

LAW COMMISSION

ANNUAL REPORT | 2015





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LAW COMMISSION

Annual Report | 2015

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ACRONYMS

AIDS:	Acquired Immunodeficiency Syndrome
ALRAESA:	Association of Law Reform Agencies of Eastern and Southern Africa
Cap.:	Chapter
CALRAS:	Commonwealth Association of Law Reform Agencies
DGP:	Democratic Governance Programme
DGSS:	Democratic Governance Sector Strategy
EU:	European Union
GEWE:	Gender Equality and Women Empowerment
HIV:	Human Immunodeficiency Virus
IEC:	Information, Education and Communication
JA:	Justice of Appeal
MANA:	Malawi News Agency
MBC:	Malawi Broadcasting Corporation
MDFRA:	Marriage, Divorce and Family Relations Act
MGDS:	Malawi Growth and Development Strategy
NAC:	National AIDS Commission
ORT:	Other Recurrent Transactions
PDVA:	Prevention of Domestic Violence Act
RoL:	Rule of Law
SADC:	Southern African Development Community
SC:	Senior Counsel
TWR:	Trans-World Radio
UN:	United Nations
UNFPA:	United Nations Population Fund
UNICEF:	United Nations Children's Fund
WHO	World Health Organisation
ZBS:	Zodiak Broadcasting Station



FOREWORD

In 2015, the Law Commission (the Commission) continued to successfully execute its mandate as stipulated by the Constitution and the Law Commission Act.

During the year, the Commission made good progress on its law reform agenda. The Commission completed the Review of the Law on Abortion and the Technical Review of the Prevention of Domestic Violence Act. Further, the Commission started work on the Review of the Citizenship Act and the Development of Legislation on Spent Convictions. The Review of the Witchcraft Act and the Review of the Public Health Act (Cap.7:02) resumed after stalling in the past year due to lack of funding. Work resumed on two law reform Programmes: the Development of Legislation on Sentencing Guidelines; and the Review of the Prisons Act (Cap. 9:02). Measurable progress has been made on these Programmes, and various activities took place to reflect this progress. The Commission planned, once again, to commence the Review of the Patents Act but failed due to lack of funding.

All this progress could not have been realised without the commitment and skill of staff and Commissioners. Their expertise, dedication and patriotism ensure the Commission makes tangible contribution for Malawi and Malawians to have clear, fair and modern laws appropriate for a modern democracy.

Consultations with various stakeholders within Malawi, including Government and relevant institutions and the public in general, as well as in comparable foreign jurisdictions were undertaken throughout 2015. Through the consultations, views, opinions and perspectives on the matters under review were sought and recorded. The special Law Commissions on the on-going Programmes analysed all the views

and made recommendations that shall inform the conclusions of the Reports and proposed legislation to be developed after the review process. To this end, the Commission wishes to register its appreciation for the participation and contributions made towards law reform by various stakeholders during 2015.

The Commission also prepared and implemented programmes for civic education and dissemination of information about the law to the public and other stakeholders. In this regard, the Commission conducted awareness campaigns on various pieces of legislation, including training workshops, development and dissemination of Information, Education and Communication (IEC) materials and airing of radio programmes. The campaigns were based on the proposed HIV and AIDS legislation; the Gender Equality Act; the Trafficking in Persons Act; the Child Care, Protection and Justice Act; and the Prevention of Domestic Violence Act.

I am glad to also report that in 2015, the Law Commission developed its '2015-2020 Strategic Plan' which is yet to be launched. The Plan marks an important milestone in consolidating the achievements of the Law Commission guided by its 2004-2009 and 2010-2015 Strategic Plans. It is aligned to post Millennium Development Agenda; Malawi Growth and Development Strategy (MGDS) II; Policy Framework Paper; and the Democratic Governance Sector Strategy (DGSS) and sets out our strategic objectives and priorities for action.

All this progress could not have been realised without the commitment and skill of staff and Commissioners. Their expertise, dedication and patriotism ensure the Commission makes tangible contribution for Malawi and Malawians to have clear, fair and modern laws appropriate for a modern democracy.

I am also grateful for the co-operation and financial support that the Commission received from its partners in 2015, including the European Union (EU) through the Democratic Governance Programme (DGP), United Nations Population Fund (UNFPA), United Nations Women (UN Women), National AIDS Commission (NAC), United Nations Children's Fund (UNICEF) and Ipas. I also acknowledge, with thanks, the complementary financial support from Government. The Commission anticipates your continued partnership and support in 2016.



Mrs. Gertrude Lynn Hiwa, SC.

LAW COMMISSIONER

1 ABOUT LAW COMMISSION

1.1. ESTABLISHMENT

The Constitution of the Republic of Malawi (the Constitution) established the Law Commission in 1994. The enabling legislation, the Law Commission Act (Cap. 3:09), followed in 1998, two years after the Commission commenced full operations. The primary statutory function of the Commission is to provide independent advice to Government on the reform of the law in Malawi. The work of the Commission is inclusive and participatory and the public and organisations at various levels take part in law reform.

The work of the Commission has been diverse since its establishment. The Commission has reviewed and developed legislation on social, economic, cultural, civil and political issues in line with constitutional provisions and international standards. To date, the Commission has published 28 reports and all of them contain legislative recommendations. Some of the proposals have been endorsed and enacted into legislation while others are pending before either the Cabinet or the National Assembly.

1.2. FUNCTIONS

Under section 135 of the Constitution, the broad framework of the functions of the Commission is laid out. The core mandate of the Commission is to review and make recommendations regarding any matter pertaining to the Laws of Malawi, including the Constitution itself, and their conformity with the

Constitution and applicable international laws. The Commission receives and reviews any submissions from individuals or institutions calling for law reform. It reports its findings and recommendations to Parliament through the Minister responsible for Justice.

The Law Commission Act expounds the functions of the Commission under section 6, in addition to its constitutional functions, as follows:

- (a) review the Laws of Malawi with a view to the systematic development and reform of the law, including, in particular:
 - (i) the modernization of the laws by bringing them into accord with current national and international conditions and norms;
 - (ii) the elimination from the laws of any defects, whether of a procedural, substantive or policy nature;
 - (iii) the simplification of the laws; and
 - (iv) the recommendation of new or more effective methods and procedures for the administration of the laws;
- (b) make recommendations for the fusion or harmonization of customary law with other laws of Malawi;
- (c) make recommendations for the codification of any branch of the law or of any customary

law; and

- (d) promote awareness of the laws and the Constitution by the public and by departments of the Government and other authorities or bodies.

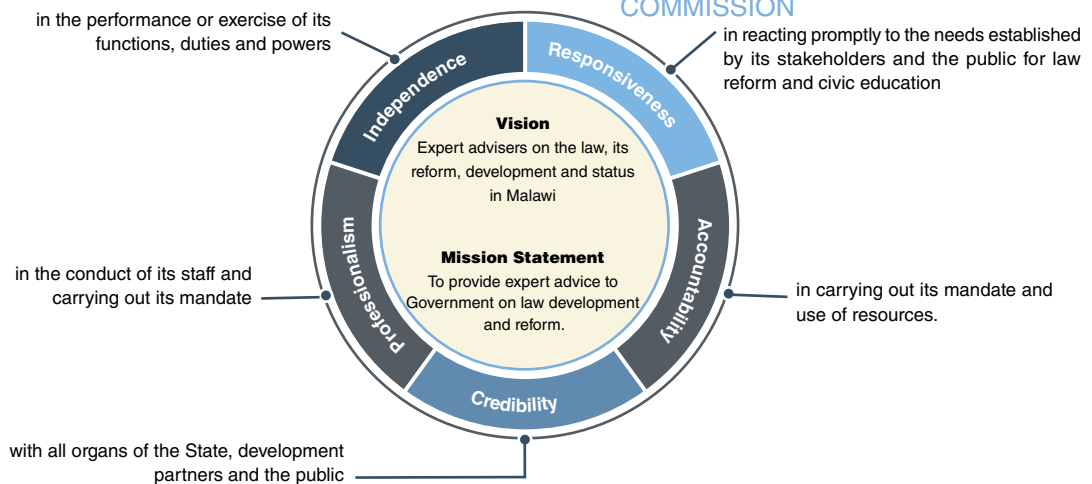
1.3. INSTITUTIONAL SET UP OF THE COMMISSION

The Law Commissioner heads the Commission for a renewable term of 5 years on appointment by the State President. The appointment is on recommendation by the Judicial Service Commission. Other officers of the Commission are appointed by the Law Commissioner and are officers in the public service. The incumbent

Law Commissioner, Mrs. Gertrude Lynn Hiwa, SC, is the third Law Commissioner and the first woman to be appointed in this capacity.

The core business of the Commission is undertaken by the Law Reform Division whose mandate is broken down into legal research, review and development of statutes, legislative drafting and civic education. The Corporate Services Division provides support services to the Law Reform Division, in general, on matters of administration, human resource management, accounting, library services and procurement. The organisational chart of the Law Commission as at 31st December, 2015, is attached to this Report as Appendix 1.

1.4. CORE PRINCIPLES OF THE COMMISSION



Goal

To promote public participation and good governance through reform and development of the law

Objectives

- (a) review and make effective recommendations regarding the Constitution and Laws of Malawi; and
- (b) promote public awareness of Laws of Malawi and the Constitution.

1.5. LAW COMMISSION TEAM



Mrs. Getrude L. Hiwa, SC
Law Commissioner

Legal Services Division



Mr. William Yakuwawa Msiska
Chief Law Reform Officer

Legal Services



Mr. Chizaso E. Nyirongo
Deputy Chief Law Reform Officer



Mr. Mike Chinoko
Assistant Chief Law Reform Officer



Mr. Mtamandeni Liabunya
Assistant Chief Law Reform Officer



Mrs. Eddah Chavula
Assistant Chief Law Reform Officer



Mr. Robert Kandulu
Law Reform Officer



Mr. Wongani Mvula
Assistant Law Reform Officer



Ms. Raisa Nyirongo
Assistant Law Reform Officer



Ms. Siphwe Phoya
Assistant Law Reform Officer

Civic Education



Ms. Patrice Nkhonjera
Principal Civic Education Officer



Mr. Gills Msiska
Civic Education Officer



Mrs. Flora Tsokalida
Civic Education Officer

Corporate Services Division



Mr. Felix Mpapa
Director of Finance and Administration

Human Resource Management



Mrs. Dina Dembo Migochi
Controller of HRM&D



Mr. Steven Triverious Mijoni
Principal HRM Officer



Mr. Stanfield Botha
HRM Officer



Mrs. Tabitha Chakanza
Senior Assistant HRM Officer



Ms. Judith D. Kabango
Assistant HRM Officer



Mr. Gift Sopo
Clerical Officer



Mr. Eugene Shaba
Procurement Officer



Ms. Ruth Kachale
Stores Clerk

Procurement

Finance and Internal Audit

Mrs. Patricia Mwachengere
Chief Accountant



Mrs. Loyce Mpinganjira
Accountant



Mr. Eric Gunthe
Internal Auditor



Mr. Nerho Mwenelupembe
Assistant Accountant



Mr. William Mhone
Senior Accounts Assistant



Mr. Edward Chibweya
Accounts Assistant



Mr. Thomson Matoliro
Accounts Assistant



Ms. Sophia Maliro
Accounts Assistant

Administration

Mrs. Nellie Ndhlovu
Administrative Officer



Mr. Geoffrey Masamba
Systems Analyst



Mr. Nubson Benje
Senior Librarian



Mrs. Mercy Makhuludzo
Library Assistant

Information Technology**Library****Secretaries and Front Officers**

Mrs. Tabu Moleni
Senior Personal Secretary



Ms. Naomi Khonje
Personal Secretary



Ms. Temwa Kalinga
Personal Secretary



Mrs. Crecensia Kumadzi
Personal Secretary



Mrs. Beatrice Mbizi
Personal Secretary



Mrs. Eluby Honde
Receptionist



Mrs. Minnie Chalemera
Receptionist

Drivers

Mr. Herbert Bulliani
Driver



Mr. Joe Chunga
Driver



Mr. Wisdom Chawinga
Driver



Mr. Frank Maliri
Driver

Messengers

Mr. Robert Chapata
Messenger



Mr. Harry Gunde
Messenger



Mr. Nixon Bengo
Messenger

2 OVERVIEW OF THE LAW REFORM PROCESS

2.1. ANNUAL WORK PROGRAMME

The Commission must, from time to time, prepare a list of Programmes of its work for any specified period not exceeding a calendar year in which matters that require consideration are included in order of priority. At the end of 2015, the Commission had developed its 2016 Annual Work Programme. See *Appendix 2 for the 2016 Annual Work Programme*.

2.2. LAW REFORM PROCESS

The law reform process comprises the following phases:

2.2.1. Phase I: Identification of an Area for Law Reform

There are basically 3 methods through which a law reform area is identified:

- (a) submissions received from individuals or bodies;
- (b) by the Commission, on its own volition in trying to implement Government policies or in trying to implement or domesticate the country's obligations under international conventions or indeed in response to social change; or
- (c) the Attorney General, on behalf of Government, may request the Commission to consider any matter of law that is considered to require reform or any area that is considered to require

development of legislation.

2.2.2. Phase II: Investigation

Once the area of law reform is identified, the process takes the following phases:

- (a) Law Reform Officers are assigned to the Programme as Programme Officers. The Programme Officers conduct preliminary research on the subject under reform and on the status of the law; and
- (b) Programme Officers then develop working papers. Working papers outline issues which may guide the work of special Law Commissions. These papers include: Research Paper; Consultation Paper; Issues Paper; and Discussion Paper.

(i) *Research Paper*

A Research Paper is often published with a view to documenting initial research related to a particular area under consideration for reform. A Research Paper also determines authoritatively the existing legal position and identifies the shortcomings or deficiencies that need rectification. The Paper may contain empirical data on which proposals for reform may be founded and justified.

(ii) Consultation Paper

The Consultation Paper may precede or succeed an Issues Paper. It is normally a compilation of the views of the public on various issues arising from an area considered for reform. As such, a Consultation Paper may be developed based on issues outlined in the Issues Paper or it may raise issues which form the basis of an Issues Paper.

(iii) Issues Paper

In order to guide the reform process, the Commission, at an early stage, determines issues that arise in the area of a law proposed for reform or development. It then publishes the issues in an Issues Paper. The Issues Paper is a consultation tool and serves to announce an investigation into a particular area of law under reform or development and to clarify the aim and scope of the process.

(iv) Discussion Paper

When the issues have been identified, the Commission makes further inquiry into the subject matter under reform with a view to providing a range of proposals for reform. The result is published as a Discussion Paper. The Discussion Paper is a key working document for each special Law Commission empanelled under a Law Reform Programme.

2.2.3. Phase III: Appointment of Commissioners

Persons with relevant expertise on the subject matter under consideration are identified and appointed by the Law Commissioner in consultation with the Judicial Service Commission. The persons so appointed serve as Commissioners on a particular Law Reform Programme. Commissioners on a particular programme determine the terms of reference and agree upon the

work methodology on that programme. Mostly, the work of the Commission is done through meetings in plenary where Commissioners meet and deliberate. Special Law Commissions may also conduct field visits and comparative study visits to other jurisdictions.

See Appendix 3 for a list of Commissioners who served on Law Reform Programmes in 2015.

2.2.4. Phase IV: Consultations

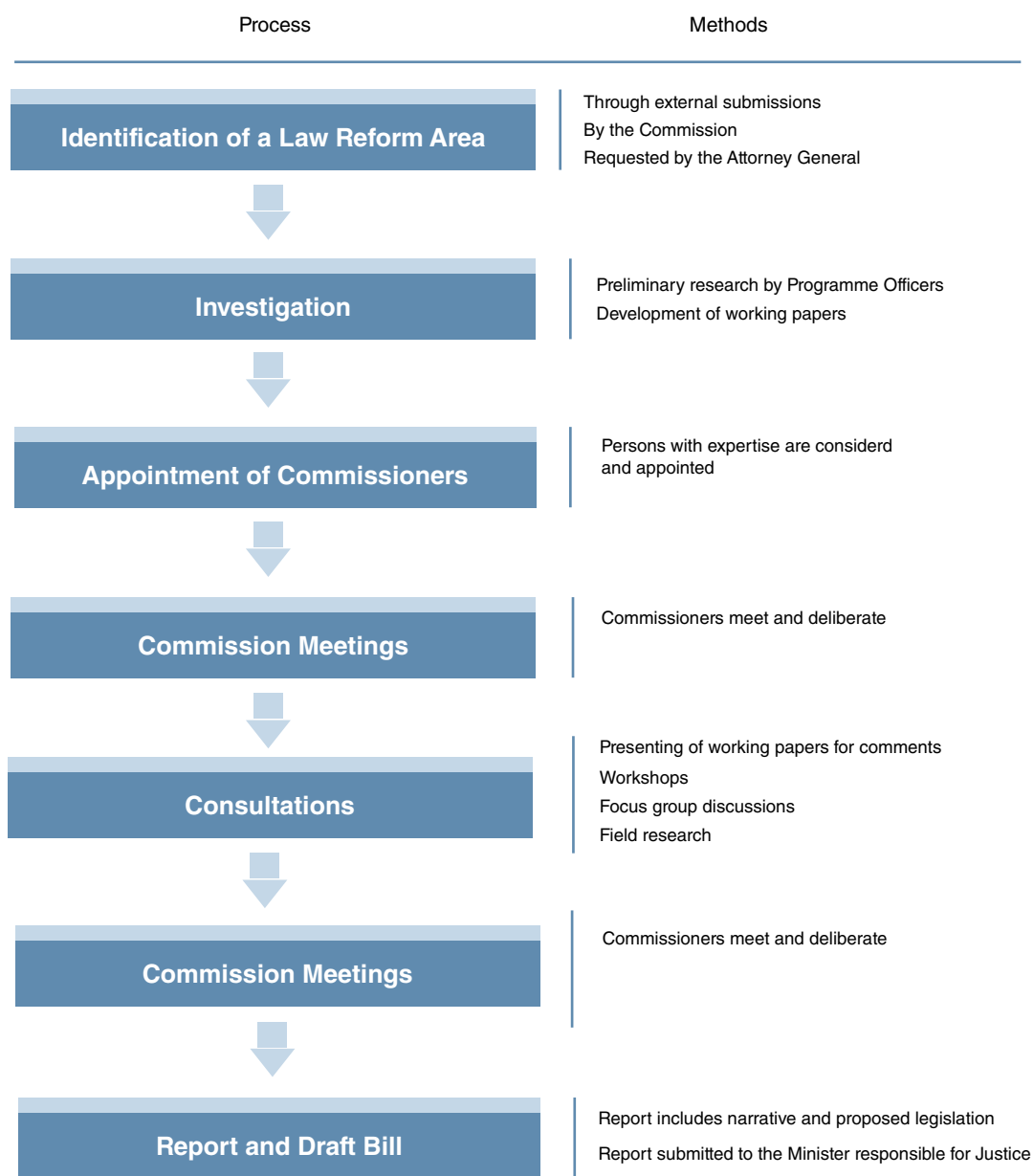
Consultations are done with stakeholders and members of the public on the subject matter. These consultations may include sending working papers for responses and comments; workshops; focus group discussions; and field research. The consultations are aimed at seeking views of the stakeholders prior to or on the recommendations of the special Law Commission.

2.2.5. Phase V: Recommendations (Report and proposed legislation)

The special Law Commission develops a Report containing its findings and recommendations for reform. The Report usually has two parts: the narrative; and proposed legislation. The Report is submitted to the Minister responsible for Justice for publication and laying in Parliament. The Minister is mandated, further, to refer the proposed legislation to Cabinet for consideration and approval as a Government Bill.

For a list of Reports that have been produced by the Commission, see Appendix 4.

SUMMARY OF THE LAW REFORM PROCESS



3

COMPLETED LAW REFORM PROGRAMMES

In 2015, the Commission completed two law reform programmes: the Review of the Law on Abortion; and the Technical Review of the PDVA. In both instances, the reports on these Programmes were being published at the Government Print towards the end of 2015.

3.1. REVIEW OF THE LAW ON ABORTION

The Programme emanated from the recommendations made by the special Law Commission on the Review of the Penal Code and the special Law Commission on the Review of the Gender Related Laws. These special Law Commissions, while retaining the provisions on abortion in the Penal Code, recommended the empanelling of a special Law Commission to consider matters relating to the law regulating termination of pregnancy. At the moment, the law on abortion is governed by the Penal Code and restricts abortion to circumstances where it is necessary to save the life of the mother.

The special Law Commission on the Review of the Law on Abortion was empanelled in May, 2013. It comprised members from the Judiciary, Ministry of Health, religious community, Malawi Law Society, Ministry of Justice, traditional leadership and the medical field. The main issue that the special Law Commission in this Review considered was whether or not the law on abortion should be liberalised to permit legal termination of pregnancy; and, if

liberalised, the permissible grounds and conditions for termination of pregnancy.

The special Law Commission, in discharging its mandate, presented findings and recommendations on the following areas:

- (a) grounds upon which termination of pregnancy can be allowed;
- (b) grounds upon which termination of pregnancy is not allowed;
- (c) delivery of services in abortion care;
- (d) conscientious objection to perform abortion;
- (e) evidence in respect of rape, incest or defilement;
- (f) requirements and consent;
- (g) confidentiality of information; and
- (h) offences and penalties.

The work was concluded on 17th July, 2015 when the special Law Commission briefed the media on its findings and recommendations at Capital Hotel in Lilongwe. The Report is being published.

The Honourable Justice Esme J. Chombo (second from left) responding to questions from the media during the Press Briefing.

The Honourable Justice Esme J. Chombo was the Chairperson of the special Law Commission for the Programme. The Principal Programme Officer was Mr. Mike Chinoko, Assistant Chief Law Reform Officer. He was assisted by Mrs. Eddah Chavula, Assistant Chief Law Reform Officer. The Programme was funded by Ipas.



3.2. TECHNICAL REVIEW OF THE PREVENTION OF DOMESTIC VIOLENCE ACT (CAP. 7:05)

The Prevention of Domestic Violence Act (PDVA) aims at preventing and punishing violence within a domestic relationship. The PDVA was enacted in April, 2006. The special Law Commission on the Technical Review of the PDVA began its work in March, 2010. The work of the Commission was based on a submission from the Ministry of Gender, Children and Community Development (as it was called then) after observing some operational challenges which prevented the effective implementation of the Act. The technical review sought to propose solutions to the problems which were perceived to hamper the smooth implementation of the Act.

In the course of 2015, the special Law Commission held five Commission meetings; a national consultative workshop on 25th June, 2015; and concluded the technical review process and publicised its findings and recommendations to the public through a Press Briefing, which was held on 30th October, 2015.

Publication of the Report on the review is expected to be done within the first quarter of 2016. The key issues considered under the Review include:

- (a) definition of “*domestic violence*”: to include acts that constitute domestic violence but are not criminal in their own respect;
- (b) section 17 (the effect of a tenancy order): to require the court to state who should be responsible to pay rent taking into consideration the financial circumstances of the parties; and
- (c) penalties for offences: to provide for an alternative penalty for imprisonment in addition to a fine.

A cross-section of participants at a National Workshop on the Technical Review of the PDVA held on 25th June, 2015 at Sunbird Lilongwe Hotel.

The Programme was funded by the United Nations Population Fund (UNFPA) and was chaired by Honourable Justice Mrs. Ivy C. Kamanga. The Principal Programme Officer for the Programme was Mr. William Yakuwawa Msiska, Chief Law Reform Officer. He was assisted by Mr. Robert Kandulu, Law Reform Officer



4

UPDATE ON ONGOING LAW REFORM PROGRAMMES

4.1. DEVELOPMENT OF LEGISLATION ON SENTENCING GUIDELINES

The Programme on Development of Legislation on Sentencing Guidelines started, in earnest, in July, 2013 after a special Law Commission was empanelled. The Programme is being implemented with financial support from the European Union Democratic Governance Programme (EU-DGP). The Commission was requested to review the current sentencing practices with the view to the development of statutory sentencing guidelines. The request was prompted by the general outcry on the lack of consistency and uniformity in sentencing.

To date, the special Law Commission has developed its Research Paper, Consultation Report, an Issues Paper and a Discussion Paper. The special Law Commission carried out regional consultative workshops as follows: Central Region on 16th July, 2015; Northern Region on 20th July, 2015; Southern Region on 22nd July, 2015; and Eastern Region on 13th August, 2015. A national consultative workshop will follow afterwards. The consultative workshops provided an opportunity to stakeholders to appreciate tentative findings of the special Law Commission. Further, the workshops provided an opportunity to the special Law Commission to consider input from the stakeholders in the development of the proposed legislation.

The Commission has collated findings from the workshops and is in the process of updating its draft

Report. The draft Report contains the tentative findings and recommendations of the special Law Commission which will also be presented to stakeholders at a national consultative workshop for further input to assist the Commission in the development of the legislation. The final Report containing the findings and recommendations as well as proposed legislation will be presented to stakeholders and the public at a press briefing.

Among the issues being considered by the Commission are:

- (a) definition of the term “sentence”;
- (b) rationale or purposes of sentencing;
- (c) principles of sentencing;
- (d) aggravating and mitigating factors;
- (e) sentencing process;
- (f) institutional framework; and
- (g) sentencing and early release from prison.

The review process is not necessarily limited to the issues that have been outlined above or in working documents. The Commission is also considering issues that have arisen in the course of the programme.

Participants at a Regional Consultative Workshop on the Development of Legislation on Sentencing Guidelines held at Sunbird Nkopola in Mangochi on 13th August, 2015.

The Honourable Justice of Appeal Mr. Edward B. Twea, SC, is the Chairperson of the special Law Commission for the Programme. The principal Programme Officer is Mr. William Yakuwawa Msiska, Chief Law Reform Officer. He is being assisted by Mr. Robert Kandulu, Law Reform Officer.



Participants to the workshops were drawn from, among others: the Judiciary; the Malawi Police Service; the Prisons Service; Ministry of Gender, Children, Disability and Social Welfare; Ministry of Justice (Headquarters and State Advocate Chambers); Legal Aid Bureau; Chancellor College Faculty of

Law; Malawi Law Society; Malawi Human Rights Commission; Irish Rule of Law International; civil society; and media institutions.

4.2. REVIEW OF THE PRISONS ACT (CAP. 9:02)

The Prisons Service moved the Commission to review the Prisons Act with the broad aim of aligning the Act with the provisions of the Constitution and applicable international law.

The Commission has since developed an Issues Paper and a Discussion Paper following preliminary consultation exercises and desk research on the issue of prisons. Further, the special Law Commission has held several Commission meetings and deliberated on most of the issues that were identified in the Issues Paper and the Discussion Paper. The special Law Commission has, in addition, conducted prison visits to Maula Prison, Nkhata Bay Prison and Zomba Central Prison to appreciate the issues affecting prisons and prisoners first hand. Further, the Commission

conducted three regional consultative workshops in 2015. The Commission has scheduled a national validation workshop to be held in 2016.

The issues for consideration at regional consultative workshops focused on the following areas:

- (a) establishment, constitution and administration of prisons;
- (b) admission of prisoners to prisons;
- (c) conditions of confinement of prisoners; and
- (d) early release from prison.

The deliberations and consultations on the review of the Prisons Act are not necessarily limited to the issues

that have been laid out in the working documents. The Commission may also consider issues that may arise in the course of the programme.

The Honourable Justice Ken Manda, Chairperson of the special Law Commission on the Review of the Prisons Act facilitating a discussion with Prisoners at Zomba Central Prison.

The Honourable Justice Ken Manda is the Chairperson of the special Law Commission for the Programme. The Principal Programme Officer for the Programme is Mr. Mtamandeni Liabunya, Assistant Chief Law Reform Officer. He is assisted by Mr. Wongani Mvula; Ms. Raisa Nyirongo; and Ms. Siphwe Phoya; who are all Assistant Law Reform Officers. The Programme is being funded by the EU under the DGP.



4.3. REVIEW OF THE MALAWI CITIZENSHIP ACT (CAP. 15:01)

The Review of the Malawi Citizenship Act is at the inception stage. Working documents for the programme, which include an Issues Paper and Discussion Paper, are being finalised. The working documents guide deliberations of the special Law Commissioners and help to stimulate debate on areas

requiring review in the Act. A process is underway to empanel a special Law Commission on the Review of the Malawi Citizenship Act. The special Law Commission is expected to start holding meetings in the first quarter of 2016. Funding is being provided by UN Women.

Programme Officers on the Review of the Malawi Citizenship Act preparing working documents for the review programme. From left to Right: Mr. William Msiska, Chief Law Reform Officer; Mr. Mike Chinoko Assistant Chief Law Reform Officer; and Mr. Robert Kandulu, Law Reform Officer. Mr. Chinoko is Principal Programme Officer while Mr Kandulu is Assistant Programme Officer.



4.4. DEVELOPMENT OF LEGISLATION ON SPENT CONVICTIONS

Pursuant to its mandate, the Commission, under the broader framework of Criminal Justice Reforms Programme, embarked on the Development of Legislation on Spent Convictions. Following preliminary research, a Discussion Paper and an Issues Paper were developed by the Commission. A special Law Commission was empanelled for the programme and its first meeting was held in September, 2015. The Programme is ongoing.

The special Law Commission held its second meeting from 3rd to 5th November, 2015. At this meeting, the special Law Commission considered its revised work plan; the draft Issues Paper; the concept of spent convictions under the Constitution and Laws of Malawi; and the concept of spent convictions in other jurisdictions.

Other issues to be considered by the special Law Commission include:

(a) the legality and constitutionality of spent

convictions in Malawi;

- (b) whether there is need for a specific regulatory framework on spent convictions;
- (c) the rationale for a spent convictions scheme;
- (d) consideration of competing interests in terms of the duty of Government to protect society and the various rights of an individual;
- (e) the scope of the legislation to be developed in terms of offences or sentences that ought to be included in, or excluded from, the scheme to be developed;
- (f) revival of convictions;
- (g) exceptions to revival of convictions;
- (h) systems in the management of criminal records;
- (i) institutions to manage spent convictions;
- (j) offences; penalties; other relevant matters; definitions; and
- (k) title of the proposed legislation to be developed.

The special Law Commission has planned regional

Members of the special Law Commission on the Development of Legislation on Spent Convictions captured in a discussion during one of the Commission Meetings.

The Honourable Justice Mankhambira C.C. Mkandawire is the chairperson of the special Law Commission. The Principal Programme Officer for the Programme is Mr. Mtamandeni Liabunya, Assistant Chief Law Reform Officer. He is assisted by Mr. Wongani Mvula; Ms. Raisa Nyirongo; and Ms. Siphwe Phoya; who are all Assistant Law Reform Officers. The Programme is being funded by the EU under the DGP.



consultative workshops to be carried out from the month of June to July, 2016. A national consultative workshop will follow the regional consultative workshops. The planned consultative workshops will provide an opportunity to stakeholders to appreciate and interrogate the findings of the special Law Commission. Further, the special Law Commission will have an opportunity to consider input from the stakeholders on the development of the proposed legislation.

The deliberations and consultations on the development of legislation on spent convictions are not necessarily limited to the issues that have been laid out in the working documents. The Commission may also consider issues that may arise in the course of the programme.

4.5. REVIEW OF THE PUBLIC HEALTH ACT (CAP. 34:01)

The special Law Commission on the Review of the Public Health Act resumed work on this programme and held its fourteenth Commission meeting from 9th to 11th March, 2015 after a break of almost two years since the last meeting was held. Further, the Commission conducted focus group discussions in Salima, Kasungu and Ntchisi in July 2015. The Commission also met with Jehovah's Witnesses in September 2015.

The Public Health Act came into force on 29th July, 1948. The law and policy framework on public health has since evolved considerably. At the national level, the adoption of a new constitution in 1994 necessitated the review of the Public Health Act to ensure consistency with the Constitution. Government of Malawi, through the Ministry of Health, has also developed new policies on health which render the Public Health Act amenable to review. At the international level, the World Health Organisation (WHO), for example, has consistently developed standards to be followed by States in their health care programmes, including public health.

Participants during a focus group discussion meeting in Salima.

The special Law Commission on the Review of the Public Health Act is chaired by Honourable Justice Dingswayo Madise. The Programme Officer is Mr. Chizaso Eric Nyirongo, Deputy Chief Law Reform Officer. He is being assisted by Mr. Wongani Mvula, Assistant Law Reform Officer. The Programme is funded by UNICEF and the Government of Malawi through the Ministry of Health.



4.6 REVIEW OF THE WITCHCRAFT ACT (CAP. 7:02)

The special Law Commission on the Review of the Witchcraft Act continued the process of reviewing the Act which commenced in 2009 following submissions from the public and various organisations. It was submitted that the Act, which was enacted on 12th May, 1911, is not in tandem with realities on the ground. The submissions varied in the points of interest. For instance, on the one hand, some members of society have argued that the law should be reviewed on the basis that witchcraft exists while, on the other hand, others have made their submissions based on their belief that witchcraft does not exist. Based on the submissions, the following have emerged as issues for consideration, among others:

- (a) existence or non-existence of witchcraft and whether the law should recognise the two (2) contrasting beliefs;
- (b) protection of victims of witchcraft;
- (c) constitutionality of the Act, that is to say, whether by punishing persons who claim to be practitioners of witchcraft, the Act infringes freedom of conscience as provided by section 33 of the Constitution; and
- (d) an evidential and jurisdictional matter in case witchcraft is recognised by the law.

The Commission held two meetings: the first from 30th November to 2nd December, 2015; and the second from 16th to 18th December, 2015.

Witchdoctors at work: Some of the equipment used.

The special Law Commission on the Review of the Witchcraft Act is being chaired by Honourable Justice of Appeal Robert Chinangwa, SC (Rtd). The Programme Officer is Mr. Chizaso Eric Nyirongo, Deputy Chief Law Reform Officer. The Programme is funded by UN Women and the Government of Malawi.



5

CIVIC EDUCATION AND PUBLIC RELATIONS

The Law Commission Act mandates the Commission to promote awareness of the Laws of Malawi and the Constitution by the public, Government departments and other authorities or bodies. The Commission informs the public about its work, its functions, the law reform process, law reform issues, the Laws of Malawi and the Constitution. The Commission is also empowered to organise conferences, seminars, workshops and meetings on any matter under its consideration. Further, the Commission may produce its own publications. In this regard, in 2015, the Commission carried out a number of civic education activities as part of its civic education and public awareness mandate as follows:

5.1. MEDIA OUTREACH

5.1.1. Press Briefings

On 17th July and 30th October, 2015, the Commission, through its Civic Education Section organised and held Press Briefings during which it gave information on the findings and recommendations of the special Law Commissions on the Review of the Law on Abortion; and the Technical Review of the PDVA, respectively, to the public through the media. The exercise also served to announce the end of the two law reform programmes.

5.1.2. Coverage of Regional Workshops

Throughout 2015, the Commission extended invitation to media houses to cover and air the proceedings of regional consultative workshops on various law reform programmes. The media houses include Malawi Broadcasting Corporation (MBC); Zodiak Broadcasting Station (ZBS); the Daily Times; Nation Publications Limited; Alinafe Radio Station; Malawi News Agency (MANA); Nyasa Times; Calvary Family TV and Radio; Luso TV; Times TV; Voice of Livingstonia; Trans - World Radio (TWR); and Capital Radio.

5.1.3. Airing of a radio programme on the proposed legislation on HIV and AIDS

From April to September, 2015, the Commission, with funding from the NAC, reproduced and aired a radio programme and jingles on the proposed legislation on HIV and AIDS on MBC. The programme and the jingles were in Chichewa and aimed at creating public awareness of the proposed legislation.

5.2 AWARENESS WORKSHOPS

The Commission organised and carried out a number of sensitisation workshops to raise awareness on the PDVA in thirteen (13) districts implementing the Gender Equality and Women Empowerment (GEWE) Programme namely: Nsanje; Chikwawa; Chiradzulu; Machinga; Mangochi; Dedza; Salima; Mchinji; Dowa;

Nkhata Bay; Mzimba; Karonga; and Chitipa. In total, the Commission trained 49 magistrates, 155 police officers and 17 social welfare officers. Further, the Commission trained 282 members of the GEWE Technical working group in domestic violence case documentation.

Further, the Commission sensitised 761 community leaders and 40 representatives from civil society groups in Kasungu and Salima Districts on the Trafficking in Persons Act, the Gender Equality Act and the Child Care, Protection and Justice Act. The stakeholders were in turn asked to sensitise their communities on the pieces of legislation.

5.3 PUBLICATIONS

Every year the Commission develops and produces its Annual Report. In 2015, the Commission developed and

distributed the 2014 Annual Report to its stakeholders.

5.4 DEVELOPMENT OF INFORMATION, EDUCATION AND COMMUNICATION (IEC) MATERIALS

The Commission drafted communication materials on gender-related laws namely: Deceased Estates (Wills, Inheritance and Protection) Act; Gender Equality Act; Marriage, Divorce and Family Relations Act (MDFRA); PDVA; and Trafficking in Persons Act. The materials are being developed with funding from UNFPA and will be printed in April, 2016. Further, the Commission, with funding from Government, has developed and distributed 2015 christmas cards, 2016 calendars and diaries. The calendar depicts some of the highlights activities of the Commission in 2015.



Some of the community leaders, magistrates, police officers and media representatives who participated in Law Commission Civic Education activities in 2015.

6

INTERNATIONAL COOPERATION AND NETWORKING

The Commission has been successful in carrying out its work since its establishment, partly, as a result of some partnerships it has established with law reform agencies in other countries and its membership with international organisations.

Through membership to these organisations, the Commission benefits by attending training workshops, which are organised from time to time. The partnerships also provide a platform where the Commission can share its experience and learn from the experience of other institutions. The Commission has membership

with the Association of Law Reform Agencies for Eastern and Southern Africa (ALRAESA) and the Commonwealth Association for Law Reform Agencies (CALRAs). Apart from this, the Commission works in close partnership with other law reform agencies in the Southern Africa Development Community (SADC) Region.

The Law Commissioner and Mr. Mike Chinoko, Assistant Chief Law Reform Officer attended the ALRAESA Executive Committee Meeting in Lesotho from 24th to 25th November, 2015. Malawi holds the position of Secretary General of ALRAESA.



An ALRAESA meeting in progress

7 SUPPORT SERVICES

7.1. ADMINISTRATION

Resource mobilisation and the development of operational tools is key to the attainment of the Mission and Vision of the Commission. In 2015, the Administration Section was engaged in coordinating the development of various operational tools namely: the 2015 – 2020 Strategic Plan; the 2015/16 Performance Contract; the piloted Programme Based Budget; the fourth Program Estimate for the Democratic Governance programme; and the annual Other Recurrent Transactions (ORT) Budget.



Participants during the 2015 to 2020 Strategic Plan validation workshop

The Section succeeded in developing all the operational tools highlighted above. However, operationally, the Administration Section experienced serious challenges in its quest to provide efficient and effective logistical support to law reform services in the areas of mobility and fleet operations. The Commission has a fleet of seven vehicles. Four of the vehicles are very old and in a bad state hence the need to replace them. Two of the vehicles are official vehicles to the office of the Law Commissioner and Chief Law Reform Officer. The vehicle for the Chief Law Reform Officer clocked its replacement age in 2014 while that of the Law Commissioner will clock the replacement age in January, 2016. These two vehicles, despite being official vehicles assigned to specific offices, are also involved in country wide consultation activities hence the need for replacement. The oldest vehicle still in operation was acquired under Treasury Commodity Aid in 2005 while the latest was acquired in 2010. The table below provides more information on the status of the fleet of the Commission.

Registration Number	Make	Year of Make	Source of Funds	Current Use
MG 514 AE	Toyota Prado	2010	Government	Official Vehicle for the Law Commissioner
MG 630 AD	Toyota Corolla	2009	Government	Official Vehicle for the Chief Law Reform Officer

Registration Number	Make	Year of Make	Source of Funds	Current Use
MG 893 X	Toyota Corolla	2005	Treasury Commodity Aid	Pool
MG 972 Z	Mitsubishi Pajero	2005	Government	Pool
MG 309 AA	Mitsubishi L 200	2007	NAC	Non-Runner
BP 8885	Nissan Pathfinder	2008	EU RoL Project	Project Activities
BP 7928	Nissan Tiida	2008	EU RoL Project	Project Activities

7.2. FINANCE

The Law Commission Act provides that funds for the Commission shall include:

- (a) sums of money appropriated by Parliament out of the Consolidated Fund;
- (b) donations and grants;
- (c) proceeds of royalties from the sale of its publications; and
- (d) registration fees, attendance fees or other fees in connection with its conference, seminars, workshops or meetings.

Government through Parliament approved the 2015/16 Annual Budget for Law Commission as follows:

Personal Emoluments	K 268, 470, 740.00
Other Recurrent Transactions (ORT)	K 189, 000, 000.00
Total	K 457, 470, 740.00

Resources from ORT are largely used for day to day operations of the Commission which include: provision of office and public utilities; provision of fleet services; networking and collaboration; research; and provision of technical services that are not covered by cooperating partners in law reform programmes.

The Commission also received funds from donors for Law Reform Programmes and training as per the matrix below:

Name of Programme	Donor	Funding (MK)
The Review of the Law on Abortion	IPAS	22,581,783
The Technical Review of the PDVA *	UNFPA	29,667,803
The Review of the Malawi Citizenship Act	UNWOMEN	10,327,608
The Review of the Witchcraft Act	UNWOMEN	8,738,990
The Review of the Public Health Act	UNICEF	13,403,505
Development of Legislation on Sentencing Guidelines	EU-DGP	64,652,000
The Review of the Prisons Act	EU-DGP	35,093,500
Development of Legislation on Spent Convictions	EU-DGP	42,217,000
Short Term Training in Legislative Drafting	EU-DGP	17,008,500
Development of Law Commission Strategic Plan	EU-DGP	4,941,000
Total		248,631,689

7.3. HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

7.3.1. Objective

The main objective of the Human Resource Management Section is to ensure that the Commission has the right number of staff with the requisite skills to enable the Commission function efficiently and effectively at all times.

7.3.2. Recruitment

In 2015, the Human Resource Management Section coordinated the process of staff recruitment in filling various vacant posts as follows:

Name of Officer	Post	Grade	Date Joined
Mrs. Nellie Ndhlovu	Administrative Officer	LC 7 (LC - PO)	13th April, 2015
Ms. Raisa Nyirongo	Assistant Law Reform Officer	LC 6 (LC - P7)	1st October, 2015
Mr. Eugene Shaba	Procurement Officer	LC 7 (LC - PO)	1st October, 2015
Ms. Siphwe Phoya	Assistant Law Reform Officer	LC 6 (LC - P7)	2nd November, 2015

* The Programme included civic education activities on gender related laws which include: the PDVA; the MDFRA; the Gender Equality Act; the Deceased Estates (Wills, Inheritance and Protection) Act; and the Trafficking in Persons Act

7.3.3. Promotions

The following members of staff were promoted to various positions as follows:

Name of Officer	New Position	Grade	Promotion Date
Mrs. Patricia Mwachengere	Chief Accountant	LC 5 (LC -P5)	31st March, 2015
Mr. Robert Kandulu	Law Reform Officer	LC 5 (LC -P5)	26th August, 2015
Mr. Geoffrey Masamba	Systems Analyst	LC 8 (LC -PO)	3rd June, 2015

7.3.4. Training

Staff of the Commission attended the following trainings to enhance their skills:

Name of Officer	Position	Training	Training period
Mrs. Eddah Chavula	Assistant Chief Law Reform Officer	Masters Degree in Women's Law	10th January 2015-18th April, 2016
Mr. Steven Mijoni	Principal Human Resource Management Officer	Results Oriented Management 1	1st -5th June, 2015
Mr. Wongani Mvula	Assistant Law Reform Officer	Diploma in Legislative Drafting	31st August-30th October, 2015
Mr. Felix Mpapa	Director of Administration and Finance	Financial Management for Public Sector	14th September-19th October, 2015
Ms. Ruth Kachale	Stores Clerk	Induction for Stores Clerks	19th October- 27th November, 2015
Mr. Gills Msiska	Civic Education Officer	Behaviour Change and Communication	23rd November-4th December, 2015
Mrs. Dina Dembo Migochi	Controller of Human Resources Management and Development	Pension Administration	16th-20th November, 2015
Mrs. Loyce Mpinganjira	Accountant	Pension Administration	16th-20th November, 2015
Mrs. Tabitha Chakanza	Senior Assistant Human Resources Management Officer	Pension Administration	16th-20th November, 2015
Mr. William Mhone	Senior Accounts Assistant	Pension Administration	16th-20th November, 2015

Name of Officer	Position	Training	Training period
Mr. Gift Sopo	Clerical Officer	Pension Administration	16th-20th November, 2015
Mr. Edward Chibweya	Accounts Assistant	Pension Administration	16th-20th November, 2015
Ms. Sophia Maliro	Accounts Assistant	Pension Administration	16th-20th November, 2015
Mr. Steven Mijoni	Principal Human Resources Management Officer	Pension Administration	23rd-27th November, 2015
Mr. Stansfield Botha	Human Resources Management Officer	Pension Administration	23rd-27th November, 2015
Mr. Nerho Mwenelupembe	Assistant Accountant	Pension Administration	23rd-27th November, 2015
Ms. Judith Kabango	Assistant Human Resources Management Officer	Pension Administration	23rd-27th November, 2015
Mr. Thomson Matoliro	Accounts Assistant	Pension Administration	23rd-27th November, 2015



The Law Commissioner, Mrs. Gertrude Lynn Hiwa, SC (seated center) and other members of management posing with some members of staff from the Accounts and Human Resources Management Sections after a training session on Pension Administration. The training was facilitated by tutors from Mpemba Staff Development Institute.

7.3.5. Resignations

The following resigned from the Commission:

Name of Officer	Position	Date retired
Mr. Kelvin Mbewe	Principal Systems Analyst	10th February, 2015
Ms. Allepher Changadeya	Procurement Officer	30th May, 2015

8

CHALLENGES AND CONCLUSION

8.1. CHALLENGES

The Commission experienced a number of challenges in the year 2015. The following are some of the main challenges encountered:

Inadequate funding: As reported in the 2013 and 2014 Annual Reports, inadequate funding levels of the Commission continue to affect the operations of the Commission. To date, some law reform programmes that stalled or failed to commence still failed to resume or commence due to inadequate funding. These include the Review of Laws Regulating Political Parties; the Review of Certain Aspects of the Constitution; the Review of Certain Aspects of the Penal Code; the Review of Laws Regulating the Extractive Industry; and the Review of the Patents Act.

The Commission continues to engage Government for adequate funding on law reform programmes. The Commission also continues to engage other funding partners to meet the resource needs of the Commission for the Programmes and other law reform related work.

Staff attrition: Two officers left the service of the Commission through resignations and this affected the normal flow of planned activities for the Commission.

The Commission succeeded in replacing one officer and also recruited two Assistant Law Reform Officers. Nonetheless, the Commission continues to endeavour to make itself a competitive employer that engages quality and well qualified personnel by, among other things, searching for reasons why employees leave the Commission.

Unattained training needs: while the Commission seeks to employ adequately trained personnel, there is a constant need for provision of specialist training for staff in order to upgrade their qualifications. This is necessary to ensure the efficient and effective realisation of the mandate of the Commission

Structurally unsafe office accommodation: Concerns about the structural fitness of the building which accommodates the Commission persist.

Mobility and fleet operations: The Commission has a fleet of seven vehicles. Four of these vehicles are very old such that they need to be replaced. Their state is negatively affecting the operations of the Commission especially country wide consultations and public awareness campaigns which require the Civic Education Section team to traverse the country.

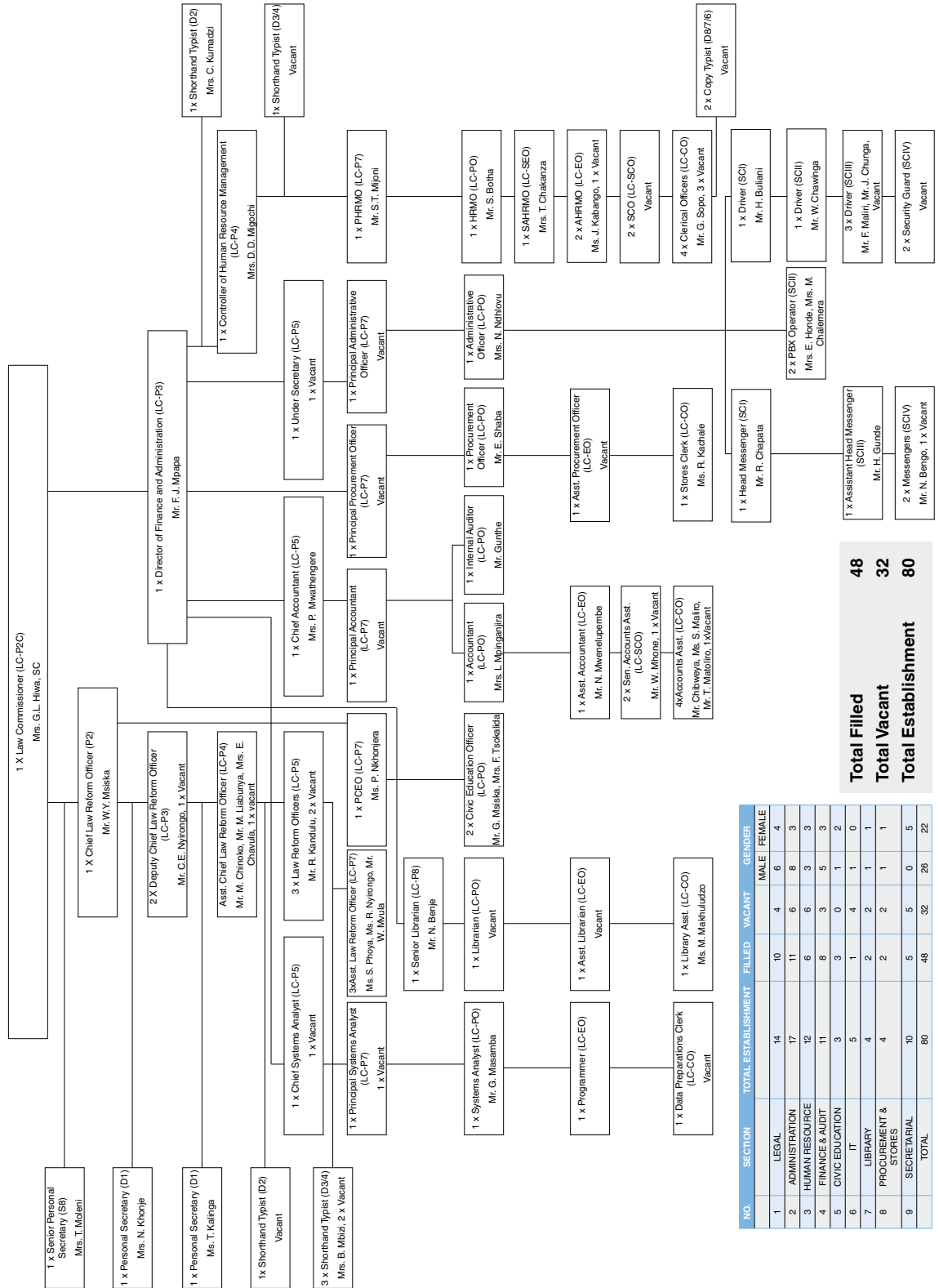
8.2. CONCLUSION

Generally, the Commission saw significant developments in the execution of its mandate in 2015. Good and measurable progress was made in most law reform programmes and some of the programmes that stalled have received funding. The

special Law Commissions on these programmes are thus expected to continue their work in the year 2016.

It is with this optimism that the Commission approaches 2016 and hopes to continue delivering on its promise to become an expert provider of advisory services to Government on law reform.

APPENDIX 1: LAW COMMISSION ORGANISATIONAL CHART AS AT 31 DECEMBER, 2015



Total Filled 48
Total Vacant 32
Total Establishment 80

NO.	SECTION	TOTAL ESTABLISHMENT		GENDER	
		FILLED	VACANT	MALE	FEMALE
1	LEGAL	14	10	4	6
2	ADMINISTRATION	17	11	6	8
3	HUMAN RESOURCE	12	6	3	3
4	FINANCE & AUDIT	11	8	3	5
5	CIVIC EDUCATION	3	3	0	1
6	IT	5	1	4	1
7	LIBRARY	4	2	2	1
8	PROCUREMENT & STORES	4	2	2	1
9	SECRETARIAL	10	5	5	0
	TOTAL	80	48	32	22

APPENDIX 2

LAW COMMISSION ANNUAL WORK PROGRAMME 2016



MALAWI LAW COMMISSION

GENERAL NOTICE

Under section 7 (1) (a), Law Commission Act,
Cap. 3:09 of the Laws of Malawi

The Law Commission in accordance with section 7 (1) (a) of the Law Commission Act, Cap. 3:09 and in pursuance of its powers, duties and functions under the Constitution and the Law Commission Act, hereby publishes its programme of work for the year 2016.

1. LAW REFORM

1.1 Ongoing Programmes

(a) Review of Prisons Act, Cap. 9:02, Laws of Malawi

The special Law Commission on the review of the Prisons Act shall finalise the review process and shall publish a report of its findings and recommendations.

(b) Development of Legislation on Sentencing Guidelines

The special Law Commission on the Development of Legislation on Sentencing Guidelines shall finalise its work and shall publish a Report of its findings and recommendations.

(c) Development of Legislation on Spent Convictions

The special Law Commission shall finalise its work and shall publish a Report of its findings and recommendations.

(d) Review of the Public Health Act, Cap. 34:01, Laws of Malawi

The special Law Commission on the Review of the Public Health Act shall continue with the review process.

(e) Review of the Witchcraft Act, Cap. 7:02, Laws of Malawi

The special Law Commission on the Review of the Witchcraft Act shall continue with the review process.

1.2 New Programmes*(a) Review of Malawi Citizenship Act, Cap. 15:01, Laws of Malawi*

The Law Commissioner, in consultation with the Judicial Service Commission, shall empanel a special Law Commission to review the Malawi Citizenship Act.

(b) Review of Electoral Laws

The Law Commissioner, in consultation with the Judicial Service Commission, shall empanel a special Law Commission to review all laws governing elections.

(c) Development of Legislation to govern the Judicial Service Commission

The Law Commissioner, in consultation with the Judicial Service Commission, shall empanel a special Law Commission to develop Legislation to govern the Judicial Service Commission.

2. PUBLIC AWARENESS AND CIVIC EDUCATION

The Law Commission shall continue its mandate of promoting awareness of applicable laws and the Constitution of Malawi, by the public and Departments of Government. In particular, the Law Commission shall carry out public awareness campaigns of the following laws:

- (a) Deceased Estates (Wills, Inheritance and Protection) Act;
- (b) Gender Equality Act;
- (c) Marriage, Divorce and Family Relations Act;

- (d) Prevention of Domestic Violence Act; and
- (e) Trafficking in Persons Act.

3. OTHER PUBLICATIONS

The Law Commission shall finalise development and publication of the following-

- (a) Annual Report for 2015;
- (b) Law Reform Magazine; and
- (c) brochures, fact sheets and posters on the following laws:
 - (i) Deceased Estates (Wills, Inheritance and Protection) Act ;
 - (ii) Gender Equality Act;
 - (iii) Marriage, Divorce and Family Relations Act;
 - (iv) Prevention of Domestic Violence Act; and
 - (v) Trafficking in Persons Act .

For:

William Y. Msiska
Chief Law Reform Officer
LAW COMMISSIONER

APPENDIX 3

MEMBERS OF SPECIAL LAW COMMISSIONS

Programme	Members	Institution
Law on Abortion	Honourable Justice Esme J. Chombo – Chairperson	Judiciary
	Mrs. Fannie Kachale - Deputy Chairperson	Ministry of Health
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Dr. Ann Phoya	Ministry of Health
	Ms. Primrose Chimwaza	Ministry of Justice and Constitutional Affairs
	Dr. Chisale Mhango	College of Medicine
	Bishop Gilford I. Matonga	Pentecostal Assemblies of Malawi
	Fr. Dennis Mkomwa	Lilongwe Diocese
	Traditional Authority Kapeni	Local Government
	Mr. Rex Mapila	Malawi Law Society
	Mr. Imran W. Saidi	Muslim Association of Malawi
Spent Convictions	Honourable Justice Mankhambira C.C. Mkandawire – Chairperson	High Court of Malawi
	Mrs. Mary Kachale – Deputy Chairperson	Ministry of Justice
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Brigadier General George D. Liwimbi	Malawi Defence Force
	Mr. Shadreck Ching'oma	Civil Service Commission
	Mr. Henzily Munkhondya	Malawi Electoral Commission
	Mr. Chrispin Y. Siwande Banda	Immigration Department
	Mr. Roosevelt L. Gondwe	-
	Mr. Charles P. Dulira	National Bank of Malawi
	Mr. Mandala Mambulasa	Malawi Law Society
Public Health Act	Honourable Justice Dingiswayo Madise – Chairperson	Judiciary
	Dr. Ann Phoya - Deputy Chairperson	Ministry of Health
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission

Programme	Members	Institution
	Mr. Titus Mvalo	Malawi Law Society
	Dr. Damson Kathyola	Ministry of Health
	Mrs. Martha Kwataine	Malawi Health Equity Network
	Mr. Vitto Peter Mulula	Lilongwe City Council
	Mrs. Fiona Kalemba	Ministry of Justice and Constitutional Affairs
	Ms. Sitingawawo Kachingwe	Nurses and Midwives Council of Malawi
Prevention of Domestic Violence Act	Honourable Justice Ivy Kamanga - Chairperson	Judiciary
	Mr. Joseph Kazima - Deputy Chairperson	Ministry of Gender, Children and Social Welfare
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Mr. Chrispin Sibande	Ipas
	Ms. Tinyade Kachika	Civil Society
Prisons Act	Honourable Justice Kenan Manda - Chairperson	Judiciary
	Mr. Masauko N. Wiscot - Deputy Chairperson	Malawi Prisons Service
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Ambassador Sophie Kalinde	Human Rights Commission
	Mr. Bruno M. Kalemba	Ministry of Justice and Constitutional Affairs
	Mrs. Mary Kachale	Ministry of Justice and Constitutional Affairs
	Mr. Demster L. Chigwenembe	Malawi Police Service
	Mr. Charles Z. Kasambara	Centre for Legal Assistance
	Rev. Dr. Osborne L. Joda-Mbewe	Malawi Council of Churches
	Mr. Clifford Msiska	Paralegal Advisory Services Institute

Programme	Members	Institution
	Mrs. Arlene C. Baluwa (Replaced by Mr. Kenson Mbwana)	Ministry of Home Affairs
	Mr. Little D. Mtengano	Malawi Prisons Service
Sentencing Guidelines	Honourable Justice Edward Twea, SC, JA - Chairperson	Judiciary
	Honourable Justice MacLean Kamwambe-Deputy Chairperson	Judiciary
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Honourable Justice Ivy Chatha Kamanga	Judiciary
	Mr. Clement John Kainja	Malawi Prisons Service
	Mr. Pacharo Kayira	Ministry of Justice and Constitutional Affairs
	Mr. Noel Chalamanda	Malawi Law Society
	Mrs. Felister Dossi-Jumbe	Malawi Housing Corporation
Witchcraft Act	Honourable Justice Robert. R. Chinangwa, SC (Rtd), JA – Chairperson	Judiciary
	Mrs. Clotilda Sawasawa – Deputy Chairperson	Ministry of Gender, Children, Disability and Social Welfare
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Mr. Wezi Kayira	Ministry of Labour
	Mr. Rodrick C. Makono	Malawi Law Society
	Mr. Sangster S. Nkhandwe	Livingstonia Synod of the CCAP
	Late Dr. Pierson Ntata (passed away in October, 2013)	University of Malawi
	Dr. M.P.K.J. Theu	Herbalists Association of Malawi
	Senior Chief Malemia	Local Government

APPENDIX 4

STATUS OF THE LAW COMMISSION REPORTS AS AT 31ST DECEMBER, 2015

#	Title	Year of publication	Proposed legislation	Status
1	Review of Certain Laws on Defilement of Young Girls, Wills and Inheritance, Citizenship, Marriage and Affiliation	October, 1996	(1) Penal Code (Defilement of Young Girls) (Amendment) Bill	Before Cabinet
			(2) Wills and Inheritance (Amendment) Bill	Enacted in 1998 as Act No. 22
			(3) Citizenship (Amendment) Bill	Before Cabinet
			(4) Marriage (Amendment) Bill	Enacted in 1997 as Act No. 29
			(5) Affiliation (Amendment) Bill	Enacted in 1997 as Act No. 30
2	Technical Review of the Constitution	November, 1998	Constitution (Amendment) Bill	Enacted in 2001 as Act No.13 and in 2010 as Act No. 8
3	Criminal Justice Reform on Bail Guidelines	February, 2000	Bail (Guidelines) Bill	Enacted in 2000 as Act No. 8
4	Review of the Penal Code	June, 2000	Penal Code (Amendment) Bill	Enacted in 2011 as Act No. 1
5	Review of the Army Act	July, 2001	Defence Forces Bill	Enacted in 2004 as Act No. 11
6	Review of Censorship and Control of Entertainment Act	August, 2001	Classification of Public Entertainment and Publications Bill	Before Cabinet
7	Review of the Legal Education and Legal Practitioners Act	September, 2002	Legal Education and Legal Practitioners (Amendment) Bill	Enacted in 2004 as Act No. 9
8	Review of the Corrupt Practices Act	November, 2002	Corrupt Practices (Amendment) Bill	Enacted in 2004 as Act No. 17
9	Review of the Police Act	July, 2003	Police Bill	Enacted in 2010 as Act No.12
10	Review of the Criminal Procedure and Evidence Code	December, 2003	Criminal Procedure and Evidence Code (Amendment) Bill	Enacted in 2010 as Act No.14

#	Title	Year of publication	Proposed legislation	Status
11	Criminal Justice Reform on Conversion of Fines	December, 2003	Fines (Conversion) Bill	Enacted in 2005 as Act No. 10
12	Review of the Wills and Inheritance Act	January, 2004	1. Deceased Estates, (Wills, Inheritance and Protection) Bill	Enacted in 2011 as Act No. 14
			2. Estate Duty (Amendment) Bill	Before cabinet
13	Review of the Legal Aid Act	July, 2005	Legal Aid Bill	Enacted in 2011 as Act No. 7
14	Review of Children and Young Persons Act	October, 2005	Child (Care, Protection and Justice) Bill	Enacted in 2010 as Act No. 22
15	Review of the Land Related Laws	March, 2010	1. Land Bill	Before Cabinet
			2. Customary Land Bill	Before Cabinet
			3. Registered Land (Amendment) Bill	Before Cabinet
			4. Physical Planning Bill	Before Cabinet
			5. Forestry (Amendment) Bill	Before Cabinet
			6. Public Roads (Amendment) Bill	Before Cabinet
			7. Mines & Minerals (Amendment) Bill	Before Cabinet
			8. Land Survey Bill	Before Cabinet
			9. Land Acquisition (Amendment) Bill	Before Cabinet
			10. Local Government (Amendment) Bill	Before Cabinet
			11. Malawi Housing Corporation (Amendment) Bill	Before Parliament
			12. Companies (Amendment) Bill	Before Cabinet
16	Review of the Laws on Marriage and Divorce	June, 2006	1. Marriage, Divorce and Family Relations Bill	Enacted in 2015 as Act No. 4
			2. Penal Code (Amendment) Bill	Before Cabinet
17	Review of Traditional Courts Act	September, 2007	Local Courts Bill	Enacted in 2011 as Act No. 9

#	Title	Year of publication	Proposed legislation	Status
18	Review of the Constitution	September, 2007	(1) Constitution (Amendment) Bill	Before Cabinet
			(2) Constitution (Amendment) (No. 2) Bill	Before Cabinet
			(3) Impeachment of President Bill	Before Cabinet
			(4) Political Parties Registration and Regulation (Amendment) Bill	Before Cabinet
			(5) Electoral Commission (Amendment) Bill	Before Cabinet
			(6) Parliamentary and Presidential Elections (Amendment) Bill	Before Cabinet
			(7) Courts Act (Amendment) Bill	Before Cabinet
			(8) Ombudsman (Amendment) Bill	Before Cabinet
19	Report on the Development of Legislation on Declaration of Assets, Liabilities and Business Interests by Public and Elected Officers	August, 2008	(1) Public Officers (Declaration of Assets, Liabilities and Business Interests) Bill	Enacted in 2013 as Act No. 22
			(2) Parliamentary and Presidential Elections (Amendment) Bill	Before Cabinet
			(3) Local Government Elections (Amendment) Bill	Before Cabinet
20	Report on Development of HIV and AIDS Legislation	December, 2008	(1) HIV and AIDS (Prevention and Management) Bill	Before Cabinet
			(2) Employment (Amendment) Bill	Before Cabinet
21	Review of Education Act	March, 2010	Education Bill	Enacted in 2013 as Act No. 21
22	Development of Trafficking in Persons Legislation	February, 2011	1. Trafficking in Persons Bill	Enacted in 2015 as Act No. 3
			2. Tourism and Hotels (Amendment) Bill	Before Cabinet
			3. Immigration (Amendment) Bill	Before Cabinet
			4. Penal Code (Amendment) Bill	Before Cabinet
			5. Extradition (Amendment) Bill	Before Cabinet

#	Title	Year of publication	Proposed legislation	Status
23	Development of a Gender Equality Statute	February, 2011	Gender Equality Bill	Enacted in 2013 as Act No. 3
24	Review of Legal Education and Legal Practitioners Act	May, 2013	(1) Legal Education and Legal Practitioners (Amendment) Bill	Before Cabinet
			(2) Debt Collection Bill	Before Cabinet
25	Review of the Trade Marks Act	July, 2013	(1) Trade Marks Bill	Before Cabinet.
			(2) Company and Intellectual Property Office Bill	Before Cabinet.
26	Review of the Firearms Act	June, 2013	Firearms and Ammunition (Control) Bill	Before Cabinet
27	Review of the Adoption of Children Act	August, 2013	(1) Adoption of Children Bill	Before Cabinet
			(2) Adoption of Children (Court Rules) Bill	Before Cabinet





