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# Promoting the employability and employment of people with disabilities through effective legislation (Southern Africa)

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# Promoting the employability and employment of people with disabilities through effective legislation (Southern Africa)

## **Abstract**

Many countries throughout the world have, in recent years, adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. This has often been in response to the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983). Policy on employment opportunities for people with disabilities is frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

Some countries in Africa have made progress in introducing disability-related legislation, but many of these laws have not yet been implemented. In other African countries, existing national laws need to be reviewed in order to achieve equalization of opportunities for persons with disabilities. Improving legislation and implementation strategies has been identified as one of the main issues to be tackled in the African Decade of Disabled Persons 1999-2009.

The effectiveness of laws in improving employment opportunities for disabled persons – whether they are vocational rehabilitation laws, quota legislation or anti-discrimination legislation – is central, not only in terms of the economic rights of disabled people, but also their broader social and political rights, which are closely linked to economic empowerment.

The country study for Malawi is part of an ILO project “*Promoting the Employability and Employment of People with Disabilities through Effective Legislation*”. The first phase of the programme (2001-2004) aimed at enhancing the capacity of national governments in selected countries of East Africa and Asia to implement effective legislation concerning the employment of people with disabilities. A knowledge base on laws and policies regarding people with disabilities was built and a Technical Consultation was held in Addis Ababa on 20-22 May 2002. Technical assistance was provided to selected national governments in implementing necessary improvements. Phase 2 of the project (2004-2007) is extending coverage to several additional countries (Lesotho, Malawi, South Africa and Zambia in Africa and Viet Nam in Asia), with a broadened focus on provisions for vocational training and skills development. A second Technical Consultation, “*Employment of People with Disabilities - A Human Rights Approach*”, took place in Addis Ababa, 23-25 September 2005, to launch Phase 2. Support to countries that are in the process of improving their legislation will continue, training will be arranged for key stakeholders in disability-related laws and policies, and support will be provided to media campaigns to promote positive images of disabled people at work.

This country study outlines the main provisions of the laws and policies in place in Malawi concerning the employment and training of people with disabilities. An initial review of the implementation of the legislation is also provided. A concluding comment underlines the progress made in the country and points to areas that have been identified, by key stakeholders or in the literature, as in need of further improvement. It may be read in conjunction with the regional overview prepared for the Technical Consultation in 2002 “*Employment of People with Disabilities - The Impact of Legislation (East Africa), Technical Consultation Report, Addis Ababa, 20-22 May 2002*”, ILO 2002.

## **Keywords**

Malawi, employability, employment, disabilities, educational, policies



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## **MALAWI COUNTRY PROFILE**

**June 2006**

### **Promoting the Employability and Employment of People with Disabilities through Effective Legislation (Southern Africa)**

Prepared by the ILO Skills and Employability Department  
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## Contents

	<i>Page</i>
<b>1. INTRODUCTION .....</b>	<b>1</b>
<b>2. CONTEXT.....</b>	<b>3</b>
2.1 <i>People with Disabilities</i> .....	4
<b>3. LEGISLATIVE FRAMEWORK .....</b>	<b>5</b>
3.1 <i>Constitution, 1995</i> .....	5
3.2 <i>Handicapped Persons Act, 1971</i> .....	5
3.3 <i>Draft Disability Bill</i> .....	5
3.4 <i>Employment Act, 2000</i> .....	6
3.5 <i>Technical, Entrepreneurial and Vocational Education and Training (TEVET) Act, 1999 (No. 6 of 1999)</i> .....	7
3.6 <i>International Commitments</i> .....	7
<b>4. POLICY AND INSTITUTIONAL FRAMEWORK .....</b>	<b>9</b>
4.1 <i>Policy</i> .....	9
4.2 <i>Institutional Framework</i> .....	12
4.3 <i>Organizations of/for People with Disabilities</i> .....	15
<b>5. CONCLUDING COMMENT.....</b>	<b>17</b>

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## 1. Introduction

Many countries throughout the world have, in recent years, adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. This has often been in response to the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983). Policy on employment opportunities for people with disabilities is frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

Some countries in Africa have made progress in introducing disability-related legislation, but many of these laws have not yet been implemented. In other African countries, existing national laws need to be reviewed in order to achieve equalization of opportunities for persons with disabilities. Improving legislation and implementation strategies has been identified as one of the main issues to be tackled in the African Decade of Disabled Persons 1999-2009.

The effectiveness of laws in improving employment opportunities for disabled persons – whether they are vocational rehabilitation laws, quota legislation or anti-discrimination legislation – is central, not only in terms of the economic rights of disabled people, but also their broader social and political rights, which are closely linked to economic empowerment.

The country study for Malawi is part of an ILO project “*Promoting the Employability and Employment of People with Disabilities through Effective Legislation*”. The first phase of the programme (2001-2004) aimed at enhancing the capacity of national governments in selected countries of East Africa and Asia<sup>1</sup> to implement effective legislation concerning the employment of people with disabilities. A knowledge base on laws and policies regarding people with disabilities was built and a Technical Consultation was held in Addis Ababa on 20-22 May 2002. Technical assistance was provided to selected national governments in implementing necessary improvements. Phase 2 of the project (2004-2007) is extending coverage to several additional countries (Lesotho, Malawi, South Africa and Zambia in Africa and Viet Nam in Asia), with a broadened focus on provisions for vocational training and skills development. A second Technical Consultation, “*Employment of People with Disabilities - A Human Rights Approach*”, took place in Addis Ababa, 23-25 September 2005, to launch Phase 2. Support to countries that are in the process of improving their legislation will continue, training will be arranged for key stakeholders in disability-related laws and policies, and support will be provided to media campaigns to promote positive images of disabled people at work.

This country study outlines the main provisions of the laws and policies in place in Malawi concerning the employment and training of people with disabilities. An initial review of the implementation of the legislation is also provided. A concluding comment underlines the progress made in the country and points to areas that have been identified, by key stakeholders or in the literature, as in need of further improvement. It may be read in conjunction with the regional overview prepared for the Technical Consultation in 2002 “*Employment of People with Disabilities - The Impact of Legislation (East Africa), Technical Consultation Report, Addis Ababa, 20-22 May 2002*”, ILO 2002.

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<sup>1</sup> East Africa: Ethiopia, Kenya, Mauritius, Sudan, Sudan, Uganda and United Republic of Tanzania; and Asia and the Pacific: Australia, Cambodia, China, Fiji, Japan, India, Mongolia, Sri Lanka and Thailand.



## 2. Context

The Republic of Malawi is a landlocked southern African country bordered by Zambia (west), Mozambique (south and east) and Tanzania (north-east). Formally called Nyasaland, it obtained its independence from Britain in 1964 and became a single-party regime until 1993 when Malawi voted in a referendum to become a multi-party democracy. Its first multi-party election since independence<sup>2</sup> was held in 1994 and the first democratically elected President took office in May 1994. Malawi is a Member State of the Southern African Development Community (SADC).<sup>3</sup>

With a population of 9,933,868 (1998),<sup>4</sup> Malawi is one of the world's 50 Least Developed Countries (LDCs) and ranks 165 out of 174 countries on UNDP's Human Development Index (HDI).<sup>5</sup> The country's status on the key indicators used to calculate the HDI is as follows:

- Life expectancy at birth was 37.5 years for men and 38.2 for women;
- Gross enrolment ratio (combined for primary, secondary and tertiary education), was estimated at 77 per cent among boys and 71 per cent among girls;
- Adult literacy rate was 61.8 per cent with a much higher rate recorded for men (75.5 per cent) than women (48.7 per cent); and
- Annual per capita GDP was US\$580 in 2002.

While estimates of poverty in Malawi vary, the level is consistently high. According to UNDP, the number of people living under one dollar a day is 41.7 per cent, while the Malawi Poverty Reduction Strategy Paper (PRSP) states that nearly two thirds of the population is living in poverty.<sup>6</sup> 91 per cent of the poor live in rural areas, and the southern region is more affected by poverty than the other two regions of the country.<sup>7</sup>

Formal employment possibilities are limited in Malawi. Of the 300,000 students leaving school every year (most of them leaving during or after primary school), only 30,000 find employment in the formal economy.<sup>8</sup> There are an estimated 747,363 micro, small and medium enterprises (MSME), 91 per cent of which have under five employees.<sup>9</sup> 83 per

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<sup>2</sup> Multi-party elections held in 1961 led to the Malawi Congress Party winning a majority of votes, and set the scene for Nyasaland to become self-governing.

<sup>3</sup> SADC is a regional organization regrouping 12 Southern African countries that was originally created to reduce their dependency towards apartheid South Africa and that now promotes economic and social development.

<sup>4</sup> According to the 1998 Population and Housing Census. See National Statistical Office of Malawi, <http://www.nso.malawi.net/>.

<sup>5</sup> UNDP, Human Development Report 2004, Washington, 2004.

<sup>6</sup> *ibid.*; the Malawi Poverty Reduction Strategy Paper (2002) quotes a household survey conducted by the Government, p. 5. UNDP figures (GDP and income poverty) are calculated in purchasing-power parity (PPP).

<sup>7</sup> Malawi Poverty Reduction Strategy Paper (PRSP), p. 6.

<sup>8</sup> *ibid.*, p. 56.

<sup>9</sup> *ibid.*, p. 32.

cent of these enterprises are located in rural areas, while 75 per cent are in the non-agricultural sector, mainly in manufacturing, trade and services. 34 per cent of MSMEs are owned by women.

HIV/AIDS prevalence is estimated at 14 per cent of population.<sup>10</sup> A recent study has shown that people with disabilities are probably more likely to contract HIV than non-disabled persons.<sup>11</sup> HIV/AIDS is devastating the labour force. It was projected in 1998 that over 40 per cent of educational personnel in urban areas would die as a result of AIDS by 2005.<sup>12</sup> Deaths among public servants have increased six fold between 1990 and 2000 as a result of AIDS.<sup>13</sup> By causing the illness and death of workers, the HIV/AIDS epidemic reduces the stock of skills and experience of the labour force.

## 2.1 People with Disabilities

There were 190,000 people with disabilities in Malawi in 1983, 2.9 per cent of the population of the time. 90 per cent of them live in rural areas.<sup>14</sup> This figure is significantly lower than the WHO estimate of 7 to 10 per cent, according to which the population of disabled persons lies between 695,000 and 1 million.

As in many developing countries, people with disabilities in Malawi are among the poorest and most disadvantaged. Enrolment of children with special needs in primary education is only 5 per cent.<sup>15</sup> A recent study found that only 20 per cent of disabled persons have access to schools and 26 per cent to the workplace. Welfare and vocational training were available to only 5 per cent of those who needed it.<sup>16</sup> And the services available are reported to be poorly funded and under-resourced.<sup>17</sup>

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<sup>10</sup> UNAIDS-UNICEF-WHO, *Malawi: Epidemiological fact sheet on HIV/AIDS and sexually transmitted infection – 2004 Update*, 2004.

<sup>11</sup> Nora Grace, *HIV/AIDS and Disability: Capturing Hidden Voices*, World Bank-Yale University Global Survey on HIV/AIDS and Disability, 2004.

<sup>12</sup> ILO, *HIV/AIDS and Work: Global estimates, impact and response*, Geneva, 2004.

<sup>13</sup> UNAIDS, *2004 Global Report on the AIDS Epidemic*, Geneva, 2004, p. 55.

<sup>14</sup> According to a 1983 survey conducted by the National Statistics Office. See The Danish Council of Organizations of Disabled People (DSI), *Malawi Country Strategy*, 2003, p. 13.

<sup>15</sup> Malawi PRSP, *op. cit.*, p. 51.

<sup>16</sup> SINTEF, *Living Conditions among People with Activity Limitations in Malawi: A National Representative Study*, 2004, pp. 17 and 111.

<sup>17</sup> FEDOMA Strategic Plan 2002-2007, p. 3.

### 3. Legislative Framework

Both the Constitution and the *Employment Act, 2000* contain anti-discrimination provisions which specifically refer to people with disabilities. Malawi has one disability-specific law, the *Handicapped Persons Act, 1971*, which will be replaced by a new disability law, drafted in 2004 and still under consideration.

#### 3.1 Constitution, 1995<sup>18</sup>

The Constitution prohibits discrimination on the grounds of disability, amongst other grounds: “*Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of... disability*” (Article 20). It also states that every person has “the right to fair and safe labour practices and to fair remuneration... the right to form or join trade unions” and to “be entitled to fair wages and equal remuneration for work of equal value without distinction or discrimination of any kind, in particular on the basis of gender, disability or race” (Article 31).

The Constitution also contains provisions for promoting the inclusion of people with disabilities: “*The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at... [supporting] the disabled through (i) greater access to public places; (ii) fair opportunities in employment; and (iii) the fullest possible participation in all spheres of Malawian society.*” (Article 13).

#### 3.2 Handicapped Persons Act, 1971

This Act of 1971 established the Malawi Council for the Handicapped, which has the responsibility to promote the welfare of disabled persons. More specifically, its functions are to advise the Minister on matters relating to people with disabilities and to administer vocational and special training centres, as well as rehabilitation and welfare services for people with disabilities. The Council is described in further detail in section 4.1. The Act also requires any organization working to promote the welfare of people with disabilities to register with the Council and submit an annual report. The Act defines “the handicapped” as “*persons who, by reason of any defect or impairment of the mind, senses or body, congenital or acquired, are unable to take part in normal education, occupation and recreation, or who, by reason of any such defect or impairment, require special assistance or training to enable them to take part in normal education, occupation or recreation*”.

#### 3.3 Draft Disability Bill

The Bill, drafted in 2004, is intended to replace the Handicapped Persons Act. The Bill aims at combating discrimination based on the grounds of disability. It includes extensive provisions on employment (Article 15) and education (Article 14) and also addresses accessibility, transport and health requirements.

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<sup>18</sup> The Constitution was first adopted as a provisional constitution in 1994 and then, with some amendments, as the permanent constitution of the country in 1995. Some sources refer to it as the Constitution of 1994 (as amended).

The draft Bill proposes a quota system for employment: “5 per cent of all positions in public and private establishments shall be reserved for people with disabilities”.

Discrimination in both recruitment and advancement of people with disabilities is prohibited: “*The State shall ensure that employers do not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedure, the hiring advancement, advancement, or discharge conditions and privileges of employment.*” The Bill also prohibits demotion or dismissal of people who acquire a disability.

Discrimination is defined as “*limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunity or status of such an applicant or employee.*” Discrimination includes “*not making reasonable accommodation to the known physical or mental limitation of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity.*”. Discrimination does not, however, include cases where “*the disability in question is a relevant consideration to the particular requirements of the employment concerned.*”. Likewise medical examinations are acceptable if it “*is shown to be job-related and consistent with business necessity*” and if “*all entering employees are subjected to such an examination regardless of disability.*”.

The anti-discrimination clause on education reads as follows: “*the State shall ensure that persons with disabilities are provided with adequate access to quality education and ample opportunities to develop their skills [and] take appropriate steps to make such education accessible... It shall be unlawful for any learning institution to deny persons with disabilities admission to any course it offers by reason of handicap or disability.*”

Financial assistance to students is also proposed, with a minimum of 5 per cent of the student financial assistance programme to be strictly allocated to people with disabilities.

The draft Bill also contains provisions for special education for visually impaired and mentally challenged persons in all regions, with special education units in public schools. It also provides for the creation of at least one integrated public vocational and technical school in every region of the country. The State is also required to eliminate discriminatory practices at the tertiary level.

The draft Bill states that people with disabilities should have “access to secure land tenure, housing, finance and property rights” (Article 19). Provision is also made for the obligation of the State to recognize and promote the formation of organizations of people with disabilities. The latter will play an advisory role regarding rehabilitation services and programmes (Article 21).

### **3.4 Employment Act, 2000**

The Employment Act prohibits any discrimination on any grounds, including disability: “*No person shall discriminate against any employee or prospective employee on the grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth, marital or other status or family responsibilities in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.*” (Article 5). Special measures aimed at favouring disadvantaged groups are not considered discriminatory under the Act.

The Act provides for equal pay for work of equal value, without discrimination and prohibits against dismissal of an employee because of disability, or any other form of discrimination. In both cases, the Act imposes the burden of proof on the employer. This is a significant provision, since major procedural issues arise when the person alleging discrimination has to prove that this occurred, a requirement which is recognized as a major obstacle to obtaining a fair and just result.<sup>19</sup>

The legislation sets the minimum working age at 14 and prohibits the employment of people between the age of 14 and 18 in “*any occupation or activity that is likely to be harmful to the health, safety, education, morals or development of such a person*”. (Articles 21-22). The Act also provides for consultations with workers’ and employers’ organizations when fixing the minimum wages.

### **3.5 Technical, Entrepreneurial and Vocational Education and Training (TEVET) Act, 1999 (No. 6 of 1999)**

This Act of 1999 establishes the Technical, Entrepreneurial and Vocational Education and Training Authority (TEVETA), described in section 4.1.4, as well as its Board and its various committees. One member of the board of TEVETA is “representing people with disabilities”. This is the only mention of people with disabilities in the Act.

The Act defines the objectives of the TEVET system: the promotion of a demand-driven competency-based modular training system; the monitoring of gaps between supply and demand for skills; the promotion of managerial skills and of the entrepreneurial spirit “with regard to both wage and self-employment”; and the facilitation of sound and sustainable financing for the training system.

The Act also provides for the introduction of a training levy imposed on all employers, of an amount equivalent to two per cent of the payroll of the employer. The levy is then paid into a Technical, Entrepreneurial, and Vocational Education and Training Fund. The fund, administered by TEVETA, has the purpose of supporting technical education and vocational training, including by providing scholarships, grants and loans.

### **3.6 International Commitments**

In 1986, Malawi ratified the ILO Convention concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No. 159). Overall, Malawi has ratified 29 ILO Conventions, including all eight Fundamental Conventions: Forced Labour Convention, 1930 (No. 29); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182).

Ratification of these conventions commits Malawi to observing the principles of equal opportunity and equal treatment in laws, policies and programmes, including those concerning people with disabilities. It also commits the country to tripartite consultations in the process of developing these. Organizations of and for people with disabilities should also be consulted.

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<sup>19</sup> On this matter, see ILO, *Achieving Equal Employment Opportunities for People with Disabilities through Legislation*, Geneva, 2004, p. 33.



## 4. Policy and Institutional Framework

### 4.1 Policy

Malawi developed a comprehensive National Policy on Equalisation of Opportunities for Persons with Disabilities that notably deals with employment and education. The Malawi Poverty Reduction Strategy Paper and the Malawi Social Action Fund have provisions that target “the most vulnerable”, including people with disabilities. Education is the only sector where disability has been mainstreamed, and this is seen in the Education Policy, in the Vision 2020 policy statement and in the Malawi PRSP. Malawi’s HIV/AIDS policy, the *National Strategic Framework for HIV/AIDS, Malawi 2000-2004*, does not explicitly mention people with disabilities.

#### 4.1.1 National Policy on Equalisation of Opportunities for Persons with Disabilities

The policy was elaborated by the Ministry responsible for Persons with Disabilities in consultation with people with disabilities, organizations of people with disabilities (DPOs), Non-Governmental Organizations (NGOs), the private sector and development agencies. Its objective is “to integrate fully people with disabilities in all aspects of life thereby to equalize their opportunities in order to enhance their dignity and well-being so that they have essentials of life”. The policy recognizes “that to compete favourably, people with disabilities should have equal access to education, training, employment, health and other aspects of life”. It identifies 13 priority areas for action, including:

*Education and Training:* The policy’s objective is to “promote equal access and inclusion in education and training programmes”. Strategies to achieve this objective include: a review of the national curriculum to include the needs of people with disabilities; the provision of free technology and equipment to assist disabled persons; encouragement of inclusive education; the incorporation of special needs education in the teacher- training curriculum; training of specialist educators; establishment of accessible specialist education resource centres throughout the country.

*Economic Empowerment:* The policy sets three objectives: improving equal access to open employment opportunities; improving access to loans and credit facilities for income generating activities; and increasing access to technical, vocational and entrepreneurial training opportunities for persons with disabilities. The following strategies are put in place: provision of access to loans and training in marketable skills; support to DPOs engaged in vocational training or sheltered employment; promotion of an inclusive work environment the removal of barriers and adaptation of the work premises by employers to make them accessible to people with disabilities.

*Rehabilitation:* The policy aims at increasing access and availability of rehabilitation facilities, personnel and assistive devices.

*Participation and Representation:* The policy strategies include the support and promotion of the work of DPOs, as well as improving the representation of people with disabilities in leadership structures and in the provision of services.

*Social Welfare/Protection:* The policy aims to provide people with disabilities with a social security system to meet their basic needs.

*Housing:* The policy aims at providing people with disabilities access to land tenure, housing and property rights.

*HIV/AIDS*: The policy recognizes that people with disabilities are at great risk of contracting HIV/AIDS, as they often do not have access to information and as women and girls with disabilities are at particular risk of sexual violence. The policy's strategies include: "increasing awareness on HIV/AIDS among various categories of persons with disabilities", including by using DPOs; encouraging people with disabilities to get tested for HIV; and "promoting safer sexual and reproductive health practices among persons with disabilities".

#### **4.1.2 Malawi Poverty Reduction Strategy Paper (PRSP)**

The Malawi PRSP<sup>20</sup> was developed in 2002. The Malawi Poverty Reduction Strategy has four pillars: sustainable pro-poor growth; human capital development; improving the quality of life of the most vulnerable; and good governance. There are four cross-cutting issues: gender, HIV/AIDS, the environment and science and technology. People with disabilities are mentioned specifically in the third pillar, as part of the "most vulnerable". The PRSP aims for the improvement of the quality of life of the most vulnerable by the provision of safety nets, including (i) a Targeted Input Programme (TIP) providing seed and fertilizer to poor farmers; (ii) a public works programme that will generate employment; (iii) targeted nutrition programmes; and (iv) direct welfare transfers to the poor who cannot benefit from one of the first three programmes. One of the goals set in the PRSP is to reduce poverty by 6 percentage points by 2005, from the 2001 level of 65.3 per cent.

The PRSP calls for the improvement of special needs education at the primary level, notably by establishing learning centres with adequate accommodation and by training specialist teachers, as well as integrating "students with mild disabilities" into the mainstream education system.<sup>21</sup> The PRSP also calls for skills development initiatives in rural areas and training of trainers for entrepreneurship development in the informal economy,<sup>22</sup> and for the inclusion of entrepreneurship development in the training and secondary school curricula. The PRSP also provides for support to MSMEs. One of the stated goals of the PRSP is "the development of a sustainable micro-finance industry, which provides credit, savings opportunities and other financial services to the poor, thereby creating wealth and employment". To that end, the Government pledges to tighten the monetary policy to reduce interest rates; develop legislation; promote the formation of farmers club and cooperatives; fully privatise banks and MFIs; promote the expansion of MFIs to rural areas.<sup>23</sup>

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<sup>20</sup> In the context of the Highly-Indebted Poor Countries (HIPC) debt-relief initiative, debtor countries have to develop and implement a Poverty Reduction Strategy Paper (PRSP) to indicate where the money they will receive will be allocated.

<sup>21</sup> Malawi PRSP, *op. cit.*, p. 51.

<sup>22</sup> *ibid.*, pp. 56-57.

<sup>23</sup> *ibid.*, pp. 38-40.

### **4.1.3 Malawi Social Action Fund (MASAF)**

The fund is a World Bank-funded development project set to complement the third pillar of the PRSP. One of its components comprises the Social Support Projects (SSP) that target vulnerable groups, including people with disabilities. Funding of this component is used to strengthen capacity of NGOs and community-based organizations (CBOs) working with the vulnerable groups. TEVETA, MACOHA and some DPOs have benefited from the project component. For example, community-based vocational training projects were financed by MASAF.<sup>24</sup>

### **4.1.4 Vision 2020 - National Long-Term Development Perspective for Malawi**

Vision 2020 is a policy document concerning progress to be made by the year 2020. This Vision Statement was produced after nation-wide consultations, network activities and national workshops, and then launched in 1998. All stakeholders, including social partners and DPOs, were involved in the process.

The policy discusses the question of “Fair and Equitable Redistribution of Income”. It sets as a target “to reduce disparities in access to land, education, employment and business opportunities between urban and rural people, men and women, people with and without disabilities”. The key challenges identified include: reducing unemployment; promoting enterprise development; reducing gender inequality; addressing disability issues and allocating social expenditures equitably between rural and urban areas. Regarding disability, the measures envisaged are the development of a Disability Act and a policy for empowering disabled persons, the “review of the institutional framework”, and “inculcating a sense of confidence and spirit of responsibility among people with disabilities”. To promote gender equality, Vision 2020 suggests mainstreaming gender in all aspects of development and increasing women’s access to land, credit, employment, education and decision-making positions. Vision 2020 also aims to promote enterprise development, as a means to create employment, and suggests strengthening entrepreneurial training institutions.

In discussing education, including special needs education and vocational training, the policy document identifies several strategic options to improve access, quality and equity at the various levels of the education system. It suggests: introducing entrepreneurial subjects in curricula, as well as technical education; increasing the number of vocational training institutions; increasing the number of schools offering special education and the number of special education teachers; and offering equal education opportunities for people with disabilities.

### **4.1.5 Education Policy**

The policy objectives of the Ministry of Education, Sports and Culture are set in the Policy and Investment Framework for the education sector (2001). This document sets objectives for the period 2000-2015, drawing on the Vision 2020 statement. It aims at making primary education inclusive and increasing the number of children with disabilities and girls who complete primary education. Regarding secondary education, the policy sets a target of doubling, by 2012, the number of students with mild disabilities in the mainstream school system, estimated at 1,000 in 2001. Regarding tertiary

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<sup>24</sup> MACOHA, Annual Report 2000, p. 11 and Jones Chafa, *Informal Sector Programmes in TEVETA*. Paper presented at the Training for Survival and Development in Southern Africa Seminar, Nordic Network of UNEVOC Centres, Oslo, 14-15 Nov. 2002, pp. 7-8.

education, while the policy sets a target of 15 per cent for participation of disadvantaged groups, there is no specific target for people with disabilities. The policy also provides for training of more teachers for students with special needs and all teacher trainees for the secondary level will receive at least one module of teaching to special needs students. Provision is also made to review the design of schools to improve physical accessibility for disabled pupils/students.

## **4.2 Institutional Framework**

Governmental services for people with disabilities (vocational training, employment and micro-finance) are mainly provided by the Malawi Council for the Handicapped. The Ministry of Health provides some rehabilitation services and the Ministry of Education some integrated and special needs education.

### **4.2.1 Ministry of Social Development and Persons with Disabilities**

The Ministry, established in 1998, has as its mission to “formulate and provide policy direction and coordinate sectoral programmes and services through the monitoring of service providers so that persons with disabilities have equal access to essentials of life and participate fully in all areas of social economic development in order to make Malawi an inclusive society for all”. Previously called the Office of the Minister of State Responsible for Persons with Disabilities (OPC Disabilities), the Ministry has responsibility for rehabilitation services, a jurisdiction that was previously under the Ministry of Gender and Community Services.

The Ministry will be in charge of implementing and administering the new Disability Bill, once it is passed by Parliament, as well as the National Policy on Equalisation of Opportunities for Persons with Disabilities (see sections 3.3 and 4.2.1). For this purpose, it can set up committees, commissions or institutions. The National Policy on Equalisation of Opportunities for Persons with Disabilities requires that the Ministry will “ensure that disability issues are mainstreamed in all sectors”.

In 1999, George Claver, a disability activist, was named Minister of State responsible for persons with disabilities. After his death, Susan Chitimbe, a woman with a physical disability, succeeded him. Following the 2004 elections, Clement Chiwaya, another disabled person, replaced Ms Chitimbe as the new Minister.

#### **4.2.1.1 *The Malawi Council for the Handicapped (MACOHA)***

The Malawi Council for the Handicapped (MACOHA) is the main advisory and implementing governmental agency on disability issues. It was established by the Handicapped Persons Act, 1971 (see above) and is now part of the Ministry of Social Development and Persons with Disabilities. Its mission is to “implement Government policies by providing rehabilitation programmes and services and promoting public interest for the empowerment and integration of people with disabilities in order to achieve an inclusive society.” Its main objectives include the provision of counselling services, placement services for open employment, medical rehabilitation services, vocational training and education sponsorship to disabled persons. Another of its objectives is to encourage community participation in CBR programmes.

Although appointments of people with disabilities as members of the Council are not required under the Handicapped Persons Act, the Federation of Disability Organizations of Malawi (FEDOMA) is represented on the board of MACOHA.<sup>25</sup>

In 1989, MACOHA established a Women and Children Section that provides credit to women with disabilities and parents of children with disabilities, to support their businesses. So far, about 400 women have benefited from that credit.

MACOHA runs two vocational training institutions for people with disabilities: Lilongwe Vocational Training Centre (LVTC) and Kamuzu Vocational and Rehabilitation Training Centre (KVRTC). Founded by the Rotary Club in 1989, LVTC trains people with disabilities in the fields of financial accounting, tailoring, metal work, woodwork and domestic skills. KVRTC was established in 1983 by MACOHA with support from ILO, UNCDF and UNDP. Its purpose was to train people with disabilities for self-employment, mainly in the areas of woodwork, metalwork, agriculture, tailoring and domestic science. LVTC and KVRTC have respectively the capacity to train 96 and 224 students yearly. However, due to lack of resources, neither centre has trained even half of those numbers. From its inception to March 2003, LVTC has trained 501 people with disabilities, including 232 women. At full capacity it would have trained 1,344 since its establishment. Since 1993, KVRTC has trained 821 people with disabilities, with a gender ratio of students of 4 men to 1 woman.<sup>26</sup>

Since 2001, MACOHA is in the process of restructuring its training centres and diversifying the courses it offers, adding information technology, secretarial skills, motor vehicles mechanics, bricklaying, technical installation and refrigeration. The centres will open their doors to non-disabled persons who will pay fees while people with disabilities will receive scholarships.

MACOHA is also in a charge of a production unit, the Bangwe Factory, located in Limbe. The production unit provides on-the-job training and employment for people with disabilities that comprise 82 per cent of the labour force of the factory. It has four divisions: weaving, tie and dye, block screen art and tailoring. It produces various products, such as rugs, garments, clothes, curtains and calendars.

#### *4.2.1.2 National Coordinating Committee on Disability Issues (NACCODI)*

The National Coordinating Committee on Disability Issues (NACCODI), headed by the Minister of Social Development and Persons with Disabilities, is a networking forum for all stakeholders involved on disability issues, including DPOs, NGOs and line ministries.

#### **4.2.2 Ministry of Health and Population**

Under the draft Disability Bill, the Ministry of Health is required to establish medical rehabilitation centres in government hospitals, and shall provide these services to people with disabilities free of charge. The Ministry also provides mobility aids and appliances.

#### **4.2.3 Ministry of Education, Science and Technology**

This Ministry has responsibility for implementing the Education Policy described below, which contains provisions for children with special needs. The Ministry has a unit dealing

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<sup>25</sup> The Danish Council of Organizations of Disabled People (DSI), *op. cit.*, p. 21.

<sup>26</sup> MACOHA *Introductory Notes*.

with Special Needs education, but this service is reported to be poorly funded.<sup>27</sup> It would also have to implement the educational provisions of the Disability Bill (once adopted), such as establishing a governmental vocational training centre in every region of the country, in collaboration with the Ministry of Labour and Vocational Training.

#### **4.2.4 Ministry of Labour and Vocational Training**

Under the direction of the Minister, a Labour Commissioner has responsibility for implementing and administering the Employment Act.<sup>28</sup> The Ministry is also responsible for technical education and vocational training in Malawi.

##### *4.2.4.1 Technical, Entrepreneurial, Vocational Education and Training Authority (TEVETA)*

TEVETA was created by the Technical, Entrepreneurial and Vocational Education and Training Act, 1999. TEVETA has the responsibility to develop and supervise TEVET policies. It also administers the TEVET Fund. Among the 18 functions of TEVETA listed in Article 5 of the TEVET Act, it has the role of: fostering and promote entrepreneurial skills; promoting vocational training for “disadvantaged groups” (without naming them); and ensuring that the TEVET system is demand-driven and responsive to the needs of the labour market, in both the formal and informal economy.

Its Board comprises 14 members, all appointed by the Minister. Members include one person “representing persons with disabilities”, one representing women, one representing youth, as well as one nominated by the Employers Consultative Association of Malawi, one by the Malawi Chamber of Commerce and Industry, and one by the Malawi Congress of Trade Unions.<sup>29</sup>

The Technical Qualification Committee, whose members are appointed by the board of TEVETA, is responsible for developing and revising curricula and for promoting a unified national qualification system for technical education and vocational training.<sup>30</sup> TEVETA may also establish Trade Advisory Committees (TAC) for a particular industry or sector. The TACs are responsible to ensure that the TEVET system meets the needs of the labour market in their respective sector.

TEVETA targets both the formal and informal economy. Its programmes for the informal economy include the Small Enterprise Development project and the Skills Development Initiative. The Small Enterprise Development pilot project (SED) targets furniture-producing small enterprises (5 to 20 employees) in the informal economy. The project aims at linking enterprises with service providers and build the capacity of entrepreneurs.

The Skills Development Initiative was started in 1999 with the aim of providing training opportunities for micro-entrepreneurs, apprentices and unemployed youth. The initiative adds training in business management to traditional apprenticeship training. The programmes implemented under this initiative last a maximum of two weeks and they are either institution-based or community-based. So far, the programme has benefited 1000

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<sup>27</sup> The Danish Council of Organizations of Disabled People (DSI), *op. cit.*, p. 34.

<sup>28</sup> Employment Act, 2000, Art. 8.

<sup>29</sup> TEVET Act, 1999 (No. 6 of 1999), Art. 6.

<sup>30</sup> *ibid.*, Art. 13.

people, in areas such as carpentry, bakery, bricklaying, electrical installation or tailoring.<sup>31</sup>

#### **4.2.5 Ministry of Sports, Youth and Culture**

According to the draft Disability Bill, the Ministry will have the responsibility of elaborating guidelines for the development of sports for people with disabilities, in consultation with DPOs and the Ministry for Social Development and Persons with Disabilities.

#### **4.2.6 Parliamentary Committee on Gender and Disability**

The Committee, comprised of five Members of Parliament, reviews the programmes and services for women and persons with disabilities. Attention to DPOs and other service providers for people with disabilities is reported to have been limited.<sup>32</sup>

### **4.3 Organizations of/for People with Disabilities**

#### **4.3.1 Organizations of People with Disabilities (DPOs)**

The Federation of Disability Organizations of Malawi (FEDOMA) is an umbrella organization of DPOs in Malawi that was founded in 1999. FEDOMA consists of seven member organizations: Malawi Union of the Blind; Malawi National Association of the Deaf, Disabled Women in Development; Parents of Children Association in Malawi; Malawi Disability Sport Association; Albino Association of Malawi; and Association of the Physically Disabled in Malawi. Only the first three of these member organizations have branches outside Blantyre, the main industrial centre of Malawi.<sup>33</sup> FEDOMA is a member of the Southern Africa Federation of the Disabled (SAFOD).

FEDOMA's mission is "to enhance the welfare of persons with disabilities and enable them to assume their rightful role in society". It has developed a strategic plan for the period 2002-2007. The plan focuses on five key areas: capacity building; advocacy; empowering disabled women; economic empowerment; and children and youth. The objectives of the plan include: the promotion of basic education vocational and entrepreneurial skills training opportunities; advocacy for equal opportunities and access to mainstream employment; the promotion of gender sensitivity in planning and implementation of programmes and services of DPOs; and ensuring representation of people with disability at all levels of policy-making.

FEDOMA's activities consist mainly of advocacy and awareness raising. It has notably been involved in the drafting of the new disability policy and the new disability bill, described above. It has also been conducting an economic empowerment project for parents and caregivers of children with disabilities. Under the project, 50 parents/caregivers have received six-month loans to run small businesses; as well as a training workshop on business management.

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<sup>31</sup> Chafa, *Informal Sector Programmes in TEVETA*, *op. cit.*, p. 5.

<sup>32</sup> The Danish Council of Organizations of Disabled People (DSI), *op. cit.*, p. 15.

<sup>33</sup> *ibid.*, p. 43.

#### **4.3.2 Non-Governmental Organizations (NGOs) and Foundations**

Cheshire Homes and the Malawi Against Physical Disabilities (MAPD) are two NGOs which provide rehabilitation services to people with disabilities. MAPD runs over 200 clinics in the country, offering services to 110 people a year, while Cheshire Homes runs two rehabilitation centres. The latter is also active in early intervention and special education services to people with disabilities. The Sue Ryder Foundation provides medical rehabilitation services in two districts in the centre of the country.

## 5. Concluding Comment

Since it became a democratic country in 1994, Malawi has made progress in dealing with disability issues. The need to improve the situation of people with disabilities has been recognized in several policy documents (e.g. PRSP, Vision 2020, education policy). Malawi is one of the first countries to appoint a woman with a disability to a cabinet-level position, representing a step forward towards equality in political representation.

Malawi is clearly moving towards a rights-based approach to disability and anti-discrimination legislation. Malawi has included anti-discrimination provisions in its latest Constitution and in the Employment Act of 2000. The Handicapped Persons Act of 1971 is outdated, however, and needs to be replaced. Its replacement by the new Disability Bill, that has already been drafted, would constitute great progress in this area and would provide the country with comprehensive disability legislation with anti-discrimination provisions. Moreover, it would improve Government efficiency and effectiveness in the disability area “clearly [defining] who plays which role thereby minimising on overlap and duplication and; maximising on the limited resources available.”<sup>34</sup>

In terms of policy, Malawi has succeeded in mainstreaming disability into several of its national policies regarding education and the provision of safety nets. Providing safety nets to disabled persons needs to be carefully combined with the promotion of employment and other income generating opportunities. The relationship between disability and HIV/AIDS has just been recognized and HIV/AIDS provisions have been included in the disability policy. Disability has not yet been included in HIV/AIDS policy documents, however, and the National Strategic Framework for HIV/AIDS, Malawi 2000-2004 does not mention people with disabilities. Future HIV/AIDS policies will need to incorporate a disability perspective.

As is the case in many developing countries, funding remains a problem for Government programmes. The situation on the ground is unlikely to change substantially if financial resources are not available. According to FEDOMA, vocational training centres for people with disabilities “operate under severe restrictions with limited resources, a lack of raw materials and inadequately trained staff.”<sup>35</sup> In 2001, it was reported that the Ministry for Social Development and Persons with Disabilities was “without any infrastructure, equipment and the necessary staff to undertake fully the job before it”, even if the staff was highly motivated.<sup>36</sup>

Finally, while some statistics have been compiled, there is a lack of comprehensive data on disability in the country,<sup>37</sup> making it harder to develop equitable and comprehensive plans and policies.

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<sup>34</sup> Norwegian Association of the Disabled (NAD), *Disability in Malawi: A Situation Analysis*, 2001, p. 5.

<sup>35</sup> FEDOMA, Strategic Plan 2002-2007, p. 3.

<sup>36</sup> NAD, *op. cit.*, p. 6.

<sup>37</sup> Danish Council of Organizations of Disabled People (DSI), *op. cit.*, p. 31.