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Malawi Human Rights support Project

Mid-Year Progress Report - January to June, 2014

September, 2014

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Acronyms

AWP	:	Annual Work Plan
CAT	:	Convention Against Torture
CP	:	UNDP Country Programme
DCP	:	Democratic Consolidation Programme
ECOSOC	:	Economic, Social and Cultural Rights Committee
HRNAP (NAP)	:	National Human Rights Action Plan (HRNAP)
ICC	:	International Coordinating Committee of National Human Rights Institutions
MGDS	:	Malawi Growth and Development Programme
MHRC	:	Malawi Human Rights Commission
MIE	:	Malawi Institute of Education
MIM	:	Malawi Institute of Management
MoJCA	:	Ministry of Justice and Constitutional Affairs
OoO	:	Office of the Ombudsman
UNDAF	:	United Nations Development Assistance Framework
UNDP	:	United Nations Development Programme
UPR	:	Universal Periodic Review

Executive Summary

During the first half of 2014, Malawi Human Rights Support project finalized the Gender and Human Rights Study and the report will feed into the development of National Action Plan (NAP) for Human Rights in Malawi. The preliminary technical review of the 2004 -2011 NAP document was conducted. The Ministry of Justice and Constitutional Affairs (MOJCA) has constituted Steering and Technical Committees to oversee the development of NAP. Unlike in the past when the National Action Plan development was led by the Malawi Human Rights Commission (MHRC), the current process is spearheaded by the Ministry of Justice and Constitutional Affairs to ensure Government ownership and hence ease implementation.

MHRC worked closely with MoJCA on the review of Human Rights Commission Act in line with the ongoing accreditation of MHRC by the International Coordinating Committee of National Human Rights Institutions. MHRC further provided oversight role in promoting transparency, accountability, objectivity and credibility of the 2014 tripartite elections through monitoring at constituency level and the main tally center. The commission also investigated cases on human rights violations relating to elections irregularities.

Under the same project, the Office of the Ombudsman (OoO) conducted on-spot investigations of 500 cases on administrative malpractices and 20 determinations of cases were made. In order to ensure that the public is aware of its activities and can access the office easily, the office also conducted civic education on their roles and functions. of the OoO and administrative malpractices were conducted across the country.

There has been remarkable progress on the Universal Periodic Review on human rights (UPR) and state party reports as the Ministry of Justice and Constitutional Affairs has managed to collect data from all government ministries and all districts on the UPR, Convention Against Torture (CAT) and International Covenant on Economic Social and Cultural Rights (ICESCR) and drafted the reports for presentation to the national consultation workshops. The Ministry also responded to issues raised on the Convention on Civil and Political Rights and the Malawi report was reviewed by the Human Rights Council in July, 2014. The project has also assisted the Government to collect data for the drafting of the report on the Convention on the Rights of People with Disabilities with funding from the Government of Norway.

The project has continued to experience some challenges especially in coordination of project activities, however, frequent board meetings as well as technical and project management meetings have brought fruitful results and the project activity implementation improved in the first half of 2014.

1.0 Situational Background/Context

Malawi Human Rights Support project is set in the context of institutionalizing a Sector Working Group (SWG) for Democratic Governance in Malawi, to support national efforts to strengthen mechanisms and institutions to promote norms and good practices and foster stronger democratic accountability in keeping with the objectives of the MGDS II. It represents a concrete response by the UN System to assist Malawi to embed democratic governance through respect for the principles and practice of Human Rights as entrenched in the Constitution of Malawi and in international and regional Human Rights instruments.

The project is designed based on the United Nations Assistant Framework (UNDAF) outcome 4.1 that states, ‘National Institutions foster democratic governance and human rights to promote transparency, accountability, participation and access to justice for all especially women and children by 2016’ and it is aligned to the expected United Nations Development Assistance Framework (UNDAF) Output 4.1.5 that says, ‘National Institutions have capacity to promote and protect human rights especially the vulnerable, women and children’. Further, the project contributes the following UNDP Country Programme Outputs: Governance Sector Wide Approach Programme, national investment and capacity development plan; Strategic & capacity development plans for Parliament, Ombudsman, MHRC, and Electoral Commission (MEC).

UNDP has been at the forefront in assisting Malawi to respond to these challenges through technical and financial support in strengthening the capacities of Human Rights institutions and that of the public especially the vulnerable and marginalised groups. Lessons learned from past UNDP interventions in the area of human rights indicate that support has been ad hoc in nature with weak synergies built across the key stakeholders responsible for the promotion and protection of human rights. Secondly, although a number of democratic governance institutions have relatively similar mandates and similar programmes in investigations of human rights abuses, promoting human rights based approaches and civic education, they are not coordinated, resulting in duplication and created confusion among citizens. This is compounded by low institutional and technical capacities as well as poor funding and infrastructural decay in human rights institutions accounting for a lack of demonstrable impact in the area of human rights.

The Malawi Human Rights Support project is therefore supporting activities towards the promotion and protection of human rights in Malawi through supporting national efforts to strengthen mechanisms and institutions to promote norms and good practices and foster stronger democratic accountability in keeping with the objectives of the MGDS II. It is supporting government to develop a national action plan on human rights, capacities of human rights institutions such as the Malawi Human Rights Commission and Office of the Ombudsman and equipping them with appropriate skills, collaborative planning and action on state party reporting and advocacy for Universal Periodic Review (UPR) recommendations implementation and enhanced working relationship between constitutional bodies and civil society organizations on human rights. It is implemented under the National Implementation Modality (NIM) with the MHRC acting as

implementing partner. The responsible partners for implementing the project are Ministry of Justice and Constitutional Affairs and Office of the Ombudsman.

The programming and implementation of activities under this project are designed to complement similar on-going and planned activities of other development partners in the area of Human Rights. UNDP support seeks to respond to identified strategic gaps in national and donor programmes, leveraging the comparative advantage of UNDP. Additionally the Malawi Human Rights Support Project (MHRSP) establishes strategic partnerships with other programmes which seek to contribute to the improvement of enjoyment of human rights by Malawians, especially women, children, the youth and other vulnerable or marginalized groups. In this respect, the Project builds synergies with other UNDP supported programmes in democratic governance including the Democracy Consolidation Programme (DCP) and the Elections.

During the first quarter of 2014, the project was able to carry out several activities that have laid foundation for achievement of some important milestones. The following paragraphs outline some of these activities.

2.0 Assessment of Project Results During the Reporting Period

The five key outputs were implemented during the year, 2014 and below was progress on achieving the outputs by the end of June 2014:

2.1 Summary of Achievement

Output 1: A gender responsive national human rights action plan developed in a participatory manner and implemented

Indicator 1: Number of institutions involved in the formulation of the National Human Rights Action Plan
(Baseline: 0; Target: 10)

Progress:

Activity Result 1. Concept Note on National Human Rights Action Plan Finalised.

Having conducted a preliminary technical review of the 2004 -2011 NAP document, the project finalized the concept note that provides, among others, the methodology and roadmap for review process was finalized.

Activity Result 2: National Human Rights Action Plan Developed

The Project, through the MOJCA, constituted the Steering and Technical Committees on the development of NAP. The Committees are to meet to adopt the roadmap and facilitate the review process. Ministry of Justice and Constitutional Affairs will steer the process and MHRC will provide the technical support. The consultations and the drafting of the report is expected to be done in the fourth quarter of 2014. The active involvement of the

Ministry of Justice and Constitutional Affairs is a positive development unlike in the past when the NAP was developed by MHRC without government involvement. This made implementation of the plan difficult the process lacked ownership.

Indicator 2: % of gender sensitive actions in the National Human Rights Action Plan (Baseline: 0; Target for 2014: Report on gender and human rights in Malawi)

Progress:

Activity Result: The study report on the situation of gender and human rights in Malawi finalized.

During the period, the Project finalized the study report on the Human Rights and Gender study. The report is awaiting printing and dissemination. The study report will feed into the development of National Action Plan for Human Rights in Malawi.

Output 2: Strengthened leadership and technical capacities of the Malawi Human Rights Commission and the Ombudsman to deliver on their human rights mandates effectively

Indicator 1: % of human rights violation cases completed. (Baseline: Partially developed 65% for MHRC and 20% for OoO; Target: 68% cases completed for MHRC and 25% for OoO)

Progress:

Activity result 1: A human rights architecture with clearly defined roles for institutions established

During the year, MHRC worked closely with MoJCA on the review of Human Rights Commission Act in line with the ongoing accreditation of MHRC by the International Coordinating Committee of National Human Rights Institutions. So far, MHRC has reviewed the Human Rights Commission Act and submitted a comprehensive proposal to MoJCA on areas that require amendments. The report will be used by the consultant during the stakeholders' consultation meetings. The consultation meeting will include the review of the Ombudsman Act.

Activity Result 2: Strengthened technical capacity for Malawi Human Rights Commission

The project through MHRC investigated the irregularities that were observed during the elections process in all the four regions. 4 cases on gender and women rights were also investigate.

Activity Result 3: Strengthened technical capacity for the Office of the Ombudsman.

The review and development of performance management systems for the OoO was completed and the report was finalized. The OoO carried out civic education activities on in the northern, central and southern regions. The public was sensitized on the roles and functions of the OoO and administrative malpractices. The Office of the Ombudsman also conducted on-spot investigations for 500 cases conducted in Rumphi, Nkhotakota, Mulanje, Nsanje, Chikwawa, Chitipa, Karonga, Salima, Nkhotakota, Mchinji, Dedza and Ntcheu on administrative malpractices and made 20 determinations of cases from the northern region.

Output 3: Malawi's engagement on the state party reporting and UPR is improved in a participatory and consultative manner

Indicator 1: No. of UPR recommendations implemented
(Baseline: 0% {2011}; Target: 10% of accepted recommendations implemented);

Progress:

Activity Result: UPR report prepared and submitted.

Mechanisms were established to monitor and follow up on recommendations implementation for the first cycle of UPR. An inter-ministerial taskforce on the UPR led by the Ministry of Justice and Constitutional Affairs leads the process. The taskforce also finalized data collection, drafting and validation of the UPR report and the report is expected to be submitted by the deadline (30 September,2014).

Indicator 2: No. of state party reports completed.
(Baseline: 0, Target: 6 reports. The target for 2014 is 1 report (accumulated 4 reports).

Progress:

Activity Result: State Party Reports on Convention Against Torture, Economic, Social and Cultural rights prepared.

The project through through MOJCA presented the report on International Covenant on Civil and Political Rights at the 111th Session of at the Office of the High Commissioner for Human Rights headquarters in Geneva, Switzerland from 7th July to 10th July, 2014. The Committee made 32 recommendation to the Government for implementation and the MHRC will follow up the implementation of the recommendation.

Under this output, the project also collected data and drafted reports on the Convention Against Torture and International Covenant on Economic, Social and Cultural Rights for presentation to the National consultation workshops. The project also supported Ministry of Justice to draft responses to issues raised by the Human Rights Council on the International Covenant on Civil and Political Rights (ICCPR). A review of the report on the report was done in July 2014. The project is also supporting the drafting of the state party report on the convention on the Rights of People with Disabilities in cooperation

with the Department of Disabilities. Data collection has been completed and the report is expected to be finalized at the end of October.

Output 4: Strengthened partnership between Malawi Human Rights Commission, Office of the Ombudsman and Non-State Actors on Human Rights through the establishment and institutionalization of an interface mechanism

Indicator: Improved human rights awareness

(Baseline: 50% [Justice baseline survey 2011] Target: 60%)

Progress:

Activity Result: Increased human rights awareness

Under this output, the project planned to carry out a mapping exercise workshop with stakeholders in human rights in order to establish the human rights coordination forum, support training and monitoring of Primary Head Teachers on human rights education through Malawi Institute of Education, and public awareness meetings include commemoration of international human rights day.

The project supported the mapping exercise that established the number of CSOs that are operating on the ground in all the districts. A workshop with stakeholders in human rights will be organized in order to establish the human rights coordination forum. The forum will assist in coming up with a human rights awareness strategy for the country.

During the period, MHRC in collaboration with Malawi Institute of Education (MIE) trained 96 Head teachers on human rights and Democracy at MIE, Zomba in June 2014. The aim of the training was to equip primary school head teachers with knowledge, skills and values pertaining to human rights and democracy as well as pedagogical skills to support the teaching and learning of Social and Environmental Science in Malawi's primary schools

The project through MHRC monitored the 2014 Tripartite Elections in Malawi. The Commission noted that the 2014 Tripartite Elections were characterized by administrative hiccups right from the beginning like registration of voters was characterized by shortages of staff. The registration of candidates and submission of nomination papers by candidates was followed by campaigning and verification of the voters roll. Save for the violence that culminated in the death of two people at Goliyati in Thyolo and also localized conflicts in Karonga, the campaigning has generally been peaceful. The polling itself was relatively orderly and peaceful in a number of areas but numerous reports of shortage of materials was reported across the country. In most cases there was shortage of ballot boxes and sometimes ballot papers. While commending MEC for ensuring that all people that were eligible to vote did so, it has still been noted that there were serious delays in providing materials to the affected centres, resulting in voting starting very late.

The project conducted twelve open air sensitization meetings on human rights and they were held at Mangochi district in group village headman Chowe, Chowe 2, Chowe 3,

Salanje, Wasili, Liundi, Bwanali, Masache, Nsume and Matamanda and in Zomba at Malawi Institute of Education. A total of 1.140 people including 230 men, 430 women and 500 youths were reached out. The meetings equipped members of community groups with relevant skills and knowledge in human rights.

The Commission issued press releases on elections and emerging issues that were observed.

Output 5: Effective and efficient management, partnership formation and monitoring and evaluation of the Programme

(Indicator: % of activities successfully implemented; Target for 2013: 10%)

Progress:

Activity Result: Human rights-based and results-based Monitoring and evaluation

During the period, there was verification of result through activity reports. One monitoring visit was conducted for training of head teachers conducted by the Malawi Institute of Education. Recommendations were made on improving monitoring of the project so the trained teachers are effectively transferring knowledge to students in their schools.

3.0 Gender Mainstreaming

The impact of the project separately on men and women and the implementation of the gender mainstreaming strategy in the project will be done at mid-term of the project implementation. The programme activities are however tailor-made to address the violation of human rights. The vulnerable population in Malawi includes women, children and people with disabilities. The project therefore continued to focus on human rights protection for women and children. A gender mainstreaming study has been included in the project with a view to mainstream activities in the National Human Rights Action Plan.

4.0 Key Partnerships and Inter-agency/Departmental Collaboration

The project continued to work with organisations like National Initiative for Civic Education (NICE) and Democracy Consolidation Programme that have stable grass-root structures for project implementation in many districts. The project strategy is to seek cooperation with partners in the implementation of activities. MoJCA and OoO are part of the implementation team while the other civil society organisations are part of the coordinating team on state party reporting, UPR and human rights awareness interventions. The project is also supporting the Malawi Institute of Education in training the primary school head teachers on the use of source book on human rights and democracy.

The project is being implemented using funds from UNDP and Royal Norwegian Embassy. UNDP further collaborates with other UN Agencies through UNDAF outcome 4.1 membership that focuses on governance and human rights issues. Furthermore, the arrival of the human rights advisor under the Office of the High commissioner for Human Rights has strengthened substantive support for the project. Partnerships have therefore been prioritised in the implementation of the project.

5.0 Challenges and Lessons Learned

Challenges

a) Financial Capacity of Responsible Offices.

Out of the three institutions, only MHRC possesses reasonable capacity to handle financial transactions. UNDP organized a training for financial staff and Office of the Ombudsman benefited from the training. It is therefore expected that there will be better financial management of project resources in the second quarter of the year.

b) Declining funding levels by Government

Government funding for the Office of the Ombudsman has been declining over the years and lately the office has almost come to a standstill. Implementation of project activities is supposed to complement the implementation of daily activities of the office but when the office finds itself in a situation OoO is, implementation of the project activities are affected and impact negatively on desired results.

Lessons Learnt

a) Project Design and Implementation Rate

The project was implemented by three partners namely MHRC, OoO and MOJCA. While MHRC gets funding through direct cash transfer, the other two partners have continued to receive their funding through direct payments. The latter arrangement proved difficult as it is very involving and does not improve the national counterparts' capacities. The implementation rate is expected to improve with request to Accountant General to allow MoJ and OoO to open their holding accounts and access direct funding from UNDP. The partners will continue to enhance their collaboration through regular technical committee meetings and project board meetings.

b) Early Preparations

It is evident that delayed process of developing and approving of the annual work plan has in the past delayed implementation of activities and therefore negotiation process for the approval of the annual work plan for the next implementation period needs to start earlier for timely implementation of project activities.

c) Importance of Coordination

The project is demonstrating the importance of coordination as the three implementing institutions within human rights area have collaborated well in their work. Further

coordination has been experienced among UN institutions that share notes on their programmes in the human rights area. The emergency of the DG SWAP will assist furthering this coordination.

6.0 Conclusion

Malawi Human Rights Support project implemented by MHRC, OoO and MoJCA planned to achieve five main activities of the project. The progress on activity implementation indicates that the first half of 2014 has recorded movements especially in the Ministry of Justice and Constitutional Affairs resulting in progress on producing state party reports and UPR report. Though there are several responsible parties implementing project activities, cooperation of the Ministry of Justice and Constitutional Affairs ensures that Government owns the process of promotion and protection of human rights for better lives for Malawians.

7.0 Future Work Plan

The project has prioritized the following activities to make progress in achieving the planned outputs as follows:

Output 1 A gender responsive national human rights action plan developed in a participatory manner and implemented

- Print and Disseminate the findings of the study on Gender and Human Rights
- Hold consultative stakeholders meetings and draft the NAP

Output 2: Strengthened leadership and technical capacities of the Malawi Human Rights Commission and the Ombudsman to deliver on their human rights mandates effectively

Establishing the human rights architecture

- Engage local consultant to finalize the review of Human Rights Commission Act
- Conduct stakeholders consultative meetings

Strengthened technical capacity for Malawi Human Rights Commission

- Training for MHRC officers in Investigations
- Examination of legislations, judicial decisions, administrative provisions, Bills and proposals to conform with fundamental principles of human rights

Strengthened technical capacity for The Office of the Ombudsman

- Review of the Strategic Plan and Service Charter Development for the OoO

- On-Spot Investigations on administrative justice

Output 3: Malawi's engagement on the state party reporting and UPR is improved in a participatory and consultative manner

Improved implementation of UPR recommendations and timely submission of state party reports

- Attending regional/ international human rights meetings
- Finalisation of the report on UPR for submission
 - Produce two state reports on CAT, ICESCR and Convention on Rights of People with Disabilities
 - **Output 4 Strengthened partnership between Malawi Human Rights Commission, Office of the Ombudsman and Non-State Actors on Human Rights through the establishment and institutionalization of an interface mechanism**

Increased human rights awareness

- Review the civic education strategy in Malawi
- Establish the human rights coordination forum
- Public awareness sensitization meetings including human rights day commemoration

Outcome 5: Effective and efficient management, partnership formation and monitoring and evaluation of the Programme.

Oversight and inputs from project Board

- Project board meetings and office running.

Human rights-based and results-based Monitoring and evaluation

- Conduct project monitoring visits

8.0 Annexes

Annex 1: Project Plan for the Period of Review (AWP)

Annex 2: Financial Report