

Addendum to Project 00060132 Access to Justice

**Country-led democratic governance assessment by the  
Government of Malawi**

**September 2010**

**Award ID: 00060132 – Access to Justice**

**Background Information**

**UNDAF Outcome(s):** Good governance, gender equity, and rights based approach to development enhanced by 2011

**Expected CP Outcome(s):** CP Outcome 4: An informed public actively claiming good governance and human rights

**Expected CP Output(s):** CP Output 4.2: Formal and informal justice systems strengthened through a unified programme based approach to justice

**Implementing partner:** Ministry of Justice/NSO/Democratic Governance Sector Working Group institutions

**Responsible Parties:** UNDP/Ministry of Justice/OGC

**Duration of Activities of the Assessment Project:** 2010-2011

**Budget for the Assessment Project:**

Total resources required	<b>\$ 480,000</b>
Regular (TRAC):	\$ 130,000 (2011)
Other (Global Programme):	\$ 350,000
Government:	\$ x,xx

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## **1. Purpose of the Assessment Project**

The purpose of this project is to conduct a governance assessment in order to develop a set of governance indicators. The project will initiate governance assessments and measurements in Malawi to develop national capacity to define and select governance indicators and data collection. The project will facilitate the institutionalization of this initiative through supporting the PPU within the Ministry of Justice. It will strengthen the coordination and delivery of the SWAp on Democratic Governance, with a view to strengthening democratic governance in Malawi. The project will be collaborating with the National Statistical Office, through raising awareness on the policy relevancy of governance assessments, indicators and data. It will contribute to the development of the M&E indicator framework, and processes that strengthen data collection, use, legitimacy and relevance.

## **2. Situation Analysis**

Government of Malawi has committed itself to improve access to justice, rule of law and internal security as central topics for democratic governance in the Malawi Growth and Development Strategy of 2006 (MGDS). The MGDS recognizes that improving democratic governance is a foundation for poverty reduction and a sustainable development agenda in Malawi.

Although there has been progress in improving justice delivery, strengthening the rule of law and internal security following several interventions, there are still systemic constraints and challenges that are faced by agencies that provide the services and also by its users.

Under the leadership of the Ministry of Justice and with support from the UNDP, GoM has embarked on developing a conceptual framework on how to create a single cohesive and coordinated Democratic Governance Sector. The Ministry of Justice has spearheaded a participatory and consultative process on the formation, design and coordination approaches in the Democratic Governance Sector. This process coincided with and is therefore positioned within the ongoing institutionalization of Sector Working Groups (SWGs) in Malawi. The realization of the MGDS outcomes between 2006 and 2011 will further be facilitated by implementing the Malawi Development Assistance Strategy (DAS) of 2006-2011 and the Guidelines on Institutionalizing SWGs (the Guidelines) which aim to ensure that all resources that are mobilized by GoM are effectively used to implement the MGDS by upholding the five principles of the Paris Declaration.<sup>1</sup>

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<sup>1</sup> there should be national ownership of the development agenda; development partners should align to the national development strategy and government systems; the different development partners' systems and activities should be harmonized; available resources should be managed and decision made aiming at achieving results; there should be mutual accountability for development results from both governments and development partners

The Democratic Governance Sector Working Group will be maintained as one of the sixteen sector working groups for Malawi and will clearly be defined into two Sub Sectors- the Justice Sub Sector and the Democratic Accountability Sub Sector- based on the interrelated operational mandates between institutions and to facilitate sector wide dialogue. These two sub sectors and all nineteen institutions are aggregated under the Democratic Governance Sector and will be sub clustered in view of their contributing roles and operational mandates.

The governance assessment project will be aligned with the work of setting up the sector wide approach for democratic governance, and the work of setting up an M&E framework for the purpose of self-assessment within this sector. In addition, there are in particular two other national processes that this work should align with:

1. The Malawi Growth and Development Strategy 2006-2011 and the integrated monitoring and evaluation framework for the MGDS II
2. The National Statistical System Strategic Plan 2006-2011<sup>2</sup>

The Governance assessment project will, through supporting the sector on Democratic Governance, also serve to produce data for indicators of the MGDS. It is expected that indicators for the theme on governance in the MGDS will be smaller subset/synthesized of the indicators used within the sector, when these are selected. This will secure an alignment of outcome indicators in government policies.

The M&E of the Malawi Growth and Development Strategy (2006) includes a series of indicators on governance (theme 5) which up until now have yet to be scored (in the annual review 2008 the reason for this was listed as the lack of evidence). Better data on governance performance is needed. It is expected that this project will improve M&E for the sector as well as M&E of the MGDS in the theme of governance, by supporting what should be done already within the scope of M&E for the MGDS (I and II).

The M&E of the sector will need to draw on administrative data of the institutions that compose the sector. It is therefore expected that this project will both improve M&E of the independent institutions within the sector, as well as at the sector level. Building M&E in this way through tiers reduces the burden of collecting additional administrative data for M&E of the sector, over and above the administrative data that should already be collected for M&E of the institutions within the sector. While some evaluations are complex, evaluation designs can be simple and straightforward. Simple indicators that are cost-effective, easy to score, and easy to collect data for should be preferred. Simplicity may also make indicators more accessible to a wider audience as well as increase usage.

In order to minimize the potential burden on staff within the secretariat of the sector-wide working group and within the stakeholder institutions, monitoring and evaluation activities will be incorporated into ongoing management, and aligned to the strategy documents of the institutions, such as the parliament strategic plan as an example.

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<sup>2</sup> <http://www.nso.malawi.net/plans/NSS/2008-2012%20NSS%20STRATEGIC%20PLAN%20FINAL.pdf>

### **3. Project strategy and activities**

The UNDP-Access to Justice Programme aims to achieve objectives that are in line with UNDP's Global Program on Democratic Governance Assessments, namely to enhance **national capacity** to develop country-owned governance indicators and engage in **participative and inclusive governance assessments**. The program is divided in two phases. In Phase one basic data will be collected that are needed to inform planning and indicator development under phase II. Phase I will start mostly in 2010.

#### **PHASE I**

##### **1. Informing planning and setting objectives by the DGSWG**

The sector working group in the process of planning and development of strategies and targets for the sector will be adequately served. A baseline study for the sub-sector on justice has already been started with NSO. Based on lesson learnt coming from the Justice Baseline in a next step similar TOR for the democratic accountability sector will be developed in 2010 in close cooperation with the office of the Ombudsman that is the leading partner institution for the DA subsector. The study will then be conducted by NSO as the capacity assessment by external teams.

This Baseline surveys for both sub sectors are not intended to constitute the baseline indicators of the M&E framework of the Governance sector. The indicators for the M&E framework will be chosen after targets have been set, and may at that point choose to draw on the indicators used in the study, as well as develop other indicators.

A desk review of existing research and studies on the working areas of the sectors will be conducted to kick-start the planning process for setting targets for the sector. It is expected that the results of such a desk review may adequately respond to the information needs of the sector working group for it to embark on target setting and strategizing, while it awaits the results of the larger studies, which are expected to take a longer time. Study results that are both quantitative and qualitative will be made available as a public good, accessible to all and free of charge. Here the platform of MASDEA will be used as a already existing data base.

Activity 1 Assessment Project	Activity related to Access to Justice AWP	Timeframe								Budget AWP	Additional Budget required
		2010				2011					
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
Conduct studies to inform planning and target setting of the <b>justice sub-sector</b> (this work has begun and a TOR is ready)	<b>2.2 Conduct Needs Assessment for Justice sub sector/Democratic Governance Sector</b>										
Desk review of justice sub-sector to inform planning		X	X	X	x						340,000
Conduct studies to inform planning and target setting of the <b>democratic accountability sub-sector</b>	<b>b) Capacity Assessment and Baseline Survey for DA Sub-Sector</b>				x*	X	X				340,000
Desk review of democratic accountability sub-sector to inform planning											

\* Development of TOR's

## 2. National and DP's governance indicators and data sources

Under the leadership of the PPU and NSO a broader research on national indicators and data sources on governance will be conducted. The results will be published as knowledge product that provides guidance to strengthen harmonization and alignment, reduce duplication, facilitate the development of an M&E framework for the sector as well as setting up a SWAP for the democratic governance sector.

The knowledge product with guidance to national governance data sources will serve the following purposes:

1. Inform the process of developing a M&E framework for the Democratic Governance Sector
2. Facilitate harmonization of governance assessments among development partners and Government by providing a document that informs discussions on data and indicator needs.

3. Facilitate alignment of development partners M&E to national process by making development partners more aware of existing national sources
4. Promote the approach of using country-led data sources by presenting these as superior for governance assessments compared with international indexes that rely on external subjective expert opinions.
5. Raise awareness among national users (Government, civil society, media and others) of existing governance indicators and data sources.
6. Provide guidance to users on the strengths and weaknesses of existing sources
7. Reduce duplication of surveys and data collection

The study will include administrative data sources of all the institutions that are included in the Democratic Governance Sector. Such a mapping may additionally complement a capacity analysis of the administrative data collection and only data sources that are longitudinal/time-series will be included. The work will build on other mapping efforts, such as the on-going work by GTZ of mapping data collected by the National Statistical Office and 6 ministries, including the Ministry of Justice.

## 2.1 Development Partners governance indicators and data sources

In close cooperation with UNDP an additional review will be produced; it will provide an overview and guidance of governance indicators, assessments and data sources used by development partners. This tool will serve to:

- Facilitate harmonization among development partners
- Provide an overview of how development partners use indicators, and for what purpose, including purposes of informing aid allocation
- Secure that existing efforts are taken into account

The review of these existing data will be done in parallel to the Baseline Survey but by an external national consultant team. The knowledge product will be published and presented in a national workshop to a broader public.

Activity 2	Activity related to Access to Justice AWP	Timeframe								Budget AWP	Additional Budget required	
		2010				2011						
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4			
Produce a mapping of national governance indicators and data sources	<b>2.2 Conduct Needs Assessment for Justice sub sector/Democratic Governance Sector</b>  c) Produce a mapping of national			x	x	x					0,00	35,000

	governance indicators and data sources as well as Development Partners Indicators and assessment data.																			
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### 3. National stakeholder participation

The participation of national stakeholders will be institutionalized and continuous to reinforce genuine participation. Stakeholder participation, as well as other processes that form part of the process, will be embedded within the existing structures of the sector as far as possible, to reduce parallel structures and duplication.

A Capacity assessment and development of some stakeholders in the consultation process, including civil society organisations, is necessary to strengthen the demand side of accountability, and should be issue based. This requires tailor made support. Also, marginalised groups will be explicitly included, so that adequate attention can be paid to them. Because of the broad conceptual and operational scope of the democratic governance sector it will be useful to build consultations and dialogue in a bottom-up process, where there is often already a *de facto* division of labour among civil society organizations in terms of which organizations focus on what.

Activity 3	Activity related to Access to Justice AWP	Timeframe								Budget AWP (00012 TRAC)	Additional Budget required
		2010				2011					
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
National stakeholder consultation process within the Democratic Governance Sector  Crosscutting Activity to feed in the process of a M&E framework and indicator development	<b>2.1 : Establish Sector Wide Approach to Improve Access to Justice</b>  i) Additional consultative meetings for non state actors - Indicator development - data collection			X	X	x	X	X	X		<b>20,000</b>

#### 4. Integration of Development Partners in the consultation and assessment process

Frequent consultations with Development partners will be held to spell out expectations of what kind of constructive feedback the sector wide working group would find useful at each step, which in turn may make it easier for development partners to raise their concerns, issues, suggestions and comments in a timely manner. The process seeks to secure a consensus building approach where decisions and agreements at each step should pave the road to achieving the next step in the consultation process. The communication and consultation with development partners seeks to strengthen support from partners, strengthen the mutual understanding of needs and processes, and secure that one arrives at an end product in a timely fashion.

Development Partners have established a own Task Force on Justice that reports to the Committee on Governance and meets frequently. This form will be used to integrate DP's into the Assessment project. For the DA Sector there is no taskforce existent yet and but will be probably established.

Activity 4	Activity related to Access to Justice AWP	Timeframe								Budget AWP	Additional Budget required	
		2010				2011						
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4			
Integration and consultation of Development Partners	<b>2.1 : Establish Sector Wide Approach to Improve Access to Justice</b>											
	Meetings with DP and Justice Task Force	X	X	X	X	X	X	X	X			
	Meeting with DP and DA Task Force	x	X	x	x	x	x	x	x			

## PHASE II

### 5. Capacity Development on Statistics and M&E among Sector Institutions with NSO

Optimizing and making use of the NSO as a capacity development provider and quality assurer of governance statistic will be explored based on the following advantages.

1. Stronger national ownership of capacity building (for both providers and recipients)
2. Reducing risks of brain drain as a result of long-term overseas training
3. Securing that expertise knowledge resides nationally
4. Securing better learning across national institutions
5. More appropriate country-contextualization of training

Together with the NSO consultations will be held to include a course in the NSO Course Catalogue on governance statistics. A partnership with another national institution with particular expertise in governance statistics will be sorted out.

In cooperation with the NSO the governance assessment project builds on the National Statistical System Strategic Plan. Objectives stated in the National Statistics System Strategic Plan that are of particular interest with regards to finding synergies and coordinate support:

- Improve Awareness and Utilization of Statistics
- Enhance Human Resource Capacity for the Production, Compilation and Use of Statistics
- Enhance Human Resource Capacity for the Production
- Compilation and Use of Statistics Improve Storage, Accessibility and Dissemination of Statistics

Activity 5	Activity related to Access to Justice AWP	Timeframe								Budget AWP	Additional Budget required
		2010				2011					
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
Development of a Training plan and courses on statistics and M&E Provide short	<b>2.1 : Establish Sector Wide Approach to Improve Access to Justice</b>  Development of a training plan for NSO staff and sector institutions on				x	x	x	x	x		100,000 USD

term training for statistical staff with long term and short term training	Governance statistics																			
	Conduct trainings on statistics and M&E for Governance									x	x	x								

## 6. Collecting data on Governance and refining indicators for the M&E framework

In developing and refining a simple, accessible and cost-effective M&E framework, data sources for the indicators need to be identified and decided upon. It is expected that data will primarily come from two sources: administrative data and household surveys.

Currently, in the MGDS 2008 review, none of the indicators for Governance, (Thematic area number 5) were scored because of a lack of data. According to the National Statistical System Strategic Plan, the Ministry of Justice produces information on criminal, civil, homicide, deceased estates (Administrator General) and registered companies and trademarks (Registrar General).<sup>3</sup>

The data collection of the administrative data will need to be strengthened, which requires adequate staffing, as well as training. In order to minimize the potential burden on staff within the secretariat of the sector-wide working group and within the stakeholder institutions, monitoring and evaluation activities should be incorporated into ongoing management, and aligned to the strategy documents of the institutions. Every Sector institution will strengthen its own M&E through improved institutional/administrative data collection and recording, this data will be submitted to the SWG-Secretariat periodically so as to feed into the SWAP periodical data.

With regards to a household survey, a governance questionnaire will be developed by NSO, that corresponds with the data needs of the M&E framework. These questionnaires will build on the efforts that will take place in response to the current TOR for a ‘baseline’ of the sub-sector on justice and democratic accountability. The questionnaire will seek to gather both perceptions and incidence on governance. The survey will also allow for disaggregation by income and gender in order to allow for pro-poor and gender-sensitive analysis. This will strengthen the voice of the poor and of women in the assessment results.<sup>4</sup>

<sup>3</sup> National Statistics System Strategic Plan, <http://www.nso.malawi.net/plans/NSS/2008-2012%20NSS%20STRATEGIC%20PLAN%20FINAL.pdf>

<sup>4</sup> For more on selecting pro-poor and gender-sensitive indicators, please consult “Measuring Democratic Governance: A Framework for selecting pro-poor and gender sensitive indicators” available at <http://gaportal.org/sites/default/files/Framework%20paper%20-%20entire%20paper.pdf>

Refining indicators for the M&E framework is a separate process, which requires separate skills from that of statisticians and from an academic conceptual understanding of democratic governance. The SWAP Manager will sit with the SWG-secretariat to build capacity on M&E for the sector and also drawing on support from the division on M&E of the Ministry of Planning, Development and Cooperation, which is in charge of the M&E for the MDGS.

### **6.1 Setting up a database**

Out of the collected data, the developed national governance database will be expected to enhance transparency and accountability by enabling citizens, civil society organizations, political parties, media and government to access information and thus be able to monitor progress, trends and changes in the quality of governance.

Establishing a national public governance database will also make information on governance performance a public good. Public scrutiny being an intrinsic part of deepening democratic governance, the act of developing a national database is in itself a statement from government that providing information on governance performance is in the interest of the public.

Furthermore, developing a national governance database will help in achieving the following:

- Serve as an important step for improving data availability and quality in the most critical governance areas
- Support national coordination mechanisms between ministries, statistical offices and other relevant institutions and civil society that produce and use governance data
- Strengthen the national evidence base for informing donor assessments and governance analysis
- Increase the ability to respond to national, regional and international data requests

A database on governance indicators can be aligned with the current work on MASEDA.<sup>5</sup> Training with regards to access governance indicators from the database will then also possibly be aligned with existing training efforts: The Joint Monitoring and Evaluation Programme has provided training for line ministries and Local Assemblies on what MASEDA is and how to use it. If it is used, national, sectoral, district and community efforts can be properly coordinated and based on well monitored up-to-date information.

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<sup>5</sup> MASEDA is Malawi's national socioeconomic database. It was developed by the National Statistic Office (NSO) in collaboration with the United Nations in Malawi. MASEDA 3.0, the latest version, contains over 600 indicators for the MGDS, MDGs and sectors. It offers policy makers and planners easy access to vital information for monitoring and planning. MASEDA is available on line at [www.maseda.info](http://www.maseda.info).

Activity 6	Activity related to Access to Justice AWP	Timeframe								Budget AWP	Additional Budget required	
		2010				2011						
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4			
Strengthen policy analysis and M&E of secretariat of the sector working group and of other institutions within the sector	<b>2.1 : Establish Sector Wide Approach to Improve Access to Justice</b>											
		g) Questionnaire design and collection of data results					X	x				
		h) Rolling out a household survey that allow for disaggregation for gender and income					X	x				
		i) Planning and target setting for the justice sub-sector					X	x				
		j) Planning and target setting for the democratic accountability sub-sector					X	x				
Refine indicators for the M&E framework												
		k) Design and develop an electronic database						X	X	X		
Set up a national governance database, free of charge, accessible to all												
		l) Conduct training for the users on how to use the database							X	x		
											100,000	
											200,000	

\*2011

## 7. Communication:

The Governance Assessment Project will be aligned by a Communication strategy to promote the project among national stakeholders, general public and Development partners. The objective of a communication strategy is to promote the importance of Governance indicators to CSO and partners that are working in Governance related areas. In second instance the Communication strategy will ensure that achieved results are communicated and products are used by stakeholders.



**Annex 1: Results and Resources Framework for the Assessment Project**

<b>Intended Outcome as stated in the Country Programme Results and Resource Framework:</b>				
An informed public actively claiming good governance and human rights				
<b>Output of the Assessment Project:</b>				
Conduct Governance Assessment in order to develop a set of governance indicators and support M&E Framework for the Governance Sector				
<b>Partnership Strategy:</b> The Assessment Project will be led by the Ministry of Justice in close cooperation with UNDP CO and Oslo Governance Centre				
<b>Project title and ID (ATLAS Award ID): 00060132</b>				
<b>INTENDED OUTPUTS</b>	<b>OUTPUT TARGETS FOR (YEARS)</b>	<b>INDICATIVE ACTIVITIES</b>	<b>RESPONSIBLE PARTIES</b>	<b>INPUTS</b>
<b>Output 1</b> Conduct a governance assessment, through a consultative process, for the Democratic Governance Sector	<u><b>Target for 2010</b></u> Framework for democratic governance assessment completed and viewed as legitimate, robust and useful by key stakeholders.  Baseline Survey and Capacity Assessment for the Justice Subsector conducted  Stakeholder buy-in for Democratic Accountability sector	National stakeholder consultation process within the Democratic Governance Sector  Conduct studies to inform planning and target setting of the <b>justice sub-sector</b> (this work has begun and a TOR is ready)  Desk review of justice sub-sector to inform planning  National stakeholder consultation process within the Democratic	Ministry of Justice, National Statistic Office, Office of the Ombudsman	International consultants National professionals Studies and research Workshops/training Travel Procurement Project management Miscellaneous Integration and consultation of

	to develop TOR's for a baseline survey and needs assessment.	Accountability Sector		Development Partners  <b>OGC Democracy Governance Global Program</b>
	<b><u>Targets 2011</u></b>  Baseline Survey and Capacity Assessment for the Democratic Accountability Subsector conducted  Democratic governance assessment results completed & M&E Frame work completed	Conduct studies to inform planning and target setting of the <b>democratic accountability sub-sector</b>  Desk review of democratic accountability sub-sector to inform planning	Ministry of Justice, National Statistic Office, Office of the Ombudsman	
<b>Output 2</b>  Setting up Indicators for the Democratic Governance Sector and establish M&E Framework for the Democratic Governance Sector	<b><u>Targets 2010</u></b>  Strengthening the NSO and building on the National Statistical System Strategic Plan  Strengthen policy analysis and M&E of secretariat of the sector working group and of other institutions within the sector  Collecting data on Governance	NSO identified as key partner in data collection on both Subsectors and indicator development on Governance. In collaboration with NSO a training plan will be developed to address key stakeholders of the sector.  Training for PPU and secretariat staff in M&E (started) Conducting training/workshop of staff at MoJ on governance indicators Conduct training/workshop of task forces on governance indicators and governance mainstreaming in sectors  Produce a mapping of development partners' governance indicators and data sources (to be done within the Capacity Assessment and Baseline Survey)  Produce a mapping of national governance indicators and data sources (to be done within the Capacity Assessment and Baseline Survey)	Ministry of Justice, National Statistic Office, Office of the Ombudsman	International consultants  National professionals  Studies and research  Workshops/training  Travel  Procurement  Project management  Miscellaneous  Integration and consultation of Development Partners  <b>OGC Democracy Governance</b>

		Publish mapping of indicators to contribute building an M&E framework		<b>Global Program</b>
	<p><b><u>Targets 2011</u></b></p> <p>Refining indicators for the M&amp;E framework and feed in the MGDS II formulation.</p> <p>Planning and target setting for the justice sub-sector Planning and target setting for the Democratic Accountability sub-sector</p> <p>Develop a national governance database</p>	<p>A Questionnaire will be designed to collect data results Rolling out a household survey that allow for disaggregation for gender and income Conduct a training/workshop on indicator selection and data collection</p> <p>Based on collected data on Governance Indicators, Household survey and Baseline surveys for Justice and Democratic Accountability a sector strategy can be developed.</p> <p>Develop a national governance database where data results are easily accessible free of charge</p>		Additional national stakeholders: Ministry of Development Planning
<p><b>Output 3:</b></p> <p>Strengthen evidence-based policy making, and increase use of governance data and indicators by policy-makers, administration and key stakeholders for purposes of offering policy advice, implementing, monitoring and evaluation of the Democratic Governance Sector</p>	<p><b><u>Target 2011:</u></b></p> <p>Stakeholder commitments and political platforms improved for conducting and using the results of the governance assessment project.</p>	<p>At the stage when results of the assessment are ready, conduct consultations to secure agreement and buy-in from implementers (Ministries/OPC) with regard to policy implications of assessment results to secure consensus</p> <p>Hold a conference for establishing agreement to work on monitoring governance across sectors, securing buy-in from key ministries, committees and agencies, and establishing a common political platform for conducting the work, e.g. in the form of a declaration</p> <p>Consult with parliamentary standing committees for purposes of championing the governance assessment work</p> <p>Provide platforms for dialogue through regular meetings of governance task force and SWG</p>	Ministry of Justice, National Statistic Office, Office of the Ombudsman	Ministry of Development Planning, Parliament, OPC

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**Ministry of Justice and Constitutional Affairs**

Antony Kamanga, Solicitor General and Secretary to Justice

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**United Nations Development Programme**

Richard Dictus, Resident Representative UNDP Malawi

Lilongwe, \_\_\_\_\_