



**Disabled Women in Africa and Women Enabled International:
Joint Submission to the Human Rights Committee for its Development of
Malawi's List of Issues Prior to Reporting
*February 1, 2021***

Disabled Women in Africa (DIWA) is an independent organization of women and girls with disabilities that was established in Tanzania in 2002. DIWA expanded to Malawi in 2012 and is currently headquartered in Malawi. DIWA has 12 member organizations across Africa that work on issues related to women with disabilities, at both the national and regional level. DIWA's goal is to empower African women and girls with disabilities through research, information sharing and networking, partnership and capacity development for unity in diversity. DIWA seeks to create a world in which African women and girls with disabilities enjoy their rights, influence their destiny and are free from any gender- and disability-based discrimination.

Women Enabled International (WEI) is an organization based in the U.S. WEI works to advance human rights at the intersection of gender and disability to respond to the lived experiences of women and girls with disabilities; promote inclusion and participation; and achieve transformative equality. WEI identifies and addresses the violations, abuses, and inequalities women and girls with disabilities experience, amplifies their voices, and jointly advocates for change.

I. Introduction

Women and girls with disabilities in Malawi are discriminated against based on both their gender and disability in many aspects of their lives. Despite Malawi's international commitments to ensure the rights of women with disabilities, these women experience human rights violations that are distinct from, and more frequent than, those experienced by others. These human rights violations manifest in all areas of their lives but are particularly present in the context of discrimination, gender-based violence, and sexual reproductive health and rights. Women with disabilities also face barriers to accessing justice in Malawi, compounding these rights violations.

Through its General Comments, Concluding Observations, and Individual Complaints, the Human Rights Committee has demonstrated that States should take special measures to ensure that the rights of all women, including women with disabilities, are respected, protected, and fulfilled. Failure to exercise due diligence to prevent and redress discrimination against women with disabilities can amount to a violation of the International Covenant on Civil and Political Rights (ICCPR), in particular articles 2 (right to non-discrimination and effective remedies), 3 (equality of men and women), 6 (right to life), 7 (right to be free from torture or ill-treatment), 9 (right to liberty and security of the person), 10 (rights of detained persons), 14 (right to equality

before the courts), 17 (right to privacy), 19 (right to freedom of expression), 23 (rights in the family), 24 (protection of children), and 26 (equal protection of the laws).

This submission focuses on rights violations that disproportionately or uniquely affect women with disabilities throughout Malawi. The submission includes legal and policy background information applicable to the rights of women with disabilities and details about the rights violations they experience in Malawi, including discrimination and harmful stereotypes, violations of sexual and reproductive rights, and gender-based violence, including lack of access to justice and effective remedies to address these violations. This submission concludes with suggestions to the Human Rights Committee for issues it should include in Malawi's list of issues.

II. Background

A. Informational background

According to the World Health Organization (WHO) and the World Bank, approximately 15% of people worldwide are persons with disabilities, and women with disabilities account for 19.2% of the total population of women around the world.¹ The 2018 National statistical office (NSO) Census estimated the population of women with disabilities to be around 937,536 representing 6.2 percent of the total population aged 5 years and above.²

B. Legal background

1. International and Regional Human Rights Obligations.

Malawi is party to several international and regional human rights treaties that protect the rights of women with disabilities, including the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. However, Malawi has yet to ratify the Optional Protocols to CEDAW and the CRPD, nor has it ratified the Optional Protocol to the African Charter on the Rights of Persons with Disabilities in Africa.

2. Domestic Laws and Policies

Malawi's Constitution explicitly prohibits discrimination on grounds of disability.³⁴ Section 13(g) of the Malawi constitution empowers the Malawi government to take necessary actions or measures to ensure full inclusion and participation of persons with disabilities in society. With

¹ WORLD HEALTH ORGANIZATION AND WORLD BANK, WORLD REPORT ON DISABILITY 28-29 (2011).

² GOVERNMENT OF MALAWI, NATIONAL STATISTICAL SERVICE, POPULATION AND HOUSING CENSUS MAIN REPORT 28 (2018),

http://www.nsomalawi.mw/images/stories/data_on_line/demography/census_2018/2018%20Malawi%20Population%20and%20Housing%20Census%20Main%20Report.pdf.

³ Republic of Malawi (Constitution) Act, art. 20/1, 1966, <https://www.refworld.org/docid/3ae6b4ee24.html>.

this provision, the government may adopt policies or make directives for government departments and parastatals, non-governmental organizations, private companies and/or institutions to make their premises accessible, promote active participation, and to exercise non-discrimination of persons with disabilities in all aspects including employment opportunities.⁵

Section 20(1) and 20(2) also prohibits disability-based discrimination, and implicitly recognizes the equal status of persons with disabilities to that of everyone else.⁶ Thus, the law guarantees persons with disabilities an entitlement to enjoy all human rights and fundamental freedoms on an equal basis like everyone else. The Constitution further mandates the government of Malawi to enact legislation and undertake deliberate measures to address any forms of inequality and/or exclusion persons with disabilities face in the country.⁷

In addition, Malawi's Disability Act, 2012, provides "for the equalization of opportunities for persons with disabilities through the promotion and protection of their rights" and, to help achieve those ends, provides "for the establishment of a Disability Trust Fund."⁸ The purpose of the Disability Trust Fund is "to support the implementation of disability programmes and services."⁹ Although the Disability Act is a critical step forward, it fails to address the specific needs and concerns of women and girls with disabilities, including around gender-based violence and access to justice, and has yet to be fully operationalized. In particular, at the time of writing, the government had yet to establish the Disability Trust Fund, which is critical to the Act's effective implementation.

Moreover, Malawi launched the National Policy on the Equalization of Persons with Disabilities in 2006. The National Policy on Equalisation of Opportunities for Persons with Disabilities particularly stipulates self-representation and participation as one of the priority areas to be mainstreamed. The objective of the policy on this priority area is to promote effective self-representation, participation and inclusion of persons with disabilities at all levels in decision-making, planning and development activities.

III. Rights Violations against Women with Disabilities in Malawi

A. Intersectional Discrimination and Stereotypes about Women with Disabilities in Malawi (ICCPR arts. 2, 3, and 26)

Women with disabilities worldwide are subjected to stereotypes and discrimination, based on both their gender and disability, which impact their exercise of rights. The Committee on the Rights of Persons with Disabilities (CRPD Committee) recognized in its General Comment No. 3 on women with disabilities that harmful stereotypes about women with disabilities—such as that they are dependent, burdensome, or asexual—perpetuate human rights abuses committed against them.¹⁰ These stereotypes then are used to "infantilize women with disabilities, call into

⁵ *Id.*, art.13/G.

⁶ *Id.*, arts. 20/1 & 20/2.

⁷ *Id.*

⁸ Disability Act of 2012, arts. 28-29 (Malawi).

⁹ *Id.*, art. 29.

¹⁰ These stereotypes include: "being burdensome to others (that they must be cared for, are a cause of hardship, an affliction, a responsibility, require protection), vulnerable (defenceless, unsafe, dependent, reliant) and/or victims

question their ability to make judgments, and [reinforce] perceptions of women with disabilities as being asexual, or hypersexual....”¹¹

Women with disabilities in Malawi experience a wide variety of discrimination and stereotypes about their capabilities and role in society. For instance:

- Women with disabilities face higher rates of unemployment and increased barriers to receiving income support, and they are also more likely to live in poverty than men with disabilities.¹²
- The long-standing myth, in some parts of Malawi, that having sexual intercourse with a woman or girl with a disability cures or cleanses one of HIV is another factor that fuels sexual violence against this vulnerable group of persons with disabilities.
- Girls with disabilities are also discriminated against in schools. Girls with disabilities report stigma, bullying and sexual violence by teachers and fellow students, making them reluctant to attend school.¹³

Under Article 26 of the ICCPR, States have an obligation to “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground...”¹⁴ As part of their obligations under Article 3 of the ICCPR, States must also ensure the equal enjoyment of civil and political rights by men and women.¹⁵ In its General Comment No. 28, the Human Rights Committee highlighted that “[d]iscrimination against women is often intertwined with discrimination on other grounds...”¹⁶ To this end, the Human Rights Committee has called on at least one State to take all measures necessary to avoid “cases of multiple and intersectional discrimination”¹⁷ The Human Rights Committee has also emphasized the need to combat harmful stereotyping, including the gender based stereotyping of women in marginalized groups.¹⁸ To address discrimination against women and persons with disabilities, the Human Rights

(suffering, passive, helpless), inferior (inability, inadequacy, weak, worthless); hav[ing] a sexual abnormality (for example, women with disabilities are stereotyped as asexual, inactive, overactive, incapable, sexually perverse); [and] being mystical or sinister (stereotyped as cursed, possessed by spirits, practitioners of witchcraft, as being good or bad luck, harmful).” CRPD Committee, *General Comment No. 3: Article 6: Women and girls with disabilities*, ¶¶ 30, 38, 40, 46 & 47, U.N. Doc. CRPD/C/GC/3 (2016).

¹¹ *Id.*, ¶ 33.

¹² Alister C. Munthali, Centre for Social Research, University of Malawi, *A Situation Analysis of Persons with Disabilities in Malawi* 16-17 (2011), <https://www.medbox.org/mwi-disabilities/a-situation-analysis-of-persons-with-disabilities-in-malawi/preview/> [hereinafter, Alister C. Munthali, *A Situation Analysis of Persons with Disabilities in Malawi*].

¹³ Disabled Women in Africa (DIWA), *Exploitation, Violence and Abuse Among Women and Girls with Disabilities: Baseline Survey* 12 (2014), <https://www.womenenabled.org/pdfs/mapping/DIWA%20Exploitation%20Violence%20and%20Abuse%20among%20women%20and%20girls%20with%20Disabilities.pdf> [hereinafter, DIWA, *Baseline Survey*].

¹⁴ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), UN GAOR, 21st Sess., Supp. No. 16, art. 26, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).

¹⁵ *Id.*, art. 3.

¹⁶ Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)*, ¶ 30, U.N. Doc. CCPR/C/GC/28 (2000).

¹⁷ Human Rights Committee, *Concluding Observations: Italy*, ¶ 9(c), U.N. Doc. CCPR/C/ITA/CO/6 (2017).

¹⁸ Human Rights Committee, *Concluding Observations: Thailand*, ¶¶ 15, 43, U.N. Doc. CCPR/C/THA/CO/2 (2017); *Turkmenistan*, ¶ 10, U.N. Doc. CCPR/C/TKM/CO/2 (2017); *Serbia*, ¶ 18, U.N. Doc. CCPR/C/SRB/CO/3 (2017).

Committee has recommended that States raise awareness about available remedies and to change the perspective of the general public.¹⁹

Proposed Questions for Malawi for the List of Issues Process

- What steps is Malawi taking to enforce prohibitions on discrimination against marginalized groups, particularly those that encounter discrimination based on multiple marginalized identities?
- How will Malawi implement the National Disability Act to address the specific needs and concerns of women and girls with disabilities and raise awareness about intersectional discrimination against them?

B. Sexual and Reproductive Rights and the Right to Start Family (ICCPR, art. 2, art. 3 and General Comment No. 28, art. 6, art. 7 and General Comment No. 20, art. 9, art. 10, art. 14, art. 17, art. 19, art. 23 and General Comment No. 19, art. 24, and art. 26)

Women with disabilities worldwide face a wide range of unique human rights abuses related to their sexual and reproductive rights and their right to start a family, due to both their gender and disability. Stereotypes about women with disabilities—including that they cannot make decisions for themselves, are asexual, cannot become pregnant, or will not be good parents—may lead health care workers or family members to discount their needs or subject them to abuse.²⁰ Furthermore, women with disabilities worldwide are disproportionately subjected to practices such as forced or coerced sterilization, contraception, and abortion in health care settings, usually with the consent of a parent, guardian, health care provider, or other person but without the consent of the woman herself,²¹ in violation of myriad rights, including their right to be free from torture or ill-treatment.²²

In Malawi, women with disabilities experience discrimination in the context of pregnancy and childbirth and contraceptive access, among other areas. In particular, women with disabilities have reported mistreatment during antenatal clinics and delivery and postnatal services, stemming from negative stereotypes about women with disabilities' ability or right to parent.²³ In a 2014 baseline survey conducted by DIWA, 39% of girls and 24% of women with disabilities reported having experienced violence and abuse from health workers.²⁴

¹⁹ Human Rights Committee, *Concluding Observations: Argentina*, ¶ 15, U.N. Doc. CCPR/CO/70/ARG (2000); *Azerbaijan*, ¶ 5, U.N. Doc. CCPR/C/AZE/CO/3 (2009); *Chad*, ¶ 10, U.N. Doc. CCPR/C/TCD/CO/2 (2014); *Georgia*, ¶ 9, U.N. Doc. CCPR/C/GEO/CO/4 (2014); *Georgia*, ¶ 14, U.N. Doc. CCPR/CO/74/GEO (2002); *Monaco*, ¶ 9, U.N. Doc. CCPR/C/MCO/CO/2 (2008); *Mozambique*, ¶ 10, U.N. Doc. CCPR/C/MOZ/CO/1 (2013); *Sweden*, ¶ 8, U.N. Doc. CCPR/C/SWE/CO/6 (2009). *Tajikistan*, ¶ 6, U.N. Doc. CCPR/CO/84/TJK (2005); *Yemen*, ¶ 9, U.N. Doc. CCPR/C/YEM/CO/5 (2012).

²⁰ CRPD Committee, *General Comment No. 3: Article 6: Women and girls with disabilities*, ¶ 38, U.N. Doc. CRPD/C/GC/3 (2016).

²¹ UN Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences*, ¶¶ 28 & 36, U.N. Doc. A/67/227 (2012) [hereinafter SRVAW, *Report on women with disabilities*].

²² See, e.g., Human Rights Committee, *Concluding Observations: Czech Republic*, ¶ 10, U.N. Doc. CCPR/C/CZE/CO/2 (2007); *Peru*, ¶ 20, U.N. Doc. CCPR/CO/70/PER (2000); *Slovakia*, ¶ 12, U.N. Doc. CCPR/CO/78/SVK (2003).

²³ Alister C. Munthali, *A Situation Analysis of Persons with Disabilities in Malawi*, *supra* note 12, at 12.

²⁴ DIWA, *Baseline Survey*, *supra* note 13, at 10.

In 2017, Tereza, a woman with a disability, went to give birth to her first baby at Kawale Health Centre. Upon arrival, she was confronted with stigma and negative perceptions about her identity as a woman with disability. Instead of attending to her health care and delivery needs, the health worker verbally abused and insulted her, saying things like: “How can you get pregnant without considering your condition?” As a result of the nurse’s negligence, the baby died immediately after birth. The woman’s husband ended the marriage shortly thereafter, due to unfounded concerns that she would be unable to give birth to a healthy child because of her disability.²⁵

There are also attitudinal barriers in Malawi that prevent women and girls with disabilities from accessing SRH services. For instance, many people hold the stereotype that persons with disabilities generally, and women with disabilities in particular, do not engage in sexual activity.

In 2020, Lyness, a woman with disability in Malawi reported to DIWA and WEI that “Attitudinal challenge is one of the challenges. Health professionals think that persons with disability can’t have sexual relationship. In the hospital, they ask so many questions that lead to demotivation and avoiding going to the hospital. Moreover, Women with disabilities are not given the chance to choose which family planning we want to use. The providers end up choosing for us”²⁶

The choices of women with disabilities are also ignored in the reproductive health context and substituted for the decisions of guardians or health care providers.

A woman with epilepsy who requested contraception at a health care center in T/A Njewa was denied access to contraception. She had experienced sexual violence due to her disability on multiple occasions and already had two children that were conceived following rape. She requested contraception in order to prevent future unwanted pregnancies. It appears that the woman’s guardian and the health care provider conspired to deny her access to contraception.²⁷

In general, healthcare personnel in Malawi have inadequate disability-related clinical skills and training. There is no comprehensive, nation-wide implementation of training for providers on sexual and reproductive health care provision for persons with disabilities (VIHEMA in Kasungu, MANAD at Queens’ Hospital and DIWODE, which conducted some pilot trainings for health practitioners, are the few exceptions). Health information, including information on HIV/AIDS, is also not available in accessible formats.²⁸

The Disability Act requires the government to “provide appropriate health care services to persons with disabilities.”²⁹ This includes the provision of “the same range, quality and standard of free or affordable health care services as provided to other persons, including sexual and

²⁵ *Id.*

²⁶ A virtual consultation conduct by DIWA and WEI to document the impact of COVID-19 on women and girls with disabilities, October 2020.

²⁷ DIWA, *Exploitation, Baseline Survey*, *supra* note 13, at 1.

²⁸ Alister C. Munthali, *A Situation Analysis of Persons with Disabilities in Malawi*, *supra* note 12, at 12-14.

²⁹ Disability Act of 2012 (Malawi), art. 6(1).

reproductive health services.”³⁰ Not only has the government failed to do so, but the government’s current sexual and reproductive health policy is not inclusive of women with disabilities or persons with disabilities, more generally. The policy has not been reviewed and revised until now. In the meantime, there are no specific measures in place to enable women with disabilities—or persons with disabilities more generally—to access sexual and reproductive health information and services.

Data collection on health concerns affecting women with disabilities is also poor, limiting the government’s ability to design targeted and effective policy interventions. For example, there are no national studies on sexual and gender-based violence and women with disabilities. There is therefore no data to inform government interventions and ensure that they address the specific needs of women with disabilities.

More generally, although the government’s health and disability policies and strategy documents, as well as the Constitution of Malawi, make mention of non-discrimination against vulnerable groups and persons with disabilities, such groups are routinely neglected during the implementation phase. For example, persons with albinism are unable to access quality health care services, including cancer services, and their situations only worsen while they are in the hospital. Further, the last allocation of government-issued sunscreen lotion given to the Association of Persons with Albinism to distribute had expired, showing disregard for the health and well-being of persons with albinism.

The COVID-19 pandemic has also affected women and girls with disabilities’ access to SRH services in Malawi. Virtual consultations and in-person interviews with women with disabilities in Malawi conducted by DIWA and WEI in 2020 revealed that, during the COVID-19 crisis, healthcare has changed in several respects. Many health services have either been cancelled, thereby delaying needed care, or moved to virtual means like telehealth, which are not always accessible or adequate to meet the sometimes-complex needs of people living at the intersection of gender and disability. In other circumstances, some health services have been classified as “essential” while others, including some needed particularly by women and/or persons with disabilities, have been classified as “non-essential,” meaning that these services are not available to people who need them.

Malawi has also taken measures that impact access to SRH and that can have a disproportionate impact on women, girls, non-binary, trans, and gender non-conforming persons with disabilities. For example, restrictions on public and private transportation as a result of COVID-19, or discomfort with using these services, have posed significant barriers to many women and girls with disabilities accessing needed health services. Resources and attention have also been diverted be from sexual and reproductive health services. As women with disabilities in Malawi shared with us:

- “Transport has doubled [in price] of which I cannot afford, and I cannot walk to the hospital.”³¹

³⁰ *Id.*, art. 6(2)(c).

³¹ Luness, a woman with a physical disability, shared during a virtual consultation conduct by DIWA and WEI to document the impact of COVID-19 on women and girls with disabilities, October 2020.

- “In some areas in the rural communities most of the women with disabilities access their SRHR through Healthy workers who go for outreach for family planning in the communities but during this covid-19 period such outreach are no longer happening hence women with disabilities are not able to access the services.”³²

The mandatory requirement to limit interaction with others has also been difficult for women and girls with disabilities who need extra assistance or require a caregiver in accessing sexual and reproductive health services. For example, for deaf women, the physical distancing requirement has posed communication challenge in accessing to SRH services.

- “For the deaf blind, there is a challenge in terms of communication. The health practitioners don’t have communication skills to communicate with a deaf- blind person. For example, a deaf blind girl wasn’t able to communicate with the health care provider and that resulted in the health care provider prescribing a wrong medication.”³³
- “If you don’t have a sign language interpreter, the doctors often say that they can’t help you because you don’t have sign language interpreter.”³⁴

In its General Comment No. 19, the Human Rights Committee explained that “[w]hen States parties adopt family planning policies, they should be compatible with the provisions of the Covenant and should, in particular, not be discriminatory or compulsory.”³⁵ The Human Rights Committee has explained on numerous occasions that States have an obligation to ensure that reproductive health services are accessible for all women and adolescents³⁶ and that States must ensure access to information on sexual and reproductive health services.³⁷ The Human Rights Committee has further called on States to ensure better training for health care personnel, including on sexual and reproductive rights,³⁸ and to ensure that the right to privacy is maintained in medical settings by maintaining confidentiality and allowing women to make

³² Rejoice, a woman with a disability, shared during virtual consultation conduct by DIWA and WEI to document the impact of COVID-19 on women and girls with disabilities, October 2020.

¹⁴ Sekerani, a deaf person, shared during a virtual consultation conduct by DIWA and WEI to document the impact of COVID-19 on women and girls with disabilities, October 2020.

³⁵ Human Rights Committee, *General Comment No. 19: Protection of the Family, the Right to Marriage and Equality of the Spouses (Article 23)*, ¶ 5, U.N. Doc. HRI/GEN/1/Rev.1 at 28 (1994).

³⁶ Human Rights Committee, *Concluding Observations: Angola*, ¶ 13, U.N. Doc. CCPR/C/AGO/CO/1 (2013); *Cameroon*, ¶ 13, U.N. Doc. CCPR/C/CMR/CO/4 (2010); *Chile*, ¶ 15, U.N. Doc. CCPR/C/CHL/CO/6 (2014); *Cote d’Ivoire*, ¶15, U.N. Doc. CCPR/C/CIV/CO/1 (2015); *Democratic Rep. of the Congo*, ¶ 14, U.N. Doc. CCPR/C/COD/CO/3 (2006); *Dominican Republic*, ¶ 15, U.N. Doc. CCPR/C/DOM/CO/5 (2012); *Guatemala*, ¶ 20, U.N. Doc. CCPR/C/GTM/CO/3 (2012); *Jamaica*, ¶ 14, U.N. Doc. CCPR/C/JAM/CO/3 (2011); *Kazakhstan*, ¶ 11, U.N. Doc. CCPR/C/KAZ/CO/1 (2011); *Malawi*, ¶ 9, U.N. Doc. CCPR/C/MWI/CO/1/Add.1 (2014); *Mali*, ¶ 14, U.N. Doc. CCPR/CO/77/MLI (2003); *Malta*, ¶ 13, U.N. Doc. CCPR/C/MLT/CO/2 (2014); *Paraguay*, ¶ 13, U.N. Doc. CCPR/C/PRY/CO/3; *Peru*, ¶ 14, U.N. Doc. CCPR/C/PER/CO/5 (2013); *Philippines*, ¶ 13, U.N. Doc. CCPR/C/PHL/CO/4 (2012); *Sierra Leone*, ¶ 14, U.N. Doc. CCPR/C/SLE/CO/1 (2014); *Sri Lanka*, ¶ 10, U.N. Doc. CCPR/C/LKA/CO/5 (2014).

³⁷ Human Rights Committee, *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, ¶ 17, U.N. Doc. CCPR/C/GBR/CO/7 (2015).

³⁸ Human Rights Committee, *Concluding Observations: Democratic Rep. of the Congo*, ¶ 14, U.N. Doc. CCPR/C/COD/CO/3 (2006); *Mali*, ¶ 14, U.N. Doc. CCPR/CO/77/MLI (2003).

important medical decisions for themselves.³⁹ The Human Rights Committee has also expressed concern about women being subjected to sterilization without their consent⁴⁰ and has classified this forced sterilization as a violation of ICCPR Article 7 and, in some instances, of Article 26.⁴¹

Proposed Questions for Malawi for the List of Issues Process

- What steps is Malawi taking to ensure healthcare personnel have adequate disability-related clinical skills and training, including training on rights and informed consent?
- What targeted measures is Malawi undertaking to ensure access to SRH for marginalized groups, particularly women and girls with disabilities, during the COVID-19 pandemic?

C. Violence against Women with Disabilities in Malawi (ICCPR, art. 3 and General Comment No. 28, art. 7, art. 23, art. 24, and art. 26 and General Comment No. 20)

Gender-based violence (GBV) against women with disabilities worldwide takes many unique forms. According to the former U.N. Special Rapporteur on Violence against Women, Rashida Manjoo, violence against women with disabilities can be of a “physical, psychological, sexual or financial nature and include neglect, social isolation, entrapment, degradation, detention, denial of health care, forced sterilization and psychiatric treatment.”⁴² Violence against women with disabilities also has unique causes, including violence that is perpetuated by stereotypes “that attempt to dehumanize or infantilize, exclude or isolate them, and target them for sexual and other forms of violence.”⁴³

In Malawi, violence against women is widely acknowledged as a serious concern, not only from a human rights perspective but also from economic and health perspectives. To address this issue, Malawi has enacted a series of laws, including the 2006 Prevention of Domestic Violence Act, the 2011 Deceased Estates (Wills, Inheritance, and Protection) Act, and the 2013 Gender Equality Act. However, Malawi’s legal and policy framework has failed to fully take women with disabilities into account in efforts to address gender inequalities and gender-based violence. For example, although the 2015 Malawi National Gender Policy refers to persons with disabilities, it does so irrespective of their gender, and neglects to adopt an intersectional approach. Similarly, the 2014 – 2020 National Plan of Action to Combat Gender-Based Violence in Malawi refers to the “physically challenged” as part of vulnerable groups, leaving behind

39 *Amanda Mellet v. Ireland*, Human Rights Committee, Commc’n No. 2324/2013, ¶ 7.8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016); *L.M.R. v. Argentina*, Human Rights Committee, Commc’n No. 1608/2007, ¶ 9.3, U.N. Doc. CCPR/C/101/D/1608/2007 (2011); *K.L. v. Peru*, Human Rights Committee, Commc’n No. 1153/2003, ¶ 7, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

40 Human Rights Committee, *Concluding Observations: Czech Republic*, ¶ 10, U.N. Doc. CCPR/C/CZE/CO/2 (2007); *Peru*, ¶ 20, U.N. Doc. CCPR/CO/70/PER (2000); *Slovakia*, ¶ 12, U.N. Doc. CCPR/CO/78/SVK (2003).

41 *See, e.g.*, Human Rights Committee, *Concluding Observations: Czech Republic*, ¶ 10, U.N. Doc. CCPR/C/CZE/CO/2 (2007); *Peru*, ¶ 20, U.N. Doc. CCPR/CO/70/PER (2000); *Slovakia*, ¶ 12, U.N. Doc. CCPR/CO/78/SVK (2003). *See also* Committee Against Torture, *Concluding Observations: Peru*, ¶ 23, U.N. Doc. CAT/C/PER/CO/4 (2006).

⁴² SRVAW, *Report on women with disabilities*, supra note 21, ¶ 31.

⁴³ *Id.*, ¶ 32.

persons with other types of disabilities, and fails to recognize the intersectional needs of women with disabilities.

Although there is limited data on the prevalence of violence against women with disabilities in Malawi, studies and DIWA's activities and experience indicate that this violence is widespread. For example, a small, one-year project carried out by DIWA in Lilongwe in 2015 revealed over 100 cases of sexual violence against women with disabilities. A 2018 national study documented that a significant number of women with disabilities reported being "beaten or scolded" due to their disability by family or relatives (44.1%) and others (16%).⁴⁴

Further, a 2014 baseline study by DIWA in Malawi found that, among participants, over 64% of women and 56% of girls had experienced exploitation, violence or abuse.⁴⁵ The most frequent perpetrators were relatives, community members, health workers and people in authority, such as social service providers.⁴⁶ Some of the most common forms of abuse were physical abuse, disability-specific abuse (such as being pushed on a wheelchair), and sexual violence.⁴⁷ However, the vast majority of women and girls with disabilities did not report the abuse or violence, often due to stigma or because they lacked access to information about where or how to do so.⁴⁸

Women with disabilities are also particularly vulnerable to financial abuse and property grabbing by family members upon the death of their spouse.

Annie Mandundu, a 62-year-old woman with a physical disability from Lilongwe, was left speechless when, following her husband's death, his relatives came and grabbed all the property she and her husband had accumulated over the years of their marriage. The relatives fought with the kids, while Annie looked on helplessly. She did not know her rights or what to do in response to this behavior.

The COVID-19 pandemic has also exacerbated GBV against women and girls with disabilities in Malawi. As DIWA and WEI's virtual consultations and in-person interviews with women with disabilities in Malawi in 2020 have revealed, with personal movement limited and people confined to their homes, there has been an increase in intimate partner violence. Stay-at-home orders that aimed at protecting the public and prevent widespread infection, left many women with disabilities victims of GBV trapped with their abusers. As woman with disability in Malawi reported in 2020:

There cases which have been reported. girls with disabilities have been raped and about 500 schoolgirls have been impregnated. Most girls are raped by their own family members. They take advantage of the hearing impairments because they think they are not able to explain what happened to them. The pandemic makes the situation worst because of the stay-at-home order, and courts won't proceed with the case saying that

⁴⁴ Arne H Eide & Alister Munthali, *Living conditions among persons with disabilities in Malawi: A National, representative survey 2017* 85 (2018).

⁴⁵ DIWA, *Baseline Survey*, *supra* note 13, at 10.

⁴⁶ *Id.*

⁴⁷ *Id.* at 11.

⁴⁸ *Id.* at 10.

this is a family matter. Most of the time women and girls with disabilities suffer in silence. They won't tell relatives what has happened because it is often an uncle, brother, or father that has been the abuser.

In its jurisprudence, the Human Rights Committee has noted that women are particularly vulnerable to GBV in times of conflict and called on States to report on all measures taken “to protect women from rape, abduction and other forms of gender-based violence” in times of armed conflict.⁴⁹ The Human Rights Committee has further called on States to increase protection for civilians in areas of conflict.⁵⁰ Further, as the CEDAW Committee recognized in its General Comment No. 30 on women in armed conflict, women with disabilities worldwide are at increased risk of violence, particularly sexual violence, during and after conflict situations.⁵¹ These standards can be extrapolated to also apply to other times of crisis, including the ongoing global health emergency caused by COVID-19.

Proposed Questions for Malawi for the List of Issues Process

- How will Malawi revise its legal and policy framework to take marginalized groups including women with disabilities into account in efforts to address gender inequalities and gender-based violence?
- What measures is Malawi taking to tackle the rise in gender-based violence due to the COVID-19 pandemic, including for women and girls with disabilities?

D. Access to Justice (ICCPR, art. 14 and General Comment No. 32, General Comment No. 31, art. 2, art. 3 and General Comment No. 28, and art. 26)

In order to ensure access to justice for women with disabilities, States must take steps to dismantle the specific barriers that women with disabilities face, such as physical access to public buildings, including court houses and police stations, and communication barriers, such as a lack of access to sign language interpreters. When courthouses, police departments, legal aid offices, and transportation services are not physically accessible or not located in local communities, this can prevent women with disabilities from accessing justice.⁵² Communication barriers, in particular, serve as a huge obstacle for deaf women and women with intellectual disabilities. Women with disabilities often lack knowledge about their rights to and within the justice system, because information about their rights is inaccessible, not produced in user-friendly formats, and not available in plain language.⁵³ This gap in knowledge means that persons

⁴⁹ Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)*, ¶ 8, U.N. Doc. CCPR/C/GC/28 (2000).

⁵⁰ Human Rights Committee, *Concluding Observations: Democratic Rep. of the Congo*, ¶ 13, U.N. Doc. CCPR/C/COD/CO/3 (2006).

⁵¹ CEDAW Committee, *General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations*, ¶ 36, U.N. Doc. CEDAW/C/GC/30 (2013).

⁵² United Nations Division for Social Policy Development (UN DSPD) & United Nations Department of Economic and Social Affairs (UN DESA), *Toolkit on Disability for Africa: Access to Justice for Persons with Disabilities* 16, <http://www.un.org/esa/socdev/documents/disability/Toolkit/Access-to-justice.pdf>; CEDAW Committee, *General Recommendation No. 33 on women's access to justice*, ¶¶ 13 & 17(g), U.N. Doc. CEDAW/C/GC/33 (2015).

⁵³ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities, and the Legal System*, 17:2 ILSA J. OF INT. & COMP. LAW 281, 300 (2011).

with disabilities may not know how to access justice, the procedures that they must follow, or even when their rights have been violated.

The government of Malawi has undertaken some efforts to increase access to justice for persons with albinism over the past few years. In particular, the judiciary has taken steps to deliver justice to persons with albinism, including the Chief Justice’s directive requiring that cases concerning attacks, kidnappings, killings and exhumation of the remains of persons with albinism from their graves must be presided over by judges with higher jurisdiction. In mid-2016, the government of Malawi also responded to the rampant attacks on persons with albinism by revising provisions in the Penal Code and Anatomy Act to strengthen criminal law protections for persons with albinism. Most recently, the state accepted demands by rights activists to set up a Commission of Inquiry on Cases of Persons with Albinism. The judiciary has also worked to make changes in accessibility for persons with disabilities, as evidenced by the new Lilongwe court.

Nonetheless, current policies and practices in Malawi fail to address the specific barriers persons with disabilities—particularly women with disabilities—face in accessing justice. Principally, the government has failed to implement key provisions of the Disability Act. Although the Disability Act requires the government “to ensure that persons with disabilities have access to the physical environment, transportation, information and communications, including information and communication technologies and systems, and other facilities or services available or provided to the public,”⁵⁴ including by “raising awareness and providing appropriate training on accessibility issues facing persons with disabilities,”⁵⁵ this right to accessibility has not been upheld in the context of the justice system.

Specifically, the courts in Malawi do not have the appropriate infrastructure to cater for persons with disabilities, and transportation barriers present a major hurdle to access to justice. According to the 2008 Census, 85.1% of persons with disabilities in Malawi live in rural areas;⁵⁶ as such, persons with disabilities must often travel a significant distance to regularly attend court hearings or follow up on their cases. As investigations are often poorly managed and cases are often prolonged, this creates significant transportation burdens and barriers to justice for persons with disabilities in Malawi.

Barriers to information accessibility in the context of access to justice are also of serious concern for persons with disabilities in Malawi. For example, legislation and court documents in Malawi are not available in accessible formats. Persons with hearing impairments and the deaf blind, in particular, have problems accessing justice either as offenders, complainants or witnesses, since court staff and judicial officers are not trained to interpret or use sign language and there is an acute shortage of people with such expertise countrywide. As a result, many persons with disabilities are denied justice. For example, a deaf woman from Lumbadzi reported a rape case after a gender-based violence awareness campaign was conducted in her community. The case

⁵⁴ Disability Act of 2012 (Malawi), art. 8.

⁵⁵ *Id.*, art. 8(c).

⁵⁶ National Statistical Office of Malawi, *Population and Housing Census 2008: Disability and the Elderly (Analytical Report: Volume 11)* 5 (2010).

went to court; however, it did not proceed because the victim could not provide for a sign language interpreter.

In general, the government of Malawi has failed to conduct trainings on disability for the judiciary and judicial actors. This has occurred only where civil society or disabled persons' organizations (DPOs) have initiated some trainings for a few magistrates, prosecutors or court clerks. As a result, there is a lack of awareness about the protections in the CRPD and Malawi's Disability Act; hence, the lack of full application of these rights protections during court proceedings. Many actors in the justice system do not know what to do when they are faced with certain types of disability.

Some of these barriers to accessing justice stem from shortcomings in the Disability Act itself. There are no provisions in the Disability Act that explicitly address access to justice and ensure that justice actors are trained on the rights of persons with disabilities and provide for the effective participation of persons with all types of disabilities in the justice system, in whatever role they may find themselves.

Furthermore, the Disability Act does not address discrimination that women with disabilities may experience in the context of access to justice, including discrimination that women with disabilities who are victims of gender-based violence may experience in courtrooms, such as denial of legal capacity and perceptions and stereotypes that undermine their credibility. Instead, legislation in Malawi perpetuates stereotypes and stigma surrounding persons with disabilities. For example, Malawi's Penal Code, in a provision specific to women and girls with certain types of disabilities, criminalizes the "Defilement of idiots or imbeciles."⁵⁷ As a result, the term "imbecile" is widely used by police and other justice system officials; just recently, a police officer called a woman with an intellectual disability who was raped in Chikwawa district an "imbecile." This language, in addition to being offensive and discriminatory, impacts women's access to justice. In 2014, a woman with a disability from Chisapo who was called an "imbecile" at the police Victim Support Unit, did not receive the required assistance from police. The failure to articulate specific disability rights or use the term "disability" in legal frameworks often leads to complacency and discrimination.

In general, persons with disabilities are routinely denied access to justice in Malawi due to significant shortcomings in the criminal justice system as a whole. Many cases concerning persons with disabilities, including persons with albinism, fail to proceed due to a lack of resources, flawed investigations, a lack of evidence, a lack of training for justice actors on how to prosecute cases involving persons with disabilities, among other issues.⁵⁸ As a result, perpetrators go unpunished.

It is important to note that these barriers have been compounded during the ongoing COVID-19 pandemic, which has negatively impacted access to justice for all persons in Malawi. Courts have been closed, have reduced service hour, or have adjusted their operations in ways that do

⁵⁷ Malawi Penal Code, sec. 139.

⁵⁸ See, e.g., Amnesty International, *Malawi: Beyond elections, authorities should tackle impunity for attacks on people with albinism* (15 May 2019), <https://www.amnesty.org/en/latest/news/2019/05/malawi-beyond-elections-authorities-should-tackle-impunity-for-attacks-on-people-with-albinism/>.

not always facilitate speedy justice or accessibility. This has left many women including women with disabilities at risk of violence, due to the rise in impunity for perpetrators.

In General Comment No. 32, the Human Rights Committee noted that “[a]ccess to administration of justice must effectively be guaranteed [...] to ensure that no individual is deprived, in procedural terms, of his/her right to claim justice.”⁵⁹ The Human Rights Committee further emphasized that “[t]he availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way,” and accordingly encourages States to provide free legal aid (noting that in certain instances, free legal assistance may be required).⁶⁰ The Human Rights Committee has, in particular, stressed the importance of access to justice for victims of gender-based violence.⁶¹ Related to this obligation, the Committee has expressed serious concern over ineffective police investigations into complaints of gender-based violence;⁶² lack of coordination across law enforcement bodies in efforts to eradicate such violence;⁶³ the limited number of complaints of gender-based violence reported to or registered by authorities;⁶⁴ the low number of gender-based violence cases that are actually brought to justice and appropriately sanctioned;⁶⁵ and

⁵⁹ Human Rights Committee, *General Comment No. 32: Right to equality before courts and tribunals and to a fair trial*, ¶ 9, U.N. Doc. CCPR/C/GC/32 (2007).

⁶⁰ *Id.*, ¶ 10.

⁶¹ Human Rights Committee, *Concluding Observations: Ecuador*, ¶ 9, U.N. Doc. CCPR/C/ECU/CO/5 (2009); *El Salvador*, ¶ 9, U.N. Doc. CCPR/C/SLV/CO/6 (2010); *Japan*, ¶ 19, U.N. Doc. CCPR/C/JPN/CO/6 (2014); *Kenya*, ¶ 11, U.N. Doc. CCPR/CO/83/KEN (2005); *Malta*, ¶ 12; U.N. Doc. CCPR/C/MLT/CO/2 (2014); *Mexico*, ¶ 9; U.N. Doc. CCPR/C/MEX/CO/5 (2010); *Mongolia*, ¶ 18, U.N. Doc. CCPR/C/MNG/CO/5 (2011); *Nicaragua*, ¶ 12, U.N. Doc. CCPR/C/NIC/CO/3 (2008); *Portugal*, ¶ 12, U.N. Doc. CCPR/C/PRT/CO/4 (2012).

⁶² Human Rights Committee, *Concluding Observations: Albania*, ¶ 11, U.N. Doc. CCPR/C/ALB/CO/2 (2013); *China (Hong Kong)*, ¶ 16, U.N. Doc. CCPR/C/HKG/CO/2 (2006); *Czech Republic*, ¶ 15, U.N. Doc. CCPR/C/CZE/CO/3 (2013); *Georgia*, ¶ 9, U.N. Doc. CCPR/C/GEO/CO/4 (2014); *Guatemala*, ¶ 19, U.N. Doc. CCPR/C/GTM/CO/3 (2012); *Montenegro*, ¶ 11, U.N. Doc. CCPR/C/MNE/CO/1 (2014).

⁶³ Human Rights Committee, *Concluding Observations: El Salvador*, ¶ 9, U.N. Doc. CCPR/C/SLV/CO/6 (2010); *Uruguay*, ¶ 15, U.N. Doc. CCPR/C/URY/CO/5 (2013).

⁶⁴ Human Rights Committee, *Concluding Observations: Azerbaijan*, ¶ 5, U.N. Doc. CCPR/C/AZE/CO/3 (2009); *Cameroon*, ¶ 11, U.N. Doc. CCPR/C/CMR/CO/4 (2010); *Djibouti*, ¶ 10, U.N. Doc. CCPR/C/DJI/CO/1 (2013); *Finland*, ¶ 7, U.N. Doc. CCPR/C/FIN/CO/6 (2013); *Georgia*, ¶ 9, U.N. Doc. CCPR/C/GEO/CO/4 (2014); *Madagascar*, ¶ 11, U.N. Doc. CCPR/C/MDG/CO/3 (2007); *Maldives*, ¶ 11; U.N. Doc. CCPR/C/MDV/CO/1 (2012); *Mozambique*, ¶ 10, U.N. Doc. CCPR/C/MOZ/CO/1 (2013); *Portugal*, ¶ 12, U.N. Doc. CCPR/C/PRT/CO/4 (2012); *Serbia*, ¶ 11, U.N. Doc. CCPR/C/UNK/CO/1 (2006); *Tajikistan*, ¶ 7, U.N. Doc. CCPR/C/TJK/CO/2 (2013).

⁶⁵ Human Rights Committee, *Concluding Observations: Albania*, ¶ 11, U.N. Doc. CCPR/C/ALB/CO/2 (2013); *Bulgaria*, ¶ 12, U.N. Doc. CCPR/C/BGR/CO/3 (2011); *Croatia*, ¶ 8, U.N. Doc. CCPR/C/HRV/CO/2 (2009); *Democratic Rep. of the Congo*, ¶ 12, U.N. Doc. CCPR/C/COD/CO/3 (2006); *Georgia*, ¶ 9, U.N. Doc. CCPR/C/GEO/CO/4 (2014); *Iran*, ¶ 11, U.N. Doc. CCPR/C/IRN/CO/3 (2011); *Ireland*, ¶ 9, U.N. Doc. CCPR/C/IRL/CO/3 (2008); *Japan*, ¶ 19, U.N. Doc. CCPR/C/JPN/CO/6 (2014); *Japan*, ¶¶ 14, 15, U.N. Doc. CCPR/C/JPN/CO/5 (2008); *Korea*, ¶ 11, U.N. Doc. CCPR/C/KOR/CO/3 (2006); *Mali*, ¶ 12; U.N. Doc. CCPR/CO/77/MLI (2003); *Malta*, ¶ 12; U.N. Doc. CCPR/C/MLT/CO/2 (2014); *Mauritania*, ¶ 10; U.N. Doc. CCPR/C/MRT/CO/1 (2013); *Mexico*, ¶ 8; U.N. Doc. CCPR/C/MEX/CO/5 (2010); *Moldova*, ¶ 16, U.N. Doc. CCPR/C/MDA/CO/2 (2009); *Mongolia*, ¶ 18, U.N. Doc. CCPR/C/MNG/CO/5 (2011); *Montenegro*, ¶ 11, U.N. Doc. CCPR/C/MNE/CO/1 (2014); *Namibia*, ¶ 20, U.N. Doc. CCPR/CO/81/NAM (2004); *Paraguay*, ¶ 9, U.N. Doc. CCPR/C/PRY/CO/2 (2006); *Poland*, ¶ 10, U.N. Doc. CCPR/C/POL/CO/6 (2010); *Serbia*, ¶ 9, U.N. Doc. CCPR/C/SRB/CO/2 (2011); *Uganda*, ¶ 11, U.N. Doc. CCPR/CO/80/UGA (2004).

sociocultural norms⁶⁶—all of which contribute to a climate of impunity around gender-based violence.⁶⁷ Accordingly, the Human Rights Committee has emphasized that States must provide training to local authorities and law enforcement,⁶⁸ who must be trained to ensure that gender-based violence cases are handled appropriately.⁶⁹ The Human Rights Committee has also called on at least one government to guarantee free legal assistance in domestic violence cases across the country.⁷⁰

Further, the Human Rights Committee has emphasized the importance of access to justice in conflict settings, a situation that can be extrapolated for the ongoing global public health emergency due to COVID_19. The Human Rights Committee has expressed concern over the slow pace of investigations and prosecutions for sexual violence that occurred during times of conflict,⁷¹ as well as the lack of support that sexual violence victims experienced throughout the process⁷² and challenges they face in reporting crimes of sexual violence.⁷³ The Human Rights Committee has also called on at least one State to adopt and effectively implement laws and policies aimed at ensuring access to justice and reparations for civilian victims of conflict, including survivors of sexual violence and other forms of torture, and to ensure that civilian victims of war have equal access to social benefits, including personal disability benefits.⁷⁴

⁶⁶ Human Rights Committee, *Concluding Observations: Cameroon*, ¶ 11, U.N. Doc. CCPR/C/CMR/CO/4 (2010); *Serbia*, ¶ 11, U.N. Doc. CCPR/C/UNK/CO/1 (2006); *Sri Lanka*, ¶ 9, U.N. Doc. CCPR/C/LKA/CO/5 (2014); *Tajikistan*, ¶ 7, U.N. Doc. CCPR/C/TJK/CO/2 (2013).

⁶⁷ Human Rights Committee, *Concluding Observations: Albania*, ¶ 11, U.N. Doc. CCPR/C/ALB/CO/2 (2013); *Honduras*, ¶ 7, U.N. Doc. CCPR/C/HND/CO/1 (2006); *Ireland*, ¶ 9, U.N. Doc. CCPR/C/IRL/CO/3 (2008); *Mexico*, ¶ 9; U.N. Doc. CCPR/C/MEX/CO/5 (2010); *Sri Lanka*, ¶ 9, U.N. Doc. CCPR/C/LKA/CO/5 (2014); *Tanzania*, ¶ 10, U.N. Doc. CCPR/C/TZA/CO/4 (2009).

⁶⁸ Human Rights Committee, *Concluding Observations: Armenia*, ¶ 8, U.N. Doc. CCPR/C/ARM/CO/2 (2012); *Azerbaijan*, ¶ 5, U.N. Doc. CCPR/C/AZE/CO/3 (2009); *Burundi*, ¶ 12, U.N. Doc. CCPR/C/BDI/CO/2 (2014); *Chad*, ¶ 10, U.N. Doc. CCPR/C/TCD/CO/2 (2014); *Georgia*, ¶ 9, U.N. Doc. CCPR/C/GEO/CO/4 (2014); *Guatemala*, ¶ 19, U.N. Doc. CCPR/C/GTM/CO/3 (2012); *Madagascar*, ¶ 11, U.N. Doc. CCPR/C/MDG/CO/3 (2007); *Mali*, ¶ 12; U.N. Doc. CCPR/CO/77/MLI (2003); *Malta*, ¶ 12; U.N. Doc. CCPR/C/MLT/CO/2 (2014); *Mexico*, ¶ 8; U.N. Doc. CCPR/C/MEX/CO/5 (2010); *Norway*, ¶ 9, U.N. Doc. CCPR/C/NOR/CO/6 (2011); *Poland*, ¶ 11, U.N. Doc. CCPR/CO/82/POL (2004); *Poland*, ¶ 10, U.N. Doc. CCPR/C/POL/CO/6 (2010); *Serbia*, ¶ 9, U.N. Doc. CCPR/C/SRB/CO/2 (2011); *Tanzania*, ¶ 10, U.N. Doc. CCPR/C/TZA/CO/4 (2009); *Uganda*, ¶ 11, U.N. Doc. CCPR/CO/80/UGA (2004); *Ukraine*, ¶ 14, U.N. Doc. CCPR/C/UKR/CO/7 (2013); *Uzbekistan*, ¶ 13, U.N. Doc. CCPR/C/UZB/CO/3 (2010); *Vietnam*, ¶ 14, U.N. Doc. CCPR/CO/75/VNM (2002); *Zambia*, ¶ 19, U.N. Doc. CCPR/C/ZMB/CO/3 (2007).

⁶⁹ Human Rights Committee, *Concluding Observations: Armenia*, ¶ 8, U.N. Doc. CCPR/C/ARM/CO/2 (2012); *Bosnia and Herzegovina*, ¶ 12, U.N. Doc. CCPR/C/BIH/CO/1 (2006); *Burundi*, ¶ 12, U.N. Doc. CCPR/C/BDI/CO/2 (2014); *Djibouti*, ¶ 10, U.N. Doc. CCPR/C/DJI/CO/1 (2013); *Guyana*, ¶ 14, U.N. Doc. CCPR/C/79/Add.121 (2000); *Malawi*, ¶ 9, U.N. Doc. CCPR/C/MWI/CO/1 (2012); *Mauritania*, ¶ 10; U.N. Doc. CCPR/C/MRT/CO/1 (2013); *Norway*, ¶ 9, U.N. Doc. CCPR/C/NOR/CO/6 (2011); *Poland*, ¶ 11, U.N. Doc. CCPR/CO/82/POL (2004); *Spain*, ¶ 12, U.N. Doc. CCPR/C/ESP/CO/5 (2009); *Sri Lanka*, ¶ 9, U.N. Doc. CCPR/C/LKA/CO/5 (2014).

⁷⁰ Human Rights Committee, *Concluding Observations: Argentina*, ¶ 12, U.N. Doc. CCPR/C/ARG/CO/4 (2010).

⁷¹ Human Rights Committee, *Concluding Observations: Bosnia and Herzegovina*, ¶ 7, U.N. Doc. CCPR/C/BIH/CO/2 (2012); *Colombia*, ¶ 18, U.N. Doc. CCPR/C/COL/CO/6 (2010); *Colombia*, ¶ 14, U.N. Doc. CCPR/CO/80/COL (2004); *Peru*, ¶ 11, U.N. Doc. CCPR/C/PER/CO/5 (2013).

⁷² Human Rights Committee, *Concluding Observations: Bosnia and Herzegovina*, ¶ 7, U.N. Doc. CCPR/C/BIH/CO/2 (2012).

⁷³ Human Rights Committee, *Concluding Observations: Peru*, ¶ 11, U.N. Doc. CCPR/C/PER/CO/5 (2013).

⁷⁴ Human Rights Committee, *Concluding Observations: Bosnia and Herzegovina*, ¶ 8, U.N. Doc. CCPR/C/BIH/CO/2 (2012).

Proposed Questions for Malawi for the List of Issues Process

What actions is Malawi taking to ensure that persons with disabilities, and women with disabilities in particular, are aware of their rights and have effective access to justice?

What steps is Malawi taking to ensure that justice mechanisms are information about those mechanisms is fully accessible to persons with disabilities?

- What steps is Malawi taking to guarantee access to justice during the COVID-19 pandemic, including justice related to the rise in cases of GBV?

IV. Conclusions

As described above, women with disabilities in Malawi are subjected to harmful stereotypes that undermine their dignity, place barriers in front of their full inclusion in society including their ability to access justice, heighten their risk of sexual violence, and decrease their access to sexual and reproductive health care. Despite these abuses, women with disabilities are almost always invisible in laws and policies in Malawi, including those specifically targeted to address gender equality and the rights of persons with disabilities.

With these gaps in mind, our organizations request that the Human Rights Committee include the rights of women with disabilities in its examination of Malawi's human rights record. IN particular, we hope that you will include the issues and questions identified above as part of your development of the list of issues for Malawi and in your ultimate review of that country's record under the ICCPR.

If you have any questions or would like more information on the issues outlined above, please do not hesitate to contact us. You can reach Ruth Mkutumula from Disabled Women in Africa at ruthmalawi@gmail.com or Amanda McRae from Women Enabled International at a.mcrae@womenenabled.org.