

**Mandate of the Special Rapporteur on the right to education**

**Call for CONTRIBUTIONS:**

**THE RIGHT TO EDUCATION, ADVANCES AND CHALLENGES**

FEDERATION OF DISABILITY ORGANIZATIONS IN MALAWI (FEDOMA) IS UMBRELLA BODY OF ORGANIZATIONS OF PERSONS WITH DISABILITIES THAT FORM THE CORE OF THE MALAWI DISABILITY MOVEMENT. THIS MOVEMENT IS A NETWORK OF TWELVE (12) ORGANIZATIONS OF PERSONS WITH DISABILITIES (OPDS), AS AT JANUARY 2023, BROUGHT TOGETHER UNDER FEDOMA THROUGH THEIR COMMITMENT TO ADVOCATE FOR EQUAL OPPORTUNITIES FOR PERSONS WITH DISABILITIES.

ONE OF THE FEDOMAS AFFILIATE MEMBERS IS ASSOCIATION OF PERSONS WITH PHYSICALLY DISABILITIES IN MALAWI (APPDM). ESTABLISHED AND REGISTERED AND ACCREDITED BY THE MALAWI GOVERNMENT IN 2004, APPDM IS AN ORGANISATION OF PHYSICAL DISABILITIES WITH MEMBERSHIP ACROSS MALAWI.

One of the ORGANISATIONS that fedoma works with is Community SUPPORT for persons with albinisms (cospa). cospa IS A non-profit making organisation registered in 2019 with a mission to facilitate access to information about albinism and to provide a place where persons with abinism and their families can find acceptance, support and fellowship.

Fedoma and the two organisations, with financial and technical support from disability rights fund, (DRF) have been involved in the development of this submission.

1. **Assessing the achievements made by the mandate of the Special Rapporteur on the right to education over the last 25 years**
	* + 1. In your country, are education issues approached through the lens of the human right to education, and if so, with what challenges and results? In your view, what is the added value of such an approach in your work?

**In Malawi, the Constitution indicates that everyone has a right to quality education. Education institutions welcome everyone to receive an education. However, the quality of education still needs to be achieved. Learners with disabilities find it challenging to access meaningful education. There is no standard approach to inclusive education, and this is due to a need for a common understanding of the meaning of inclusive education at various educational levels. In different parts of the country, inclusive education has been adopted differently depending on the approaches taken by the project once implemented in the area. In contrast, other areas have no inclusive education in place. School environments are still not accessible; there are no adequate special needs teachers, and teaching and learning materials are scarce in many schools. The official school entry age is six years. However, lack of early identification, assessment, and interventions in most places coupled with high levels of repetition may result in children with disabilities starting school later than recommended and remaining in the primary phase for longer than expected for learners with disabilities. As such, these learners are overaged for their grade. Given the low identification of learners with special needs, there is a consensus that there is under-reporting and unidentified learners with disabilities in Malawi.**

* + - 1. How do you assess the 4 A’s framework of availability, accessibility, acceptability and adaptability as conditions for realizing the right to education? Is such a framework integrated in legal and policy documents relating to education in your country, as well as used in practice? If not, what are the key obstacles? Should the framework be reviewed to include other dimensions? If so, which?

**On availability schools are available across the country; however, the availability of resource centers (specialized units within schools) is a challenge. The role of these resource centers is to support inclusive education within its catchment area. In an ideal situation, each school is supposed to have a resource center, but the aspiration, which is in the National Inclusive Education Strategy, has been scaled down to one resource center in one education zone. Nonetheless, there are other zones, especially in urban areas, with two or three or even more resource centers. In contrast, other zones, more especially in rural areas, have no resource center at all. This situation results in low enrolment rates and dropouts among learners with disabilities.**

**Teachers are inadequate in many schools. In some schools, teachers teach a large number of pupils. This is a great challenge because learners with disabilities require individualised attention and individual educational plan. All teachers should be trained in inclusive education and this should be part of their mandate and core curriculum throughout their career. Many schools do not have inclusive education teachers, and in some cases, a school can have one specialist teacher who, for instance, specialises in visual impairment. Yet, the school has learners with other disabilities whom such a teacher cannot ably support.**

**On accessibility there are two aspects of accessibility. First is getting or accessing the school surroundings and classrooms. The second is accessing lessons inside classrooms. Firstly, most schools in Malawi are still inaccessible to learners with disabilities despite a call to the authority to construct accessible school infrastructure. Only those schools being constructed with support from development partners, such as JICA USAID and FCDO, take accessibility features into consideration. This is aggravated by the lack of mobility aids which sometimes force parents to carry their children to school. In other cases, such a commitment is secured only while the children are still young, and as they grow, the parents have no strength to continue carrying their children, leading to dropouts. Most of these parents would commit themselves to these tasks at the expense of social, and economic activities. Secondly, although the Federation of Disability Organizations in Malawi (FEDOMA) and its affiliates members campaigned for mindset change among the general public in matters of inclusive education, negative attitudes by teachers, learners, parents, and communities towards the education of children with disabilities still prevail in some areas**. **This leads to limited participation among learners with disabilities, hence making access to education difficult among learners with disabilities. In addition, the absence of special teachers in many schools and inadequate teaching and learning materials make education difficult to access for learners with disabilities.**

**Regarding acceptability, negative attitudes among teachers, other learners and the general public towards learners with disabilities still prevail, especially in areas with little awareness of inclusive education and the rights of learners with disabilities with such attitudinal barriers faced by learners with disabilities it means the quality of education is seriously compromised.**

**Adaptability is a challenge in Malawi's education system, especially with respect to learners with disabilities. Learners with disabilities need equipment to enable them to adapt in the learning environment. Equipment, in this case, are talking computers or anything of the same sort, hearing aids, and magnifying glasses. However, because of the scarcity of these equipment, it is difficult for schools to initiate appropriate modifications. Hence necessary provisions are not given to each learner with disabilities based on their needs and abilities. In addition, one of the barriers to inclusive education is the rigid curriculum in Malawi, which has led chiefly to repetition by learners with special needs, especially those with intellectual disabilities. However, one USAID-funded program, reading for all in Malawi, promoted the use of individualized education plans. However, this is not adopted by the curriculum and is not scaled up to the whole country.**

* + - 1. The human right to education entails States' obligations to respect, protect and fulfill the right to education in international human rights law. To what extent are these obligations clearly identified in your country's legislation and in practice?

**Malawi’s Constitution grants all citizens freedom, rights, and equality, including rights to education (S 13 (g), S 20, S 30). Education Act of 2013 emphasizes promoting education for all people in Malawi; irrespective of race, ethnicity, gender, religion, disability, or any other discriminatory characteristics. While the Disability Act of 2012 is against any form of discrimination in the education system at all levels. Internationally, Malawi signed the UN Convention on the Rights of Persons with Disabilities in 2007 and ratified it on 27th August 2009. This affirmed Malawi's commitment to improving inclusive education and education for all. Generally, in Malawi, inclusive education is viewed as an educational practice in which the needs of individuals with special needs are determined, accompanied by the guidance of individualized education programs and the provision of the necessary supportive education services, and with their peers in general education classes. However, the challenge is insufficient knowledge of the law and national policies among education players, especially at the school level. Local knowledge should be made more prominent within inclusive education policies as local knowledge is a community resource that supports policy implementation. Another challenge is negative attitudes towards persons with disability by members of the community and local school authorities. Worse still, children with disabilities and those needing special education are not well counted in the education system. The education census of 2020 indicated that the findings reveal that 184,481 students were reported as special needs in the year 2019/20. Out of a total primary education enrolment of 5,419,637, this represents 3.4 percent of the total enrolment. It is important to note that this number is generally considered to be a low count, as identification and assessment of learners is not high in Malawi, thus learners are often not identified and counted accordingly in EMIS data. Thus, failure to properly identify learners with disabilities and those with special needs put inclusive education practice into difficult.**

**The continued existence of boarding facilities for children with disabilities in regular schools has also compromised rights-based approaches to accessing education. As the right to education is catered for, other rights are compromised as the children are in such facilities. However, some parents prefer such an arrangement as they feel that a responsibility/burden has been taken off their shoulders. In addition, such an arrangement is preferred considering the fact that regular schools where such learners can enjoy inclusive education while commuting from home are very few in the country.**

* + - 1. Has the right to free education been progressively implemented at all levels of education in your country, based in particular on article 26 of the Universal Declaration of Human Rights, articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, and article 28 of the Convention on the Rights of the Child? If yes, please provide examples. If not, please explain why not.

**Free education has been launched and implemented at the primary level since 1994. The introduction of Free Primary Education in Malawi has seen a large increase in the number of children going to primary school. In effect, more Malawians are being educated, and hence the whole nation is moving towards a more literate and well-informed society with sound judgment and reasoning, where individuals can communicate with each other on the same level. This scheme has been applied to learners with disabilities. However, the practice has a number of setbacks which also affect learners with disabilities. Firstly, inadequate iinfrastructures. Many children have to learn under trees because more children are attending primary schools, and there are not enough classrooms to house the children, and some end up in makeshift classes. These infrastructures are generally inaccessible to learners with disabilities. A large number of children lead to a need for more desks, books, teaching materials, etc. Children are also exposed to hardships beyond their age due to the lack of classrooms e.g., cold, rain, and wind, since most of them are learning outside. Poor hygiene, children have to live in an environment that has very poor sanitation, most of the toilets and water taps have been vandalized, and those that have not been vandalized do not work properly. Inadequate teachers, the Government made provisions that for every 60 children, there is a teacher allocated but in most cases, you will find three teachers sharing 200 students in one class and dividing the subjects between them. This does not help the concentration of the children and neither that of the teacher. There is no way a teacher can pay attention to 200 pupils that, include learners with disabilities and special needs, in mainstream schools. There is no free education beyond primary. However, at the secondary or tertiary level, some donors support learners with disabilities.**

* + - 1. Is the right to education considered a justifiable right in your country and if so which aspects of that right? If so, please provide a short summary of emblematic cases.

**In Malawi, it is against the law to deny anyone the right to education. Malawi Constitution, Education Act, and Disability Act promote education for all. Furthermore, it is illegal and prosecutable by law to deny anyone the right to education based on disability, gender or economic status. In 2013 to 2016, FEDOMA initiated an inclusive education project. The project initiated a contractual obligation that communities have to sign a contract and make by-laws to enhance inclusive education practices in mainstream schools. As an indicator of the change of mindset, the parents and at Kawale, Lilongwe, mobilized goods to support learners with disabilities, including the provision of wheelchairs.**

* + - 1. To what extent are the non-discrimination and equality principles respected in implementing the right to education in your country? Have past recommendations made by the Special Rapporteur on the right to education of vulnerable and marginalized populations been taken into account? If so, can you list which ones

**There are resource centers in schools that accommodate learners with disabilities. So far, there are over 200 resource centers; additional special needs teachers are being trained to man these centers while others are teaching at special schools for the deaf or the blind. However, most teachers in regular schools have not been trained on inclusive education a pre- and in-service levels. Currently the pre services training only provides for less than 2 weeks module which does not sufficiently equip the teachers to support learners with disabilities in their class. Most in-service training programs on inclusive education are project based. With such inadequate capacities there has been an increased number of children with disabilities who have been denied enrollment into schools at the disguise of the point that they have no specialist teacher. Even in schools where are specialist teachers’ other regular teachers would refer learners with disabilities to specialist even if they issue at hand does not require specialist.**

* + - 1. In countries where the Special Rapporteur has undertaken visits[[1]](#footnote-2), have recommendations been implemented? If so, please list recommendations acted upon.
			2. In countries to which the Special Rapporteur has sent communications (allegation letters, urgent appeals and other letters)[[2]](#footnote-3), have measures been adopted to address the issues raised and ensure their non-recurrence? Please provide specifics.
1. **Main challenges and crucial issues for the future**
2. In your view, what are the main challenges in your country in implementing the right to education?
* **There are many challenges in implementing the right to education. Teachers assigned to train learners with special needs are not adequately trained. The ability of teachers to provide quality education to learners with disabilities depends on their training and qualifications. With the short duration of inclusive educations modules (less than 2 weeks) at primary teacher colleges and one semester course for secondary school teachers, most teachers seem to be less prepared to support learners with disabilities. However, teachers often need more support due to overcrowded classes and limited access to resources and support.**
* **As part of this system, approximately 200 primary schools have SNE resource centers and specialist teachers to support learners with disabilities across the country. However, these resource centers need to have adequate staff. Furthermore, they have no or poor teaching and learning materials that do not meet the learning needs of these learners with special needs.**
* **More budgetary support for inclusive education is needed. This hampers the progress of the achievements of the inclusive education program in Malawi.**
* **Inadequate specialist teachers and need for inclusive education capacity among all teachers. Hence the need for the establishment of the National Inclusive Education institute to replace or scale up the work of Montfort Special Needs education college. The latter currently takes students every three years, which is very low (not more than 150 students in three years). In addition, this institution is running at the mercy of the catholic church such that if the church can decide to take over the premises, the Government will have nowhere to train specialist teachers. The inclusive education institute started appearing in national budget documents in 2005 and disappeared around 2009; as an immediate measure government should set aside one of the newly constructed teacher training colleges to become an IE institute. This will enable the Government to do the following:**
1. **Have annual intake for specialist’s teacher training programs**
2. **Regular intake for standard and short-term inclusive education**
3. **The regular supply of teaching and teaching learning materials in accessible formats**

**In addition, all teacher training colleges should be offering a course in inclusive education for not less than 6 months while for secondary school’s teacher training program students should undergo inclusive education courses for at least a year. And inclusive education should be one of the key assessment aspects of their teaching practice.**

What are the crucial issues to address, nationally as well as internationally, to ensure the realization of the right to education?

* **Resource canters should be well-stocked with relevant learning and teaching materials. These resource centers should be operated by well-trained specialist teachers in the field that is helpful to children with special needs available at the school.**
* **Government should review the budget and make sure that inclusive education is getting enough support.**
* **The school environment should be accessible to all learners, including learners with disabilities.**
* **There should be a robust system of disability screening so that these learners start getting appropriate educational intervention in time.**
* **Teachers and community members should have a good understanding of the law and policy regarding inclusive education. This is required for public and targeted awareness raising campaign to combat negative stereotypes create an enabling environment for inclusive education across communities. A good understanding of inclusive education could enable practitioners at all levels to put it into the right practice.**
* **At the international level, considering the critical role inclusive education plays in enabling the participation and inclusion of children with disabilities and the enjoyment of other rights. We urge the Special Rapporteur to dedicate a report on inclusive education to update 2007 report by Vernor Munoz which is long overdue given the many developments since then (quasi universal ratification of the CRPD, SDGs etc), and to consult with the CRPD committee, the Special rapporteur on disability rights and organization of persons with disabilities. In addition, we urge the Rapporteur to ensure that each country visit has a focus on the education of students with disabilities, through systematically meeting with children with disabilities, their families and their representatives’ organizations**

You are invited to provide information only on the questions relevant to your work.

1. Algeria, Bhutan, Bosnia and Herzegovina, Botswana, Chile, China, Colombia, Ecuador, Fiji, Germany, Guatemala, Indonesia, Ivory Coast, Kazakhstan, Malaysia, Mexico, Mongolia, Morocco, Paraguay, Senegal, Seychelles, Tunisia, Türkiye, Uganda, United Kingdom and Northern Ireland, United States, Qatar.

[OHCHR | Country visits](https://www.ohchr.org/en/special-procedures/sr-education/country-visits) [↑](#footnote-ref-2)
2. [Communication search (ohchr.org)](https://spcommreports.ohchr.org/Tmsearch/TMDocuments) [↑](#footnote-ref-3)