



# LAW COMMISSION ANNUAL REPORT — 2017







## CONTACTS

### **Postal address:**

Law Commission  
Private Bag 373  
Lilongwe 3  
MALAWI

**Tel.:** +265(0) 1 772 841

+265 (0) 1 772 442

+265 (0) 1 772 882

+265 (0) 1 773 996

**Fax:** +265 (0) 1 772 532

### **Physical address:**

Filimoni House  
Off African Unity Avenue  
City Centre  
Lilongwe

**Email** : [lawcom@lawcom.mw](mailto:lawcom@lawcom.mw)

**Website:** [www.lawcom.mw](http://www.lawcom.mw)

### **Office hours:**

07:30 to 12:00 Hours

13:00 to 16:30 Hours (Mondays to Fridays)



# CONTENTS

Acronyms	iii
Foreword	iv
About the Law Commission	1
Overview of the Law Reform Process	6
Completed Law Reform Programmes	9
Ongoing Law Reform Programmes	12
Civic Education and Public Relations	14
Networking and International Cooperation	16
Support Services	17
Challenges and Conclusion	23
Appendices	24
Appendix I: Organizational Chart of the Law Commission as at 31 <sup>st</sup> December, 2017	24
Appendix II: Members of Special Law Commissions	25
Appendix III: Status of Completed Law Reform Programmes	30
Appendix IV: Notice of Annual Work Programme for 2018	37

# ACRONYMS

---

ALRAESA	:	Association of Law Reform Agencies of Eastern and Southern Africa
BICC	:	Bingu International Conference Center
CALRAs	:	Commonwealth Association of Law Reform Agencies
Cap.	:	Chapter
CSOs	:	Civil Society Organisations
DFID	:	Department for International Development
ESAMI	:	East and Southern Africa Management Institute
EU-DGP	:	European Union-Democratic Governance Programme
GEWE	:	Gender Equality and Women Empowerment
IT	:	Information Technology
IEC	:	Information, Education and Communication
ILI	:	International Law Institute
JA	:	Justice of Appeal
MANA	:	Malawi News Agency
MBC	:	Malawi Broadcasting Corporation
MDFRA	:	Marriage, Divorce and Family Relations Act
NPL	:	Nation Publications Limited
OPC	:	Office of the President and Cabinet
ORT	:	Other Recurrent Transactions
PDVA	:	Prevention of Domestic Violence Act
Rtd	:	Retired
SADC	:	Southern African Development Community
SC	:	Senior Counsel
SDI	:	Staff Development Institute
TWR	:	Trans World Radio
TV	:	Television
UN	:	United Nations
UNDP	:	United Nations Development Programme
UNICEF	:	United Nations Children's Fund
ZBS	:	Zodiak Broadcasting Station

# FOREWORD



**Mrs. Gertrude Lynn Hiwa, SC** Law Commissioner

I am pleased to present to you the Law Commission Annual Report for 2017. The past year was one of the most productive years for the Law Commission (the Commission). It was the year in which the Commission was recognized by the Performance Enforcement Department as an institution that showed improved performance in the delivery of its mandate. This Report is an account of the considerable progress made by the Commission in the year 2017. It also highlights some of the challenges that were experienced by the Commission as the year unfolded.

Pursuant to its mandate as provided for under the Law Commission Act (Cap. 3:09), the

Commission successfully carried out a significant number of law reform and civic education activities.

The Commission commenced and completed the Review of Electoral Laws Programme in twelve months. A Report containing proposed Legislation was submitted to the Minister responsible for Justice for laying in Parliament. In addition, the Commission completed substantive work on three (3) other programmes, namely: Review of the Prisons Act; Development of Legislation on Sentencing Guidelines; and Development of Legislation on Spent Convictions. Towards the completion of substantive work on the three programmes, the Commission partnered with the United Nations Office on Drugs and Crime (UNODC) which provided financial support for additional Commission meetings whose aim was to ensure that the recommendations and findings of the Commission took into account very recent developments in the subject areas under review. Reports on the three (3) programmes are scheduled to be published before June, 2018. Further, the Commission continued work on three (3) law reform programmes, namely: Review of the Witchcraft Act (Cap. 7:02); Review of the Public Health Act (Cap. 34:01); and Review of the Malawi Citizenship Act (Cap. 15:01).

Consultations remain a fundamental part of the law reform process. It is for this reason that the Commission engaged relevant stakeholders, including Government, civil society and members of the public in consultations throughout the year. The

consultations were done through workshops; online interactions; radio and television phone in programmes; and interface meetings. The Commission, therefore, wishes to express its gratitude to all stakeholders and the public for the participation and contributions made towards the work of the Commission.

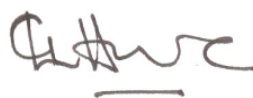
The Commission carried out awareness campaigns on various pieces of legislation through workshops and the publication and dissemination of various types of information, education and communication (IEC) materials. The workshops were on land-related laws and were held in partnership with Landnet in all the three(3) regions of the country. The main target of the workshops was civil society organisations (CSOs) dealing with land and land-related issues. In addition, the Commission published and distributed the 2016 Annual Report; and the 2017 Calendar, Christmas cards and Diaries to its stakeholders. Further, the Commission disseminated IEC materials on gender-related laws in thirteen (13) districts across the country.

The Commission, however, experienced some challenges in the implementation of its programmes. For instance, there was slow progress in the execution of the Review of the Public Health Act (Cap. 34:01) due to intermittent funding. The Review of the Malawi Citizenship Act (Cap. 15:01) stalled because of lack of funds. The Development of Legislation to Govern the Judicial Service; Development of Legislation on Distress for Rent; and Review of the Supreme Court of Appeal Act (Cap. 3:01) did not commence due to lack of funds.

The Commission continues to value the input and commitment from its members of staff and members of special Law Commissions towards the execution of its mandate. Their expertise, dedication, professionalism and good work ethic contributes to the quality and authority of the work of the Commission.

Further, the Commission continues to value the support it receives from Government and its cooperating partners. Some of the partners that supported the Commission in 2017 include: United Nations Office on Drugs and Crime (UNODC); United Nations Children's Fund (UNICEF); United Nations Development Programme (UNDP); Norwegian Embassy; the Irish Embassy; the Department for International Development (DFID); the Delegation of the European Union (EU) in Malawi; and Landnet.

Moving forward, the Commission remains committed in its quest to professionally execute its mandate. The 2018 Annual Work Programme will help us focus on our goals and execute our mandate to the satisfaction of the people of Malawi.



Mrs. Gertrude Lynn Hiwa, SC  
**Law Commissioner**

# 1. ABOUT THE LAW COMMISSION

## 1.1 ESTABLISHMENT

The Constitution established the Law Commission in 1994. The enabling legislation, the Law Commission Act (Cap: 3:09), followed in 1998, two (2) 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. 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 thirty-three (33) reports and all of them contain proposed legislation. 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

The broad framework of the functions of the Commission is provided under section 135 of the Constitution. 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 law. The Commission receives and reviews

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 modernisation 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 departments of the Government and other authorities or bodies.

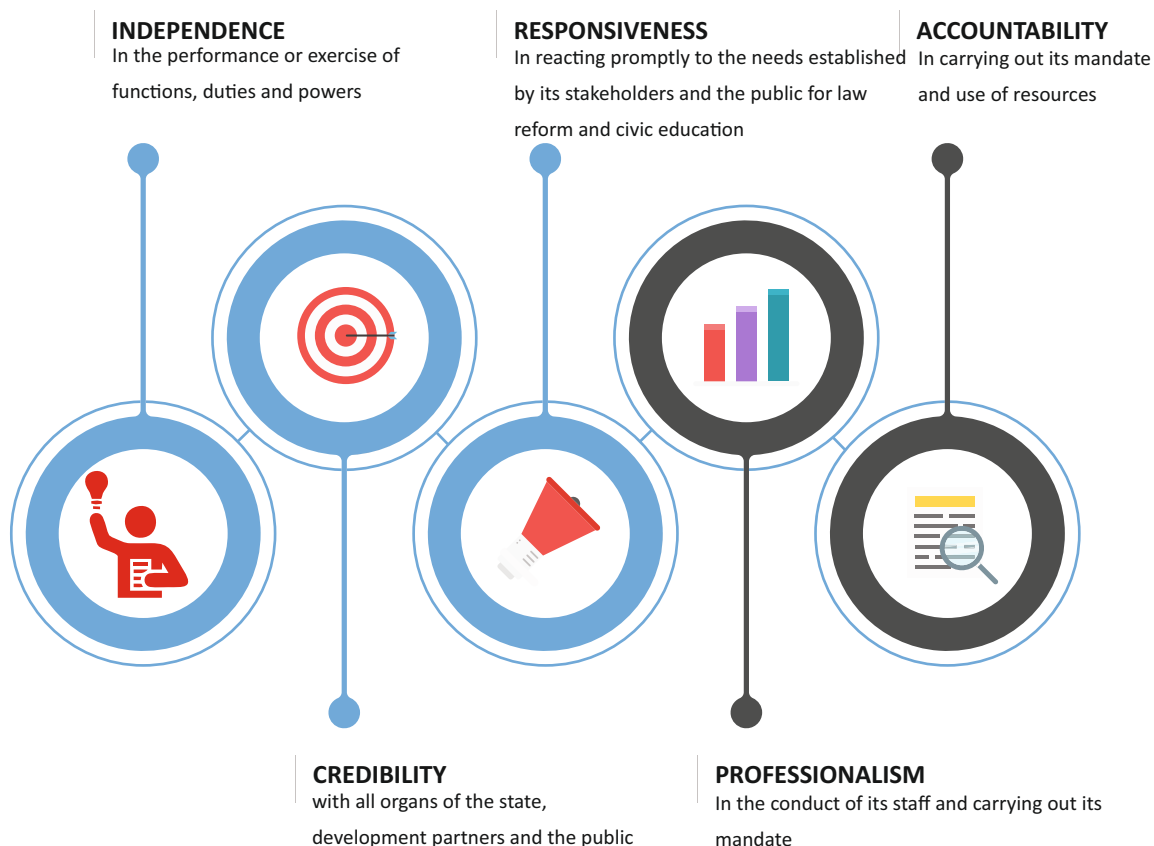


### 1.3 INSTITUTIONAL SET UP OF THE COMMISSION

The Law Commissioner heads the Commission for a renewable term of five (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. Mrs. Gertrude Lynn Hiwa, SC, is the third Law Commissioner and first woman to be appointed in this capacity.

The core business of the Commission is undertaken by the Legal Services Division whose mandate is broken down into legal research; review of statutes; development of proposed legislation; and civic education. The Corporate Services Division generally provides support services to the Legal Services Division on matters of administration; human resource management; accounting; library services and procurement. The Organizational Chart of the Law Commission as at 31<sup>st</sup> December, 2017 is attached to this Report as *Appendix I*.

### 1.4 CORE PRINCIPLES OF THE COMMISSION



## **Vision**

Expert advisers on the law, its reform, development and status in Malawi.

## **Mission Statement**

To provide expert advice to Government on law development and reform.

## **Goal**

To promote public participation and good governance through the 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 the Laws of Malawi and the Constitution.



# Our Team



**Mrs. Gertrude Lynn Hiwa, SC**  
Law Commissioner

## LEGAL SERVICE DIVISION

### Legal Services



**Mr. William Yakuwawa Msiska**  
Chief Law Reform Officer



**Mr. Mike Chinoko**  
Deputy Chief Law Reform Officer



**Mr. Mtamandeni Liabunya**  
Deputy Chief Law Reform Officer



**Mrs. Eddah Chavula**  
Assistant Chief Law Reform Officer



**Mr. Robert Kandulu**  
Law Reform Officer



**Mr. Wongani Mvula**  
Law Reform Officer



**Ms. Siphwe Phoya**  
Assistant Law Reform Officer



**Ms. Ndamo Somba**  
Legal Intern

### Civic Education



**Mr. Gills Msiska**  
Principal Civic Education Officer



**Mrs. Flora Tsokalida**  
Civic Education Officer



**Mr. Orama E. Maliro**  
Civic Education Intern

## CORPORATE SERVICE DIVISION

### Human Resource Management



**Mr. Felix Mpapa**  
Director of Administration and Finance



**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



**Mrs. Judith D. Kabango**  
Assistant HRM Officer



**Mrs. Minnie Chalemera**  
Clerical Officer

### Procurement



**Mr. Eugene Shaba**  
Procurement Officer



**Mrs. Memory Manyungwa**  
Stores Assistant

#### Finance and Internal Audit



**Mrs. Patricia Mwatengere**  
Chief Accountant



**Mrs. Loyce Mpinganjira**  
Accountant



**Mr. Eric Gunthe**  
Internal Auditor



**Mr. William Mhone**  
Senior Accounts Assistant



**Mr. Thomson Matoliro**  
Accounts Assistant



**Ms. Sophia Maliro**  
Accounts Assistant

#### Administration



**Mrs. Nellie Ndhlovu**  
Administrative Officer



**Mrs. Chimwemwe Sibande**  
Systems Analyst



**Mr. Nubson Benje**  
Senior Librarian



**Ms. Mercy makhuludzo**  
Library Assistant

#### Information Technology

#### Library

#### Secretaries and Front Officers



**Mrs. Tabu Moleni**  
Senior Personal Secretary



**Ms. Naomi Khonje**  
Personal Secretary



**Ms. Temwapo Kalinga**  
Personal Secretary



**Mrs. Crecensia Kumadzi**  
Personal Secretary



**Mrs. Beatrice Mbizi**  
Personal Secretary



**Mrs. Eluby Honde**  
Receptionist

#### Drivers



**Mr. Herbert Buliani**  
Driver



**Mr. Joe Chunga**  
Driver



**Mr. Wisdom Chawinga**  
Driver



**Mr. Frank Malili**  
Driver

#### Messengers



**Mr. Robert Chapata**  
Messenger



**Mr. Harry Gunde**  
Messenger



**Mr. Nickson 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 2017, the Commission had developed its 2018 Annual Work Programme. For the 2018 Annual Work Programme, see *Appendix IV*.

## 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 three (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 obligations of the country 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 guide the work of special Law Commissions. The 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 deficiencies that need rectification. The Paper may contain empirical data on which proposals for reform are 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 stakeholders 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 a reform process, the Commission, at an early stage, determines issues that arise in the area 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 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**

Individuals with relevant expertise on the subject matter under consideration are identified and appointed as members of a special Law Commission by the Law Commissioner in consultation with the Judicial Service Commission. The persons so appointed serve as Commissioners on the Programme, determine the terms of reference and agree upon the work methodology for that Programme. Mostly, the work of the special Law Commission is done through meetings in plenary where the Commissioners meet and deliberate. A special Law Commission may also conduct field visits and comparative study visits to other jurisdictions. For a list of Commissioners who served as members of special Law Commissions on various law reform programmes in 2017, *see Appendix II*.

### **2.2.4. Phase IV: Consultations**

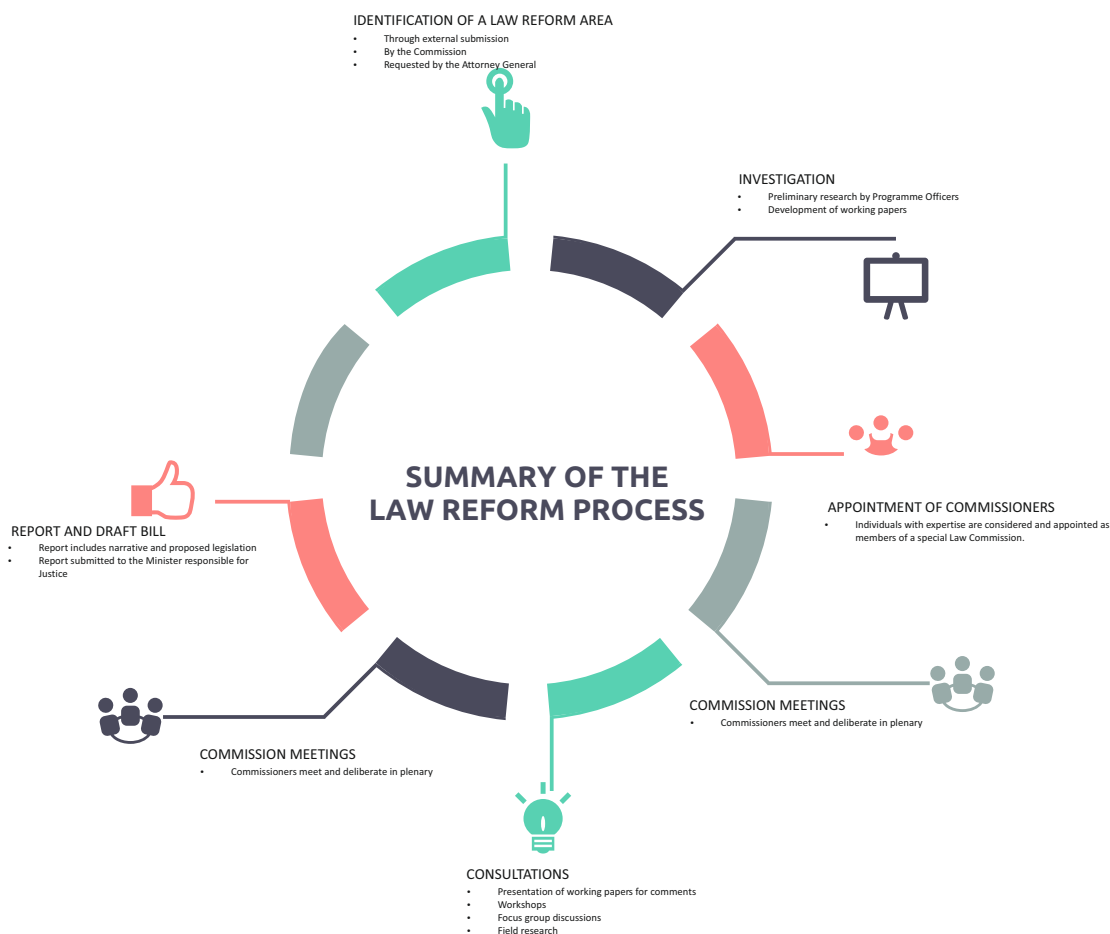
Consultations on a subject matter are done with stakeholders and members of the public. These consultations may include: sending working papers for responses and comments; workshops; focus group discussions; and study visits. The aim of consultations is to seek views of the stakeholders prior to or on 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

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 III*.

## SUMMARY OF THE LAW REFORM PROCESS



# 3. COMPLETED LAW REFORM PROGRAMMES

The Commission completed four (4) law reform programmes, namely: Review of the Prisons Act; Development of Legislation on Sentencing Guidelines; Development of Legislation on Spent Convictions; and Review of Electoral Laws. The reports on three (3) of these programmes have been submitted to the Government Printer for publication while the Report on the Review of Electoral Laws was submitted to the Minister responsible for Justice.

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

As reported in the Law Commission Annual Report 2016, all of the substantive work of the special Law Commission on the Review of the Prisons Act, as outlined in the Work Plan, was duly executed within the time-frame set out under the Work Plan. As the Commission approached the publication stage, however, one of our partners, United Nations Office on Drugs and Crime (UNODC), requested the special Law Commission to delay the publication of its Report with the aim of ensuring that the work of the Commission substantively addresses emerging issues and some recent developments that had taken place within the criminal justice framework as viewed from an international perspective. The issues include the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) by the General Assembly of the United Nations. UNODC pledged to finance three (3) meetings of the special Law Commission and provide resource persons to support the work and research of the special Law Commission,

should such support be required. The special Law Commission held the first of the three (3) meetings from 11<sup>th</sup> to 13<sup>th</sup> December, 2017. The remaining two (2) meetings are scheduled to take place in February and March, 2018. The Report of the special Law Commission is scheduled to be published before June, 2018.

The special Law Commission is chaired by Honourable Justice Kenan Manda. The Principal Programme Officer is Mr. Mtamandeni Liabunya, Deputy Chief Law Reform Officer. He is being assisted by Mr. Robert Kandulu and Mr. Wongani Mvula, Law Reform Officers; and Ms. Sipiwe Phoya, Assistant Law Reform Officer. While the Programme was entirely funded by the European Union – Democratic Governance Programme (EU-DGP), the three additional meetings are being funded by UNODC.

## 3.2 DEVELOPMENT OF LEGISLATION ON SENTENCING GUIDELINES

As reported in the Law Commission Annual Report 2016, the special Law Commission completed all the substantive work as per its work plan and the Commission is in the process of publishing a Report of the special Law Commission for submission to the Minister responsible for Justice. The Report contains the findings and recommendations of the special Law Commission, as well as proposed Legislation on Sentencing Guidelines.

The proposed Legislation has a schedule which contains Sentencing Guidelines. Nonetheless,





Participants during a consultative workshop.

the UNODC requested that publication of the Report be delayed to enable the Commission to consider the Sentencing Guidelines in the schedule to the proposed Legislation. They pledged to provide financial assistance for the Commission to hold two (2) meetings. The first meeting took place from 18<sup>th</sup> to 20<sup>th</sup> December, 2017. The second meeting has been scheduled for March, 2018. The Report of the special Law Commission is scheduled to be published before June, 2018.

The Chairperson for the special Law Commission is Honourable Justice Edward B. Twea, SC, JA. The Principal Programme Officer is Mr. William Yakuwawa Msiska, Chief Law Reform Officer. He is assisted by Mr. Robert Kandulu, Law Reform Officer. The Programme is implemented with financial support from the European Union - Democratic Governance Programme (EU-DGP).

### 3.3 DEVELOPMENT OF LEGISLATION ON SPENT CONVICTIONS

As reported in the Law Commission Annual Report 2016, the special Law Commission completed all the substantive work as outlined in the Work Plan. The Report of the

special Law Commission is scheduled to be published before June, 2018. The Report will be submitted to the Minister responsible for Justice.

The special Law Commission on the Development of Legislation on Spent Convictions was chaired by Honourable Justice Mankhambira C.C. Mkandawire. The Principal Programme Officer was Mr. Mtamandeni Liabunya, Deputy Chief Law Reform Officer. He was assisted by Mr. Wongani Mvula, Law Reform Officer; and Ms. Sipiwe Phoya, Assistant Law Reform Officer. The Programme was implemented with financial support from the European Union - Democratic Governance Programme (EU-DGP).



Participants during a consultative workshop on the Development of Legislation on Spent Convictions

### 3.4 REVIEW OF ELECTORAL LAWS

The Commission received a submission from the National Task Force on Electoral Reforms to consider undertaking a comprehensive reform of electoral laws. A special Law Commission was, therefore, empanelled with the overall objective of developing a clear, simple, comprehensive and unified legislative framework on elections that is in line with the dictates of the Constitution, applicable international law, and principles of

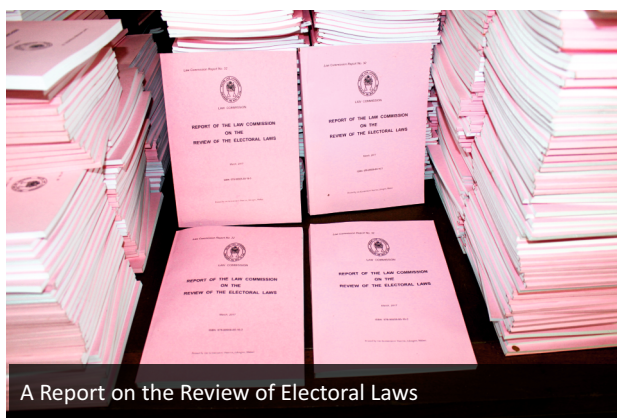
democratic governance. Some of the key issues that were considered for reform include:

- (a) harmonisation and consolidation of electoral laws;
- (b) electoral systems;
- (c) participation of women in elective office;
- (d) eligibility of voters and candidates;
- (e) campaign and handouts;
- (f) polling, publication of results, handover and inauguration;
- (g) composition of the Electoral Commission and tenure of office of Commissioners;
- (h) independence and accountability of the Electoral Commission;
- (i) management and operational capacity of the Electoral Commission secretariat;
- (j) constituency and ward demarcation;
- (k) logistical and operations management;
- (l) dispute resolution;
- (m) regulation of CSOs on civic and voter education; and
- (n) referendum.

The special Law Commission completed the review programme in accordance with its Work Plan and submitted a Report containing proposed Legislation to the Minister responsible for Justice.

The special Law Commission was chaired by Honourable Justice Anthony D. Kamanga, SC, JA. The Principal Programme Officers were: Mr William Yakuwawa Msiska, Chief Law Reform Officer; Mr Mike Chinoko and Mr Mtamandeni

Liabunya, Deputy Chief Law Reform Officers. However, all Law Reform Officers at the Commission were also actively involved in this Programme. The Programme was being funded by the Norwegian Embassy, the Irish Embassy, the Department for International Development (DFID), the Delegation of the European Union (EU) in Malawi and the United Nations Development Programme (UNDP) through a basket fund coordinated and managed by UNDP; and the Government of Malawi.





# 4. ONGOING LAW REFORM PROGRAMMES

## 4.1 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. The special Law Commission met in plenary from 22<sup>nd</sup> November to 24<sup>th</sup> November, 2017. Further, the special Law Commission conducted a study visit to Mua Mission in Dedza, Malawi on 15<sup>th</sup> December, 2017. The aim of the study visit was to appreciate the cultural practices pertaining to witchcraft and learn from the experiences of Father Boucher, an expert in *gule wamkulu* and other African Traditional Religions practiced in Malawi.

Honourable Justice Chinangwa, SC, JA (Rtd), is the Chairperson of the special Law Commission on the Review of the Witchcraft Act. The Principal Programme Officer is Mr. Mike Chinoko, Deputy Chief Law Reform Officer. He is assisted by Ms Sipiwe Phoya, Assistant Law Reform Officer; and Mr. Cuthbert Chiume and Ndamo Somba, Legal Interns. The Programme is being funded by Other Recurrent Transactions (ORT) funding from Treasury, Malawi Government.



Some members of the special Law Commission during a meeting.

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

The special Law Commission on the Review of the Public Health Act was empanelled in 2011. To date, the special Law Commission has held meetings in plenary, conducted focus group discussions in selected districts in the Central, Northern and Southern Regions. The special Law Commission has engaged several stakeholders in discussions on public health issues by either inviting the stakeholders to make presentations to the Commission or visiting their institutions. In 2017, the special Law Commission planned to hold the following activities:

- (a) Commission meetings;
- (b) regional consultative workshops;
- (c) national consultative workshop;
- (d) press briefing; and
- (e) publication of the Report.

However, due to lack of funding, the special Law Commission only managed to hold a Commission meeting from 30<sup>th</sup> January, to 1<sup>st</sup> February, 2017. Lack of funding is the major challenge affecting the progress and completion of the Programme. The United Nations Children's Fund (UNICEF) has provided most of the funding for activities of the special Law Commission since the Programme commenced. Nevertheless, funding for the Programme has been erratic thus lengthening the anticipated period of completion.

The special Law Commission on the Review of the Public Health Act is chaired by Honourable

Justice Dingiswayo Madise. The Principal Programme Officer is Mr William Yakuwawa Msiska, Chief Law Reform Officer. He is assisted by Mrs. Eddah Chavula, Assistant Chief Law Reform Officer; Mr. Wongani Mvula, Law Reform Officer; and Ms. Sipiwe Phoya, Assistant Law Reform Officer.



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

The special Law Commission on the Review of the Malawi Citizenship Act comprises experts in matters of law, security, immigration, human rights and gender.

The Commission developed and adopted an Issues Paper to guide its work. The issues were generated to stimulate discussions with key stakeholders in order to arrive at the best possible legislative options on issues of citizenship. The Issues Paper will also guide the Commission in carrying out further consultations with the public. The issues are being considered under the broad thematic areas of:

- (a) acquisition of Malawi citizenship;
- (b) renunciation and deprivation of Malawi citizenship;
- (c) dual citizenship; and
- (d) gender aspects of Malawi citizenship

with particular regard to women issues.

The issues are not exhaustive and members of the public and other stakeholders are invited to submit further issues to be considered by the Commission.

The Commission did not carry out any activities in 2017 due to a number of factors including resource constraints.

The special Law Commission on the Review of the Malawi Citizenship Act was initially chaired by the Honourable Dr. Jane Ansah, SC, JA. The Principal Programme Officer is Mr. Mike Chinoko, Deputy Chief Law Reform Officer. He is assisted by Mr Robert Kandulu, Law Reform Officer; and Ms Sipiwe Phoya, Assistant Law Reform Officer. The Programme commenced with financial support from the UN Women and the Government of Malawi. However, UNDP has also committed to provide financial support towards the Programme.

# 5. CIVIC EDUCATION AND PUBLIC RELATIONS

The Law Commission Act mandates the Commission to promote awareness of the Constitution and the Laws of Malawi by the public, Government departments and other bodies. The Commission provides information to the public about its work and functions; the law reform process; law reform issues; the Laws of Malawi and the Constitution.

To achieve this mandate, the Commission organizes conferences, seminars, workshops and meetings on any matter under its consideration. Further, the Commission produces its own publications. The Commission, therefore, carried out a number of activities as follows:



Some of the IEC Materials published by the Law Commission in 2017

## 5.1 MEDIA OUTREACH

### 5.1.1 Coverage of National Workshop

The Commission engaged media houses to cover and air proceedings of a national consultative workshop on the Review of Electoral Laws on 22<sup>nd</sup> February, 2017 which was held at Sunbird Capital Hotel in Lilongwe.

The media houses included: Times Media Group; Nation Publications Limited (NPL); Malawi Broadcasting Corporation (MBC); Zodiak Broadcasting Station (ZBS); Malawi News Agency (MANA); and Trans World Radio (TWR).

### 5.1.2 Press Briefing

To mark the completion of the Review of Electoral Laws, the Commission, through its Civic Education and Public Relations Section, organised and held a Press Briefing on 29<sup>th</sup> March, 2017 at Bingu International Conference Center (BICC) in Lilongwe. The Press Briefing was used as a forum for publicising the findings and recommendations of the special Law Commission to the public through the media. Media houses that attended the press briefing are: Times Media Group; NPL; MBC; ZBS; MANA; TWR; Capital Radio; Malawi Institute of Journalism (MIJ) FM; Joy Television (TV) and Radio; and Timveni TV and Radio.

### 5.1.3 Provision of information through live radio and TV programmes

The Commission was featured in live one-hour radio and television programmes where it provided information on the various proposed Bills as developed by the special Law Commission on the Review of Electoral Laws. The programmes are: *"Zokhudza Amalawi"* which was aired on Sunday, 10<sup>th</sup> December, 2017 on TWR from 6 to 7 pm; and *"Zodiak Debate"* which was aired on the same night from 7 to 9 pm on ZBS radio and TV. During the

programmes, the public was given a chance to ask questions on the proposed Bills. Programme Officers responded to the questions on behalf of the special Law Commission. TWR and ZBS provided free airtime for the programmes. Some media houses such as Capital Radio, Joy Radio, Times Media Group and Nkhoma Radio station also offered free airtime to the Commission. However, the Commission was unable to take up the offers due to time and resource constraints.

## 5.2 DISSEMINATION OF IEC MATERIALS

The Commission carried out dissemination of IEC materials on gender related laws in thirteen (13) districts across the country. The districts are those that implemented the Gender Equality and Women Empowerment (GEWE) programme. The Districts are Nsanje, Chikwawa, Chiradzulu, Machinga, Mangochi, Dowa, Dedza, Salima, Mchinji, Mzimba, Nkhata Bay, Karonga and Chitipa. The gender related laws comprise: Prevention of Domestic Violence Act (PDVA); Deceased Estates (Wills, Inheritance and Protection) Act; Gender Equality Act; Marriage, Divorce and Family Relations Act; and Trafficking in Persons Act.



Some of the IEC materials that were disseminated

## 5.3 AWARENESS WORKSHOPS

The Commission partnered with Landnet Malawi to train members of CSOs that deal with land issues on the land related laws. The training sessions were held in Blantyre, Lilongwe and Mzuzu. A total of fifty-eight (58) members of CSOs were trained.

## 5.4 PUBLICATIONS

The Commission produces and publishes IEC materials and an annual report for distribution to stakeholders. Some of the materials that were published and distributed in 2017 are:

### 5.4.1 Annual Report

The Commission published and distributed two hundred (200) copies of the 2016 Annual Report.

### 5.4.2 Christmas Cards, Diaries and Calendars

The Commission produced and distributed 2017 Christmas cards, Calendars and Diaries.

### 5.4.3 Other Publications

The Commission produced brochures, banners, branded pens and golf shirts with the aim of increasing the visibility of the Commission.

## 6. NETWORKING AND INTERNATIONAL COOPERATION

The Commission established partnerships with law reform agencies in other countries and continued its membership to relevant international organisations. Through interaction with these agencies and membership to these organisations, the Commission benefits by attending training workshops which are organised from time to time. The partnerships also provide a platform for sharing knowledge, best practices and experiences in law reform.

The Commission has membership with the Association of Law Reform Agencies for Eastern and Southern Africa (ALRAESA) and

Commonwealth Association for Law Reform Agencies (CALRAs). Further, the Commission works with other law reform agencies in the Southern Africa Development Community (SADC) region.

The Law Commissioner, Mrs. Gertrude Lynn Hiwa, SC and Deputy Chief Law Reform Officer, Mr. Mtamandeni Liabunya attended the ALRAESA Annual General Meeting from 27<sup>th</sup> to 29<sup>th</sup> November, 2017 in Nairobi, Kenya. During the meeting, Malawi was elected as Chairperson of ALRAESA. Malawi is also the Vice Chairperson of CALRAs.

# 7.SUPPORT SERVICES

## 7.1 ADMINISTRATION

### 7.1.1 Events Management

The Planning and Administration Section was engaged in facilitating the preparation of funding requests and development of operational budgets for various law reform programmes for support by different development partners. Further, the Section was responsible for developing and managing the ORT budget. It also facilitated the planning and implementation of activities under various law reform programmes.

The Planning and Administration Section was also responsible for the preparation of Performance Contract Agreements with the Office of President and Cabinet (OPC) for the 2016/17 and 2017/18 financial years. The Performance Contract Agreements ensure that Government institutions are focusing on result based performance with the broad objective of contributing to the national development agenda.

### 7.1.2 Fleet Management

The status of the fleet of the Commission is as follows:

NO.	REGISTRATION NUMBER	MAKE	YEAR OF MAKE	SOURCE OF FUNDS	CURRENT STATUS
1.	MG 972 Z	Mitsubishi Pajero	2005	Government	Pool vehicle and very old
2.	MG 893 X	Toyota Corolla	2005	Commodity Aid	Non-runner
3.	MG 309 AB	Mitsubishi L200	2007	NAC	Pool vehicle and very old
4.	BP 8885	Nissan Pathfinder	2008	EU	Pool vehicle and old
5.	BP 7927	Nissan Tiida	2008	EU	Non-runner
6	MG 630 AD	Toyota Corolla	2009	Government	Pool vehicle
7.	MG 638 AJ	Jinbei Hiase (Mini Bus)	2016	Government	Pool vehicle
8.	MG 557 AJ	KIA Cerato	2016	Government	Pool vehicle but temporarily allocated to the Chief Law Reform Officer
9.	MG 556 AJ	KIA Cerato	2016	Government	Pool vehicle



## 7.2 FINANCE

In the 2017/2018 financial year, the Commission has an approved budget of K 815,247,423.00 comprising Personal Emoluments (PE) and ORT as follows:

	K
Personal Emoluments	215,247,423.00
Other Recurrent Transactions	600,000,000.00
<b>Total</b>	<b>815,247,423.00</b>

The approved K 600,000,000.00 ORT estimate is further allocated to the following sub-programmes:

	K
Law Reform	358,026,986.00
Administration	139,734,847.00
Financial Management and Audit Services	21,726,908.00
Human Resources Management	68,614,381.00
Information and Communication Technology	11,887,878.00
<b>Total</b>	<b>600,000,000.00</b>

## 7.3 HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

### 7.3.1 Recruitment

The Human Resource Section coordinated the process of recruitment by filling various vacant posts as follows:

NO.	NAME OF OFFICER	POST	DATES
1.	Memory Manyungwa	Appointed to the post of Stores Assistant	31 <sup>st</sup> July, 2017
2.	Chimwemwe Sibande	Appointed to the post of Systems Analyst	1 <sup>st</sup> September, 2017

The Commission also engaged Interns as follows:

NO.	NAME OF OFFICER	DATES
1.	Ndamo Somba	18 <sup>th</sup> April, 2016 to date
2.	Luwani Longwe	27 <sup>th</sup> February to 31 <sup>st</sup> August, 2017
3.	Orama Evance Maliro	5 <sup>th</sup> October, 2017 to date

### 7.3.2 Training

Members of staff of the Commission attended the following long and short term training programmes to enhance their skills:

NO.	NAME OF OFFICER	POSITION	TRAINING PROGRAMME	TRAINING INSTITUTION	DATES
<b>SHORT TERM TRAINING</b>					
1.	Gertrude Lynn Hiwa, SC	Law Commissioner	Transformative Leadership for Implementing Public Sector Reforms in Africa	Eastern and Southern Africa Management Institute (ESAMI), Dubai, United Arab Emirates	4 <sup>th</sup> to 8 <sup>th</sup> December, 2017
2.	Tabitha Chakanza	Senior Assistant Human Resources Officer	Performance Management Systems: A Strategic Tool <b>Fully funded</b>	International Management Institute, New Delhi, India.	8 <sup>th</sup> to 22 <sup>nd</sup> July, 2017
3.	Siphiwe Phoya	Assistant Law Reform Officer	Legislative Drafting	International Law Institute (ILI), Kampala, Uganda	28 <sup>th</sup> August to 28 <sup>th</sup> October, 2017
4.	Dinah Migochi	Controller of Human Resource Management & Development	Managing the Training Function	ESAMI, Mombasa, Kenya	14 <sup>th</sup> August to 1 <sup>st</sup> September, 2017
5.	Eric Gunthe	Internal Auditor	Economic Crime and Forensic Auditing	ESAMI, Kampala, Uganda	11 <sup>th</sup> to 22 <sup>nd</sup> September, 2017
6.	Patricia Mwachengere	Chief Accountant	Financial Management for Donor Funded Projects	ESAMI, Durban, Republic of South Africa	21 <sup>st</sup> August to 15 <sup>th</sup> September, 2017
7.	Robert Kandulu	Law Reform Officer	Changing the Law: Successful Reform	Public Administration International (PAI) London, United Kingdom	2 <sup>nd</sup> to 6 <sup>th</sup> October, 2017



8.	Beatrice Mbizi	Shorthand Typist	Management and Development Programme for Executive Assistants 1	ESAMI, Mombasa, Kenya	9 <sup>th</sup> October – 3 <sup>rd</sup> November, 2017
9.	Felix Mpapa	Director of Administration & Finance	Finance for Non - Financial Managers	Pan African Training, Pretoria, Republic of South Africa	9 <sup>th</sup> to 20 <sup>th</sup> October, 2017
10.	Naomi Khonje	Personal Secretary	The Perfect Administration for Executive Assistant	Jonels Training Centre, Durban, Republic of South Africa	19 <sup>th</sup> to 22 <sup>nd</sup> September, 2017
11.	Gills Msiska	Principal Civic Education Officer	Enhancing Leadership Skills <b>Fully funded</b>	V.V. Giri National Labour Institute, Delhi, India	3 <sup>rd</sup> to 22 <sup>nd</sup> October, 2017
12.	Memory Manyungwa	Stores Assistant	In-service Training on Public Procurement	Staff Development Institute, Mpemba, Blantyre	13 <sup>th</sup> November - 8 <sup>th</sup> December, 2017
13.	Herbert Buliani	Driver	Skills Development Course for Drivers	Staff Development Institute, Mpemba, Blantyre	28 <sup>th</sup> August to 1 <sup>st</sup> September, 2017
14.	Wisdom Chawinga	Driver	Grade 1 and Chauffeur Skills Course	Works Training Centre, Zomba	14 <sup>th</sup> to 25 <sup>th</sup> August, 2017
15.	Joe Chunga	Driver	Grade 2 and Chauffeur Skills Course	Works Training Centre, Zomba	20 <sup>th</sup> to 24 <sup>th</sup> November, 2017
16.	Stanfield Bota	Human Resource Management Officer	Designing Human Resource Management Policies	ESAMI Headquarters, Arusha, Tanzania	4 <sup>th</sup> to 15 <sup>th</sup> December, 2017

LONG TERM TRAINING					
17.	Eddah Chavula	Assistant Chief Law Reform Officer	Masters in Intellectual Property and Competition Law <b>Fully funded</b>	Munich Intellectual Property Law Centre, Germany	From 1 <sup>st</sup> August, 2017 (1 Year Course)
18.	Flora Tsokalida	Civic Education Officer	MA in International Communication <b>Fully funded</b>	Communication University of China	From 1 <sup>st</sup> September, 2017 (1 Year Course)
19.	Judith Kabango	Assistant Human Resources Officer	Bachelors Degree in Human Resources Management	University of Malawi (Chancellor College)	From February, 2016 (Two Year Course)
20.	William Mhone	Senior Accounts Assistant	Bachelor of Accountancy	University of Malawi (The Polytechnic)	From January, 2017 (Two Year Course)

Members of Staff completed various long term training programmes as follows:

NO.	NAME OF OFFICER	POSITION	TRAINING PROGRAMME	TRAINING INSTITUTION	DATES
21.	Nubson Benje	Senior Librarian	Bachelor of Science in Library and Information Management	Mzuzu University	Finished in September, 2017
22.	Loyce Mpinganjira	Accountant	Bachelors Degree in Accountancy	Columbia Commonwealth University	Graduated on 8 <sup>th</sup> July, 2017
23.	Wongani Mvula	Assistant Law Reform Officer	Master of Laws in Comparative Constitutional Law <b>(Partly Funded)</b>	Central European University, Budapest, Hungary	Graduated on 23 <sup>rd</sup> June, 2017

### 7.3.14 Staff Attrition

The following are no longer in the service of the Commission:

NO.	NAME OF OFFICER	POSITION	DATE
1.	Nerho Mwenelupembe	Dismissed from the post of Assistant Accountant	31 <sup>st</sup> March, 2017
2.	Edward Chibweya	Dismissed from the post of Accounts Assistant	31 <sup>st</sup> March, 2017
3.	Geoffrey Masamba	Resigned from the post of Principal Systems Analyst	1 <sup>st</sup> July, 2017
4.	Raisa Nyirongo	Resigned from the post of Assistant Law Reform Officer	3 <sup>rd</sup> July, 2017
5.	Akuzike Maliwichi	Resigned from the post of Civic Education Officer	1 <sup>st</sup> August, 2017

### 7.3.5 Promotion

The following officers were promoted to various positions as follows:

NO.	NAME OF OFFICER	POST PROMOTED TO	DATE
1.	Minnie Chalemera	Promoted from Receptionist (LC13) to Clerical Officer (LC10)	4 <sup>th</sup> August, 2017
2.	Wongani Mvula	Promoted from Assistant Law Reform Officer (LC 6) to Law Reform Officer (LC 5)	7 <sup>th</sup> December, 2017

# 8. CHALLENGES AND CONCLUSION

## 8.1 CHALLENGES

The Commission continues to experience challenges in the course of implementing its law reform and public awareness mandate. Most of the challenges faced in 2017 are factors that have been in the Commission for a number of years and include:

**(a) Inadequate funding:** inadequate funding continues to negatively affect the operations of the Commission. Progress on the Review of the Public Health Act (Cap. 34:01) slowed down due to intermittent funding. The Review of the Malawi Citizenship Act (Cap. 15:01) and the Review of the Witchcraft Act (Cap. 7:02) stalled due to lack of funding. The Development of Legislation to Govern the Judicial Service; Development of Legislation on Distress for Rent; and Review of the Supreme Court of Appeal Act (Cap. 3:01) did not commence due to lack of funds. The Commission continues to engage Government for adequate funding on law reform. The Commission also continues to engage other development partners to meet the resource needs of the Commission and other law reform related work. Notwithstanding problems of funding, the Commission would like to acknowledge the increased allocation to its budget under the 2017/18 national budget.

**(b) Staff attrition:** the Commission continues to lose members of staff through resignations. Most of these resignations are as a result of the non-competitive nature of our Terms and Conditions of Service.

**(c) Structurally unsafe office accommodation:** concerns about the structural fitness of the building which accommodates the Commission persist. The Commission remains at its current location for the eleventh year.

## 8.2 CONCLUSION

Despite facing a lot of challenges, the Commission made significant achievements in law reform and public awareness. The year 2018 comes with its own opportunities and challenges. Nevertheless, the ever hardworking and dedicated staff of the Commission and members of special Law Commissions are ready and eager to deliver on the mandate of the Commission.



## APPENDIX II: MEMBERS OF SPECIAL LAW COMMISSIONS

Programme	Member	Institution
Review of Electoral Laws	Honourable Justice Anthony D. Kamanga, SC, JA - Chairperson	Judiciary
	Ms. Thandie Nkovole - Deputy Chairperson (Passed away in June, 2017)	Electoral Commission
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Dr. Janet Laura Banda, SC	Ministry of Justice and Constitutional Affairs
	Dr. Esmie Tamanda Kainja	Ministry of Gender, Children, Disability and Social Welfare
	Mr. Douglas Mkweta	Ministry of Local Government and Rural Development
	Mr. Haris Potani	Electoral Commission
	Mrs. Georgina Chikoko	Former Commissioner at Electoral Commission
	Mrs. Grace Malera	Human Rights Commission
	Mr. Arthur Nanthuru	Malawi Law Society
	Professor Wiseman Chijere-Chirwa	Media Council of Malawi
	Associate Professor Mwiza Nkhata	University of Malawi
	Associate Professor Nandini Patel	Catholic University
	Mrs. Emma Kaliya	Non-Governmental Organizations Gender Coordination Network
	Mrs. Betty Katsonga Liwimbi	Civil Society (Centre for Multiparty Democracy)
	Mr. Umali Hazrat Mataka	Muslim Association of Malawi
	Rev. Dr. Chatha Msangaambe	Nkhoma Synod of the Church of Central Africa Presbyterian
	Ambassador Ronald Norman Levi Nkomba (Rtd.)	Former Commissioner at Electoral Commission

Development of Legislation on Spent Convictions	Honourable Justice Mankhambira C.C Mkandawire – Chairperson	Judiciary
	Mrs. Mary Kachale – Deputy Chairperson	Ministry of Justice and Constitutional Affairs
	Mrs Gertrude Lynn Hiwa, SC	Law Commission
	Mr. Shadreck Ching’oma	Civil Service Commission
	Mr. Chrispine Y. Siwande Banda	Immigration Department
	Mr. Henzily Munkhondya	Electoral Commission
	Mr. Mandala Mambulasa	Malawi Law Society
	Mr. Charles P. Dulira	Bankers Association of Malawi
	Brigadier General George D. Liwimbi(Rtd)	Malawi Defence Force
	Mr. Roosevelt L. Gondwe	Parliament
Review of the Public Health Act	Honourable Justice Dingiswayo Madise – Chairperson	Judiciary
	Dr. Ann Phoya – Deputy Chairperson	Ministry of Health
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Dr. Damson Kathyola	Ministry of Health
	Mr. Titus Mvalo	Malawi Law Society
	Mr. Vitto Peter Mulula	Lilongwe City Council
	Ms. Sitingawawo Kachingwe	Nurses and Midwives Council of Malawi
	Mrs. Martha Kwataine	Malawi Health Equity Network

Review of the Prisons Act	Honourable Justice Kenan Manda – Chairperson	Judiciary
	Mr. Masauko N. Wiscot – Deputy Chairperson	Malawi Prisons Service
	Mrs. Gertrude Lynn Hiwa, SC	Law Commission
	Mrs. Mary Kachale	Ministry of Justice and Constitutional Affairs
	Mr. Bruno M. Kalembe	Ministry of Justice and Constitutional Affairs
	Mr. Kenson M’bwana	Ministry of Home Affairs
	Ambassador Sophie Kalinde (Rtd)	Human Rights Commission
	Mr. Demster L. Chigwenembe	Malawi Police Service
	Dr. Little D. Mtengano	Malawi Prisons Service
	Mr. Charles Z. Kasambara	Centre for Legal Assistance
	Rev. Dr Osborne L. Joda Mbewe	Malawi Council of Churches
	Mr. Clifford Msiska	Paralegal Advisory Service Institute
Development of Legislation on Sentencing Guidelines	Honourable Justice Edward Twea, SC JA - Chairperson	Judiciary
	Honourable Justice Ivy Chatha Kamanga– Deputy Chairperson	Judiciary
	Mrs Gertrude Lynn Hiwa, SC	Law Commission



	Honourable Justice Maclean Kamwambe	Judiciary
	Mr. Pacharo Kayira	Ministry of Justice and Constitutional Affairs
	His Worship Smart Maruwasa	Judiciary
	Mr. Clement John Kainja	Malawi Prisons Service
	Mrs. Felister Dossi-Jumbe	Women Lawyers Association
	Mr. Victor M. Jere	Malawi Law Society
Review of the Witchcraft Act	Honourable Justice Robert. R. Chinangwa, SC, JA (Rtd) – 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, Youth Sports and Manpower Development
	Senior Chief Malemia	Traditional Leader
	Mr. Rodrick C. Makono	Malawi Law Society
	Dr. Phillip Kapulula	University of Malawi
	Dr. Penjani.M. J. Theu (Rtd)	Herbalists Association of Malawi
	Mr. Sangster S. Nkhandwe	Livingstonia Synod of the Church of Central Africa Presbyterian

Review of the Malawi Citizenship Act	Honourable Justice Dr. Jane Ansah, SC, JA - Chairperson	Judiciary
	Mr. Charles Anthony Mphande – Deputy Chairperson	Ministry of Home Affairs and Internal Security
	Hon. Justice Annabel Mtalimanja	Judiciary
	Dr. Mary Shawa	Ministry of Gender, Children, Disability and Social Welfare
	Mr. Pacharo Kayira	Ministry of Justice and Constitutional Affairs
	Mr. Justin G. K. Dzonzi	Human Rights Commission
	Mr. Fletcher Nyirenda	Immigration
	Mr. Khumbo Bonzoe Soko	Malawi Law Society
	Mrs. Chipiliro Catherine Mbekwani Chitsonga	Malawi Law Society
	Right Reverend Fanuel Emmanuel Magangani	Malawi Council of Churches
	Mrs. Maggie Kathewera Banda	Civil Society (Women's Legal Resources Centre)

## APPENDIX III: STATUS OF COMPLETED LAW REFORM PROGRAMMES

NO.	REPORT TITLE	YEAR OF PUBLICATION	PROPOSED LEGISLATION	STATUS
1.	Report of the Law Commission on the 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	Enacted as Act No. 28 & 29 of 1998
			2. Wills and Inheritance (Amendment) Bill	Enacted as Act No. 22 of 1998
			3. Citizenship Act (Amendment) Bill	Before Cabinet
			4. Marriage (Amendment) Bill	Enacted as Act No. 29 of 1997
			5. Affiliation (Amendment) Bill	Enacted as Act No. 30 of 1997
2.	Report of the Law Commission on the Technical Review of the Constitution	November, 1998	Constitution (Amendment) Bill	Enacted as Act No. 13 of 2001 and Act No. 8 of 2010
3.	Report of the Law Commission on the Development of Bail Guidelines	February, 2000	Bail (Guidelines) Bill	Enacted as Act No. 8 of 2000
4.	Report of the Law Commission on the Review of the Penal Code	June, 2000	Penal Code (Amendment) Bill	Enacted as Act No. 1 of 2011
5.	Report of the Law Commission on the Review of the Army Act	July, 2001	Defence Force Bill	Enacted as Act No. 11 of 2004

6.	Report of the Law Commission on the Review of the Censorship and Control of Entertainment Act (Under Chapter XII of the Constitution)	June, 2001	Classification of Public Entertainment and Publications Bill	Before Cabinet
7.	Report of the Law Commission on the Review of the Legal Education and Legal Practitioners Act	September, 2002	Legal Education and Legal Practitioners (Amendment) Bill	Enacted as Act No. 9 of 2004
8.	Report of the Law Commission on the Review of the Corrupt Practices Act	November, 2002	Corrupt Practices (Amendment) Bill	Enacted as Act No. 17 of 2004
9.	Report of the Law Commission on the Review of the Police Act	July, 2003	Police Bill	Enacted as Act No. 12 of 2010
10.	Report of the Law Commission on the Review of the Criminal Procedure and Evidence Code	December, 2003	Criminal Procedure and Evidence Code (Amendment) Bill	Enacted as Act No. 14 of 2010
11.	Report of the Law Commission on the Criminal Justice Reform on Conversion of Fines	December, 2003	Fines (Conversion) Bill	Enacted as Act No. 10 of 2005
12.	Report of the Law Commission on the Review of Wills and Inheritance Act	January, 2004	1. Deceased Estates, (Wills, Inheritance, and Protection) Bill	Enacted as Act No. 14 of 2011
			2. Estate Duty (Amendment) Bill	Enacted as Act No. 1 of 2016

13.	Report of the Law Commission on the Review of the Legal Aid Act	July, 2005	Legal Aid Bill	Enacted as Act No. 7 of 2011
14.	Report of the Law Commission on the Review of the Children and Young Persons Act	October, 2005	Child (Care, Protection and Justice) Bill	Enacted as Act No. 22 of 2010
15.	Report of the Law Commission on the Review of the Land-Related Laws	March, 2010	1. Land Bill	Enacted as Act No. 16 of 2016
			2. Customary Land Bill	Enacted as Act No. 19 of 2016
			3. Registered Land (Amendment) Bill	Enacted as Act No. 7 of 2017
			4. Physical Planning Bill	Enacted as Act No. 17 of 2016
			5. Forestry (Amendment) Bill	Enacted as Act No. 5 of 2017
			6. Public Roads (Amendment) Bill	Enacted as Act No. 8 of 2017
			7. Mines & Minerals (Amendment) Bill	Before Cabinet
			8. Land Survey Bill	Enacted as Act No. 18 of 2016
			9. Land Acquisition (Amendment) Bill	Enacted as Act No. 9 of 2017
			10. Local Government (Amendment) Bill	Enacted as Act No. 10 of 2017

			1. Malawi Housing Corporation (Amendment) Bill	Enacted as Act No. 6 of 2017
			2. Companies (Amendment) Bill	Before Cabinet
16.	Report of the Law Commission on the Review of the Laws on Marriage and Divorce	June, 2006	1. Marriage, Divorce and Family Relations Bill	Enacted as Act No 4 of 2015
			2. Penal Code (Amendment) Bill	Before Parliament
17.	Report of the Law Commission on the Review of Traditional Courts Act	September, 2007	Local Courts Bill	Enacted as Act No 9 of 2011
18.	Report of the Law Commission on the 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

			1. Ombudsman (Amendment) Bill	Before Cabinet
19.	Report of the Law Commission 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 as Act No. 22 of 2013
			2. Parliamentary and Presidential Elections (Amendment) Bill	Before Cabinet
			3. Local Government Elections (Amendment) Bill	Before Cabinet
20.	Report of the Law Commission on the Development of HIV and AIDS Legislation	December, 2008	1. HIV and AIDS (Prevention & Management) Bill	Before Cabinet
			2. Employment (Amendment) Bill	Before Cabinet
21.	Report of the Law Commission on the Review of the Education Act	March, 2010	Education Bill	Enacted as Act No. 21 of 2013
22.	Report of the Law Commission on the Development of Trafficking in Persons Legislation	February, 2011	1. Trafficking in persons Bill	Enacted as Act No. 3 of 2015
			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
			6. Child Care, Protection and Justice (Amendment) Bill	Before Cabinet

23.	Report of the Law Commission on the Development of Legislation on Gender Equality	February, 2011	Gender Equality Bill	Enacted as Act No. 3 of 2013
24.	Report of the Law Commission on the Review of the Legal Education and Legal Practitioners Act	May, 2013	1. Legal Education and Legal Practitioners Bill	Before Cabinet
			2. Debt Collectors Bill	Before Cabinet
25.	Report of the Law Commission on the Review of the Trade Marks Act	July, 2013	1. Trade Marks Bill	Before Cabinet
			2. Company and Intellectual Property Office Bill	Before Cabinet
26.	Report of the Law Commission on the Review of the Firearms Act	June, 2013	Firearms and Ammunition (Control) Bill	Before Cabinet
27.	Report of the Law Commission on the Review of the Adoption of Children Act	August, 2013	Adoption of Children Bill	Before Cabinet
28.	Report of the Law Commission on the Review of the Chiefs Act	August, 2015	Traditional Leaders Bill	Before Cabinet
29.	Report of the Law Commission on the Review of the Law on Abortion	March, 2016	Abortion Bill	Before Cabinet
30.	Report of the Law Commission on the Review of the Sheriffs Act	October, 2015	1. Sheriffs Bill	Before Cabinet
			2. Courts (Amendment) Bill	Before Cabinet



31.	Report of the Law Commission on the Development of Legislation on Spent Convictions		Spent Convictions Bill	Being Published
32.	Report of the Law Commission on the Review of Electoral Laws	March, 2017	1. Constitution (Amendment) Bill	Before Cabinet
			2. Electoral Commission (Amendment ) Bill	Before Parliament (Legal Affairs Committee)
			3. Elections Management Fund Bill	Before Cabinet
			4. Presidential, Parliamentary and Local Government Elections Bill	Before Cabinet
			5. Assumption of Office of President (Transitional Arrangements) Bill	Before Cabinet
			6. Referendum Bill	Enacted, but not yet Gazetted
33.	Report of the Law Commission on the Technical Review of the Prevention of Domestic Violence Act	October, 2015	Prevention of Domestic Violence (Amendment) Bill	Before Cabinet

# APPENDIX IV: LAW COMMISSION ANNUAL WORK PROGRAMME 2018



## 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 of the Republic of Malawi and the Law Commission Act, hereby publishes its Annual Work Programme for the year 2018.

## 1. LAW REFORM

### 1.1 Ongoing Programmes

*(a) 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;

*(b) 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; and

*(c) Review of Malawi Citizenship Act, Cap. 15:01, Laws of Malawi*

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

### 1.2 New Programmes

*(a) Development of Legislation on Distress for Rent \**

The Law Commissioner, in consultation with the Judicial Service Commission, shall empanel a

special Law Commission to develop legislation to govern the process of distress for rent;

(b) *Review of the Supreme Court of Appeal Act, Cap. 3:01, Laws of Malawi \**

The Law Commissioner, in consultation with the Judicial Service Commission, shall empanel a special Law Commission to review the Supreme Court of Appeal Act;

(c) *Development of Legislation to govern the Judicial Services \**

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

(d) *Review of the Immigration Act, Cap. 15:03 of Laws of Malawi*

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

## 2. PUBLIC AWARENESS AND CIVIC EDUCATION

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

- (a) Law Commission Act, Cap. 3:09, Laws of Malawi;
- (b) Deceased Estates (Wills, Inheritance and Protection) Act, Cap. 10:02, Laws of Malawi;
- (c) Gender Equality Act, Cap. 25:06, Laws of Malawi;
- (d) Marriage, Divorce and Family Relations Act, Act No. 4 of 2015;
- (e) Prevention of Domestic Violence Act, Cap. 7:05, Laws of Malawi;
- (f) Trafficking in Persons Act, Act No. 3 of 2015;
- (g) Land Act, Act No. 16 of 2016; and
- (h) Customary Land Act, Act No. 19 of 2016

## 3. OTHER PUBLICATIONS

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

- (a) Annual Report for 2017;
- (b) 2018 Christmas Cards;
- (c) 2019 Diaries and Calendars; and
- (d) Law Reform Magazine.

William Y. Msiska  
Chief Law Reform Officer

For: **LAW COMMISSIONER**

\* The programmes were scheduled to commence in 2017 but they did not due to lack of funding.

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing or drawing. There are no margins, text, or other markings present.



