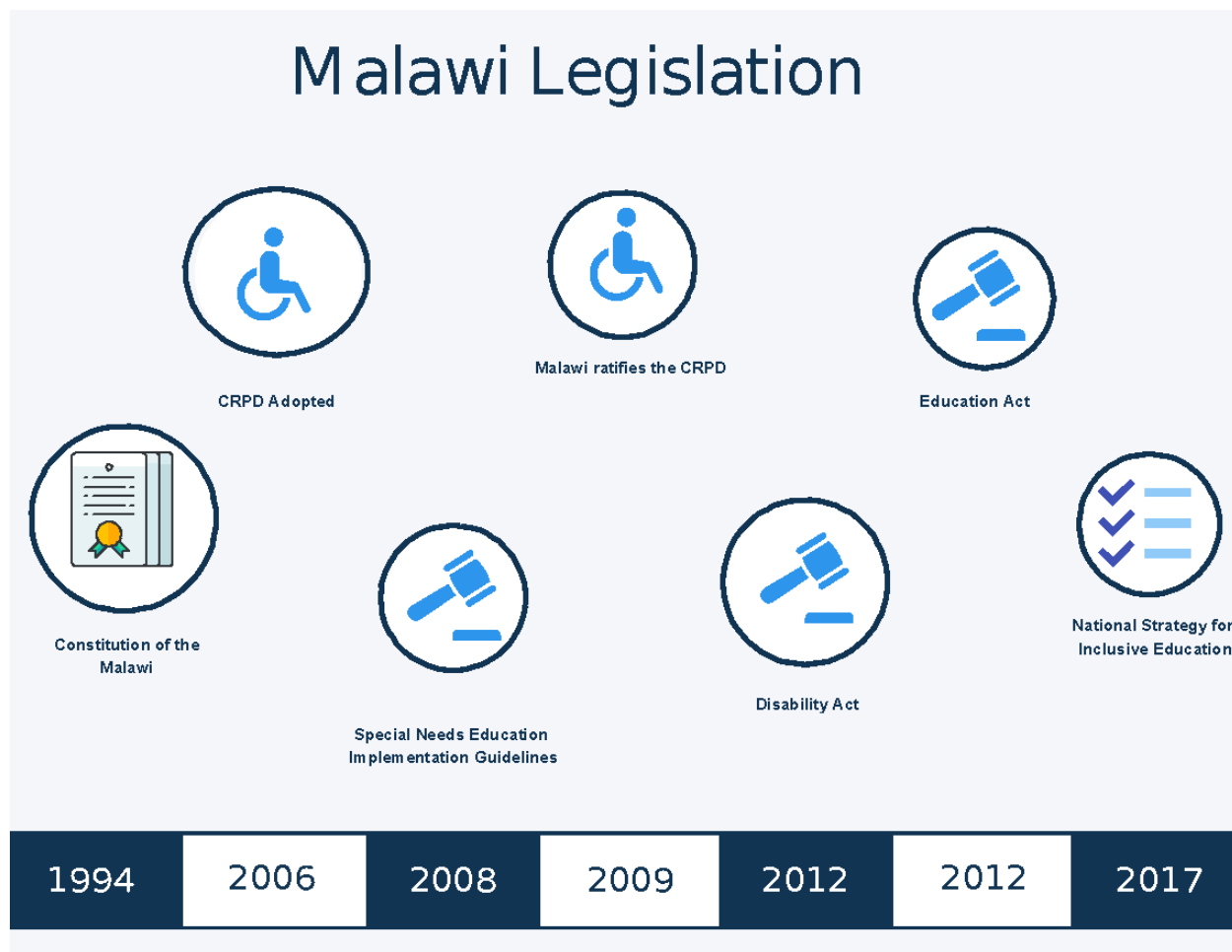
The previous sections provided an overview of the legal, policy, and strategy documents that guide inclusive education in Malawi. This section provides an analytical summary of the above-mentioned laws and policy organized by type of legislations as well as topics that are pertinent to the MCSIE project.

### 7.1 Progressive Realization Towards Inclusive Education

As stated in the Introduction section, 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 through actual services for 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. Exhibit 3 provides a timeline of a few of Malawi's key actions and legislations related to the education of students with disabilities.



**Exhibit 3: Timeline of Key Malawi Legislations and Actions Related to Inclusive Education**



Malawi's progressive realization of inclusive education for children with disabilities and sign language-rich education for children who are deaf began with early identification of persons with disabilities as rights-bearers in the country's constitution. Prior to ratifying CRPD, Malawi also established guidelines for special needs education in the country. The ratification of CRPD was then followed by two important events in Malawi's history. The first event was the passage of the Disability Act, which provided legal protections for persons with disabilities beyond the power of policy or government strategy. The second was the Education Act (2012), which ensured the right to education. Malawi's 2017 National Strategy for Inclusive Education identified inclusion as a priority, but guidance in the forward of the strategy and current practice reveals that Malawi is currently in a state of tension in which segregated and special schooling environments for children with disabilities (with the exception of children who are deaf) are still largely the norm while at the same time inclusive education strategy is being developed. A progressive vision of inclusive education has evolved in Malawi, but conceptualizations of special needs education as an activity that must occur outside of regular schools is still a policy norm. In general, much progress has

been made at identifying an aspiration for inclusive education, but the National Strategy for Inclusive Education is still in its early years and has not yet fully realized some of its aims.

## 7.2 Summary of Findings by Legislative or Policy Category

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

**International Commitments to Human Right Treaties.** Malawi is party to several international treaties that mandate the rights of students to receive an inclusive education, including both global and regional treaties. Malawi ratified CRPD in 2009 and submitted its first report to the CRPD Committee in 2017. However, long before the Government of Malawi signed, ratified, and submitted reports on CRPD, it developed its own national anti-discrimination laws. For the purpose of this review, policies are compared against CRPD as the most recent and internationally significant Malawian commitment to upholding the rights of persons with disabilities. Contemporary educational and human rights policies in Malawi are informed by the foundational anti-discrimination laws below.

**Relevant National Anti-Discrimination Laws.** The 1994 Constitution and the 2012 Disability Act provide a strong legal framework prohibiting the discrimination of persons with disabilities. Both the Constitution and the Disability Act recognize the right to an education and the Disability Act in particular obligates the Government to ensure that learners with disabilities are not excluded from the general education system. However, there is little specificity in either the Constitution or the Disability Act regarding how barriers to enrollment or supportive services within the general education system for learners with disabilities will be carried out. The absence of such specificity has allowed for national law and policy on education that allow for both inclusive (access and quality in the general education system) and segregated settings (a form of education deemed unacceptable except for deaf populations by CRPD). This dual system is summarized in the “National Legislation and Strategies on Education” section below.

**National Legislation and Strategies on Education.** Malawi’s principal education law is the 2013 Education Act. That statute promotes education for all but does not provide specifics on how students with disabilities will receive accommodations within general education settings, nor does it address the specific educational needs of most students with disabilities, including the language needs of students who are deaf. The two strategic plans—National Education Sector Plan (2008-2017) and the Education Sector Implementation Plan (2013/14-2017/18)—provide more detail regarding the education of students with disabilities than the Education Act of 2013. These plans, as noted above, appear to be developing infrastructure for all students with special needs to experience education in resource centers while simultaneously calling for inclusive education. Beyond the small number of deaf schools and resource centers, it is unclear from strategies how decisions are made on how students with disabilities will experience their rights to education. The National Strategy for Inclusive Education (2017-2021) is the most comprehensive strategy in Malawi related to inclusive education, but falls short of establishing specific targets toward including children with disabilities in mainstream schools and converting resource centers to research and consulting organizations (with the exception of deaf education), as would align with CRPD.

**Summary of Education Policies and Strategies for Students with Disabilities.** In summary, Malawi's policy on "special needs education" mandates the right to education and promotes inclusive education while also promoting the expansion of segregated education. This policy is supplemented by the National Strategy on Inclusive Education, which is more aligned with the CRPD, and also addresses important aspects such as monitoring the implementation of the special education policy and financing. Malawi's policy progression represents movement toward greater inclusion as is stipulated in CRPD, a treaty that the nation ratified in 2009. Its most recent strategy represents the most inclusive strategy to date, but remains out of alignment with expectations for inclusive education outlined in General Comment Number 4 because there is a lack of transparency on how decisions are made for which children are included and which are not, a lack of commitment to reducing or eliminating intakes in segregated resource centers (with the exception of deaf students), and a lack of enforceable policy or law to ensure that students with disabilities are receiving accommodations in inclusive schools.

### 7.3 Summary of Findings Through Enabling Policy Environment Indicators and Relevance to MCSIE

This policy review was conducted through a comprehensive review of Malawi's policies and through drawing comparisons to CRPD. As noted in the initial paragraphs of this review, CRPD provides the most globally accepted and contemporary conceptualizations of human rights for persons with disabilities and inclusive education available to date. The CRPD lens is relevant because Malawi and all of the MCSIE countries have all ratified this treaty in an effort to demonstrate commitment to the rights of persons with disabilities. Therefore, this review is intended to support the Government of Malawi's policy commitment CRPD by identifying areas of alignment and alignment gaps and the government's commitments to its citizens with disabilities. According to the Convention, there are several indicators that support an enabling environment for persons with disabilities. Findings from the above policy review are summarized below in relation to the following indicators: 1) Conceptual understanding of inclusive education; 2) Identification of students with disabilities; 3) Teacher training; 4) Instructional approach; 5) Sign language and deaf education; 6) Gender and intersectionality of disability; and 7) Acknowledgement of heterogeneity of disability. These indicators are helpful for identifying logical next steps in the promotion of human rights for persons with disabilities and the role that USAID can play in supporting Malawi in promoting those rights.

**Conceptual understanding of inclusive education/educational settings.** Although several of Malawi's laws and strategies call for inclusive education, the conceptual frameworks of inclusive education do not consistently reflect how inclusive education is defined by the CRPD. In addition, other documents, such as National Strategy on Inclusive Education, promote the formalization and expansion of segregated education and provide no clear information on how universal inclusive education will be progressively realized in the country.

*Consideration for MCSIE:* As there is not a clear conceptual framework on inclusive education that is closely aligned with the CRPD, it is feasible that the concept of inclusive

education may be understood very differently amongst stakeholders. Therefore, MCSIE staff and consultants should provide a clear understanding of how they are using the term “inclusive education” and ensure that this understanding is aligned with the CRPD.

**Identification of students with disabilities.** The need to identify students with disabilities is addressed in several of Malawi’s policies and strategies. However, little-to-no information is provided about how this will be accomplished or about the protocols and tools that should be used.

*Consideration for MCSIE:* The policy analysis reveals that the importance of identification is reflected within Malawi’s policy landscape. However, there may be little understanding of how this will be achieved, the best practices related to identification, or how identification can support educational planning for children.

**Teacher training.** There is general recognition in several of Malawi’s policies that the lack of trained teachers in Malawi presents a challenge in educating students with disabilities. Many documents focus on the need to expand special education teachers, with other documents, such as the NSIE, recognizing the need to train general education teachers as well.

*Consideration for MCSIE:* The importance of teacher training for all teachers is mandated within Malawi’s legal framework. Both pre-service and in-service training were identified as target areas in strategies. Governmental focus appears to be on in-service training and supervisory activities with preservice training delivered by teacher training colleges.

**Instructional approach.** Policies such as the Disability Policy, NESP, and NSIE recognize the need to adapt the curriculum and provide differentiation of instruction to students with disabilities. However, these policies stop short of recognizing key instructional approaches such as universal design for learning (UDL), classroom accommodations, multi-level teaching, adaptive lesson planning, or other specific instructional approaches that could be used to increase learning opportunities for students with disabilities.

*Consideration for MCSIE:* Though mentioning of the need to differentiate and adapt curriculum is referenced within Malawi’s policies and strategies, there is no national guidance on how this would be achieved.

**Accommodations.** The need to provide accommodations such as braille and assistive devices is a key theme throughout many of Malawi’s policies and strategies. Many policies and strategies emphasize the need to ensure accessible physical infrastructure but do not provide guidance on standards for accessibility.

*Consideration for MCSIE:* Accommodations such as the right to braille materials and assistive devices is mandated by law, but the application of these laws in practice remains

unclear. More data is needed on the role of accommodations and assistive devices in supporting inclusion.

**Sign language and deaf education.** The Implementation Guidelines for the National Policy on Special Needs, the Disability Act, and the NSEI all recognize the need to provide sign language to students who are deaf. However, these policies lack specification on students' right to receive education from a teacher who is fluent in sign language as well as receive an education in a sign-language-rich environment.

*Consideration for MCSIE:* Students who are deaf have the right to access education in sign language, but there remains a lack of direction on other key elements of deaf education in policies. MCSIE staff and consultants should understand this may be an emergent area within the education sector that is distributed across governmental and non-governmental actors.

**Gender and intersectionality of disability.** Although Malawi's laws promote the right of education of all girls, the right of girls with disabilities is not specifically defined.

*Consideration for MCSIE:* Given Malawi's and USAID's emphasis in gender equity, MCSIE should be sure to use a "gender lens" in all of its programming and collection and reporting of data.

**Heterogeneity of Disability.** Malawi's laws address the need for sign language, braille materials, and an accessible physical infrastructure but minimally reference the need to adapt curriculum for students with intellectual disability. There is no clear reference to specific learning disabilities within Malawi's current laws and strategies.

*Consideration for MCSIE:* The MCSIE project should clearly understand the rights of students with specific learning disabilities is not clearly articulated in policy and may be a new area of support within the country.

## 8. Conclusion

This policy analysis has drawn upon international normative frameworks, primarily through the CRPD, to understand the extent to which Malawi's national policies and laws promote the rights and inclusion of children with disabilities. The review has considered Malawi's 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 these 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

the MCSIE should consider and respond to the findings generated in the context of Malawi. For a fuller understanding of the implications of this review on the work conducted through the MCSIE project, this report should be read in concert with the literature review and stakeholder mapping, produced as additional deliverables.

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## Annex: Policy Analysis Protocol

### **MCSIE Policy Analysis Protocols**

**October 2019**

#### **1. Overview**

As part of the Multi-Country Study on Inclusive Education (MCSIE) project, Inclusive Development Partners (IDP) will be conducting a policy analysis. This establish the legal framework within the respective countries. Information will help address the core research questions listed below.

MCSIE Evaluation Questions:

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?
2. What methods worked best to identify learners with disabilities?
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?
4. What instructional models worked best to improve classroom instruction and reading outcomes among learners with disabilities?
5. Were there any unintended consequences of the activity? What were they?

To ensure that we are developing consistent information across all countries, a policy analysis protocol was developed with suggestion for search techniques, codes for Nvivo and a tentative outline for the final reports. Based on this information, we will also be able to analyze comparative information across the three countries to assess trends, similarities and differences. This policy analysis will complement the comprehensive Literature Review that is also being conducted for each country and will show how these policies are being implemented in practice.

#### **2. Sources**

IDP has collect the below relevant information from Cambodia, Malawi and Nepal. Documents include inclusive education policies, general education policies, education sector plans/strategies, inclusive education plans/strategies, general disability policies, and other relevant documents from the ministries of education such as guidelines, directives etc. As each country has a different legal landscape, the type of information available by country will vary. IDP suggest that the policy analysis team also review if the various countries have signed and ratified different relevant international treaties and policies.

#### **3. NVIVO Codes for Policy Analysis**

To ensure consistent data collection methods, IDP has developed codes and descriptions to be used when recording data. This information is represented in Annex A and will also be imported into Nvivo along with Nvivo data collection protocols (pending development). Please note that IDP has also asked the researcher conducting the Literature Review to code relevant policy information that they obtain through different articles, documents, etc. that can be shared with the Policy Analysis team to augment their research. IDP will also be doing a separate Stakeholder Mapping exercise and will share the outcomes of this research with the Policy Analysis team in case this is also useful for their research.

#### 4. **Proposed Policy Analysis Report**

Annex B provides a proposed outline for the country Policy Analysis Report. These memoranda should present the findings of the policy analysis in summary. This is an illustrative example with the understanding that the Policy Analysis Team should feel free to provide revisions and suggestions to the outline to IDP based upon their team discussions and initial research. The result of this exercise will result in four (4) distinct reports 1) three country specific reports that provides country findings in the different areas of interest, and assesses trends, promising practices, areas for future action and gaps and 2) a comparative analysis that includes the main findings of the three countries.

#### 5. **Proposed Timeline**

IDP had develop a proposed timeline for the Policy Analysis based upon the deadline for the deliverables that IDP must submit to the United States Agency for International Development (USAID).

Date	Activity
November 30, 2019	Finalize coding and review of materials
December 27, 2019 <sup>1</sup>	Develop: <ul style="list-style-type: none"> <li>• Policy analysis Cambodia</li> <li>• Policy analysis Malawi</li> <li>• Policy analysis Nepal</li> <li>• Comparative policy analysis</li> </ul>
January 8, 2020	IDP review drafts and provides comments
January 15, 2020	Policy Team updates reports and send final draft to IDP
January 16, 2020	Policy analysis reports sent to editor
January 27, 2020	Reports reviewed by editor and final comments sent to Policy Team and IDP (on a rolling basis upon completion)
January 31, 2020	Final draft of reports submitted to IDP
February 3, 2020	Final reports submitted to USAID by IDP senior staff

#### 6. **Policy Analysis Team Members**

The Policy Analysis team will be supported by IDP staff lead by Chief Operating Officer (COO), Anne Hayes. Below provides a summary of the different team members' general roles but IDP suggests that Policy Analysis Team member work together and decide as a team specific roles such as who will lead researching, coding and writing specific sections of the country reports and comparative report. The Core Policy Team members will include:

Rud Turnbull

- Support in the design of the framework and outline of the proposed approach
- Review documents as needed
- Serve as a senior technical support

Dr. Michael Schwartz

- Lead researcher and writer
- Ensure that the policy also address deaf education in a manner consistent with the World Federation of the Deaf Policies

Dr. Megan McCloskey

- Lead writing and research
- Ensure that policies also address gender issues appropriately

## Proposed NVivo Codes

Name	Description
Pennies	What are the fiscal resources allocated to the performance of the policy
Personnel	Who are the actors, principally state-actors/professionals and the private sector actors/professionals, and what are their competencies to carry out policy Issues include how many people are there working on these issues, how many are needed, what are their competencies, how are they trained?
Philosophy	What are the grounds of and concepts explaining the fundamental beliefs of persons with disabilities and inclusive education. Using CRPD and General Comments No 4 as a normative framework, is the policy aligned?
Policy	What are the formal expressions of the philosophy and how are the expressions stated in terms of goals, objectives and outcomes, etc. This includes written policy and "white papers", guidance document, decrees or their equivalent issues by government entities.
Practice	What are the commands given to, and the behaviors followed by, those governed by the policies

Accessibility	How does the policies address accessibility issues including physical access, sign language, accessible teaching and learning materials, transportation, etc.
Accountable	Can the program providers be held accountable to do appropriate work? What remedies are available if there is a violation? What steps can bet taken to correct any wrongs?
Appropriate	Are programs doing what they are design to do and if not, why so?
Available	Are there programs available to support inclusive education, do they exist
Procedures	What processes do the actors follow

## Proposed Policy Analysis Outline

1. Executive Summary
2. Methodology
  - (summary of methodology with total resources reviewed)
3. Normative Framework
6. International Commitments
7. National Policy Analysis
  1. Philosophy
    - definition of disability
    - definition of inclusive education
    - other definitions
  2. Policy
    - Education for All (zero reject)
    - Nondiscriminatory Evaluation (identification practices)
    - Free Appropriate Education
    - Least Restrictive Environment
    - Parent Participation
    - Early Childhood Development
    - Transition to adulthood
    - Accessibility (sign language, physical access, assistive technologies, teaching and learning materials)
  3. Practice
    - Availability (supported by strategic planning and programs)

4. Personnel  
(MOE staff, training of teachers, etc.)
5. Procedures  
(remedies, complaint mechanism, etc.)
6. Pennies  
(financial support to implement policy)
8. Recommendations
9. Conclusions