



PROJECT DOCUMENT

Malawi

Project Title : Chilungamo - Access to Justice through Village Mediation and Paralegal Services
Project Number : 00108391
Implementing Partner: Paralegal Advisory Service Institute (PASI)
Start Date : 1 January, 2018
End Date : 31 December 2021
PAC Meeting date : 21 December, 2017

Output 1: Well-functioning Village Mediation and Paralegal Services backed by strengthened legal frameworks and procedures

Output 2: An effective diversion scheme for minor offences established to benefit both the formal and informal justice sectors

Output 3: Strengthened provision of first legal aid services (advice, assistance and legal empowerment) to the poor and vulnerable people in conflict with the law in Malawi

Output 4: Strengthened coordination mechanisms to ensure efficient and effective flow of information and delivery of justice in the criminal justice agencies and the community

Output 5: Strengthened effective and efficient management, partnership formation, research and M and E

Brief Description

The justice sector in Malawi, largely characterized by the parallel existence of a formal and informal systems, is burdened by a wide range of challenges, chief amongst which are: poor coordination, weak policy implementation, a dearth of public resources, corruption and impunity, chronic delays, severe prison overcrowding as well as insufficient promotion, education and protection of basic human rights. These systemic failures – manifesting as weak justice outcomes for the vast rural poor and vulnerable present a significant threat to the development goals of Malawi including the SDGs .

The project provides a cost effective, efficient and inclusive approach to increasing access to justice by the poor and vulnerable groups especially women and children. This will be achieved through a two-tier but complementary approach of strengthening provision of paralegal services and mediation services. The project seeks to avail friendly paralegal services in communities, the district courts, police and prisons across the country. It also seeks to provide village mediation in the communities. The project further seeks to support diversion of minor matters out of the criminal justice system so as to substantially reduce the number of people entering

pre-trial detention, and the duration of their detention before the conclusion of their cases. The services offered are free and appropriate to the hitherto ‘unmet needs’ of the majority.

The principal objective of the project is therefore to increase access to justice for the poor and the vulnerable by supporting the provision of a national paralegal aid service at police stations, courts and prisons; village mediation services and the diversion of minor matters out of the criminal justice system.

There are two specific objectives of the Project

- To provide an effective and sustainable village mediation programme that, in improving access to restorative dispute resolution at the local level, substantially reduces the number of minor matters entering the formal justice system, especially those affecting women and children, and strengthens community mechanisms for conflict resolution and access to justice.
- To provide an effective paralegal aid service that, functioning in Malawi’s police stations, courts and prisons, provides appropriate legal assistance and advice to those in conflict with the law and the authorities; and through this, substantially reduces the number of people in detention, especially women and children, and increases the diversion of those held on minor matters to mediation and so reduces the duration of incarceration and therefore, the overcrowding of Malawi’s police cells and prisons as well as the backlog in cases before the magistrate’s courts.

The Access to Justice project will be implemented by PASI with funding from EU funds for Chilungamo Program. UNDP will be the fund Manager and will provide capacity building support especially in the areas of project management, financial management, project implementation monitoring and evaluation ensuring results-based management principles are applied. Project quality assurance will be enhanced through Technical Committee and Steering Committee meetings that will review annual work plans and progress reports providing necessary guidance where necessary.

Contributing Outcome (UNDAF/CPD, RPD or GPD): CP Outcome 4.1 National institutions foster democratic governance and human rights to promote transparency, accountability, participation and access to justice for all especially women and children Indicative Output(s): Governance SWAP, national investment & capacity development plan Award ID: 00108391	Total resources required:		US\$4,949,450
	Total resources allocated:	UNDP TRAC:	USD 810,000 TBC
		EU:	EUR 3,5 m
		Donor:	
		Government:	
		In-Kind:	
	Unfunded:		0

Agreed by (signatures):

UNDP	Implementing Partner
Print Name: <u>Maria Jose Torres</u>	Print Name: Clifford Msiska
Date:	Date:

List of Abbreviations:

1. AWP	Annual Work Plans
2. DSA	Daily Subsistence Allowance
3. DRR (P)	Deputy Resident Representative Programme
4. DRR (Ops)	Deputy Resident Representative Operations
5. DP	Development Partners
6. DPC	Direct Project Cost
7. EUEOM	European Union Election Observation Missions
8. FAFA	Financial and Administrative Framework Agreement
9. GoM	Government of Malawi
10. HQ	Headquarters
11. ISC	Implementing Support Centre
12. MoF	Ministry of Finance
13. SC	Steering Committee

I. Development Challenges

Malawi is one of the least developed countries in the world ranked 173 (of 188) on the Human Development Index¹. It is land-locked, with the vast majority of its population (about 90%) living in rural poverty engaged in subsistence farming based on rain-fed agriculture, characterized by chronic food insecurity and related health problems. Economic growth has been erratic with 2015 recording a mere 3% of growth and over 60% of the population living below the income poverty line (with almost 30% living in severe poverty). Gender inequality in the country remains a big challenge. Around 50% of women are married before the age of 18 and gender-based violence (GBV) continues to be rampant².

The political and the legal systems in Malawi are both largely characterized by the parallel existence of a formal and an informal system. With a Judiciary system based on the English model, Malawi has magisterial lower courts, a High Court, and a Supreme Court of Appeal. While the latter two courts represent the hub of the formal justice system, and are only present in the four cities, the Magistrates Courts, present in all districts, stand at the interface of the formal and informal systems, being the last point of reference for poor disputants where the informal system has failed them, and the first point of reference in the formal justice system. Some of these magistrate courts are presided over by trained lawyers, the others are largely presided over by non-professional personnel, with lower educational background³, empowered to handle all civil (with financial limits to jurisdiction) and criminal matters except homicide.

Despite interventions to strengthen the policy framework and legislation such as the Legal Aid Act, the Child Care Justice and Protection Act, the Prevention of Domestic Violence Act and some sections of the Criminal Procedure & Evidence Code, policy implementation has been weak. Low institutional capacities combined with limited infrastructure resulting from an increasingly restrained public sector financial envelope makes it virtually impossible for government to deliver against its constitutional obligations and legislative commitments on access to justice by the citizenry. The effects are felt at two main levels: crime victims and accused persons cannot access justice on time.

Limited knowledge of the justice system, fear and discriminatory justice systems are among the factors that contribute to the underreporting of crime. Though most Malawians never engage with it, the criminal justice system is still overwhelmed with cases and characterized by chronic delays. It is standard practice for people charged with less serious and non-violent offences⁴ to wait months in prison before being brought back to court, when they cannot afford bail bond. Majority of people arrested cannot afford a private lawyer and, with very few legal aid lawyers in the entire country (406 lawyers⁵ to 18.5 million citizens⁶) making legal representation expensive and inaccessible hence more than

¹ UNDP Human Development Report, 2015

² Malawi Growth and Development Strategy (MGDS) II Review And Country Situation Analysis Report of 2016

³ Final Report of the Learning Needs Assessment for All Categories of Magistrates in Malawi Final Submission August 2017 for the Chilungamo (Justice And Accountability) Programme in Malawi

⁴ Less serious or minor offences are determined by practice direction issued by Ministry of Justice and are mostly those offences that would attract a sentence of less than two years imprisonment.

⁵ Licensed legal practitioners for 1st February 2017 to 31st January 2018 of the Malawi Law Society.

⁶ As of December 2017, <http://countrymeters.info/en/Malawi>

90% of people arrested are likely to go through the court process without legal representation. Other than the less trained judicial officers, police prosecutors will, in most cases, not be well trained, with the majority not in possession of a formal law degree.

In Malawi, almost every criminal suspect enters pre-trial detention. Laws that allow suspects to be released on bail are rarely used on the pretext that one an accused person is released on bail he or she may be subjected to mob justice. In 2011, it was estimated that around 150.000 Malawians per year, 1 in every 100 Malawians, enter pre-trial detention, either in police cells or on prison remand every year.⁷ Therefore, an unrepresented accused, appearing before lay magistrates and police prosecutors has little chance to have his or her rights protected during trial process. Weak coordination amongst the criminal justice agencies and a lack of referral system have further contributed to the slow justice processes. The unnecessary imprisonment of people who, under Malawian law, should have the opportunity to be released on bail but because of overzealous use of remand culture coupled with custodial sentences are some of the major causes of severe prison overcrowding and inhumane treatment of those in custody. According to World Prison Brief report of September 2016 by International Centre for Prison Studies, Malawi's total Prison population was at 14,018 (including pre-trial detainees / remand prisoners) against Official capacity of 7,000. The pre-trial detainees / remand prisoners percentage of prison population was at 16.2% and the occupancy level (based on official capacity) was at 200.3%.⁸

In addition to being costly, the formal justice system is poorly understood by most Malawians, especially the rural masses. The procedures of the criminal justice system are complicated and not very user-friendly. The notion of justice delivered by the formal justice sector may also not be in accordance with the local indigenous notions of justice. The relationship between the parties at times suffers severely due to the retributive nature of the formal justice system with its emphasis on punishment, rather than more restorative approaches. Formal justice system therefore is inaccessible on almost all accounts making the majority of people to rely on informal justice mechanisms to resolve disputes at community level.

Primary justice systems in Malawi are however neither systematically undertaken nor adequately supported by clear policy and procedures. The process of dispute resolution by traditional leaders does not always promote restoration between the parties and does not take due consideration of the relations involved in the conflict. The process and outcome of tribunals in many cases may not comply with human rights principles, oftentimes stereotyping and discriminating against the vulnerable groups. With low literacy levels amongst the majority rural population in Malawi, awareness of rights and legal empowerment remains very low.

The lack of access to justice for both the accused persons and victims of crime affects mainly the poor and vulnerable groups such as women children and people with

⁷ Open Society Initiative for Southern Africa. Pre-trial detention in Malawi: understanding case flow management and conditions of incarceration. (OSISA), 2011.

⁸ <http://www.prisonstudies.org/country/malawi>

disabilities. While the prison population in Malawi is as everywhere overwhelmingly male (<1% of the prison population is female), lack of access to justice in the criminal justice system has dire consequences on women and children as it is the husband, partner, father or son who wastes away in jail, depriving them from the family breadwinner, and/or the manpower on the family plot of the usually active, strong young men who make up most of population detained in prisons. Furthermore, it is the women who do the visits, prepare the food, bring the clothes etc for prisoners. These represent additional and heavy time and resource constraints for women who are already worse off in Malawi.

These challenges in accessing justice by the poor and vulnerable, affects their participation in development. Urgent response is therefore required through supportive programmes to avert the suffering and abuse of human rights and therefore allow these people to access justice early enough and get back to contribute to their communities and families. PASI, EU and UNDP have therefore partnered to develop and implement a project that will aim to address issues of access to justice by the vulnerable population.

II. Project Strategy and Areas of Intervention

The project provides a cost effective, efficient and inclusive approach to increasing access to justice by the poor and vulnerable groups especially women and children in conflict with the law in Malawi. To achieve this, the project will adopt a cost-effective, efficient and inclusive approach to increasing access to justice by the poor and vulnerable groups especially women and children in conflict with the law in Malawi. There will be four solution pathways that the project will use to address the identified challenges of access to justice by the vulnerable. The first pathway is that of ensuring a well-supported and functional access to justice system. The project interventions will advocate for development and use of clear policies and procedures in the primary justice system. With the availability of skilled human resources and adequate funding as well as political will of policy makers and justice service providers, PASI technical team and its “foot soldiers” service providers will ensure that professional services are available at the door-step of the vulnerable populations in conflict with the law. In collaboration with legal services and social welfare training institutions, PASI will ensure that paralegal service providers and mediators are adequately equipped with skills through refresher trainings. These trainings will employ primary justice service providers’ guidelines and procedures that will be revised ensuring that revised policies and standards are taken on board. Paralegals will be trained alongside police officers, prison officers and wardens, court clerks and magistrates for common understanding of the guidelines and procedures to make the work of paralegals easier. Under the assumption that there is full collaboration by key actors and political will to support legal services, the project will continuously lobby for change of curriculum; change of duration of training and provision of incentives to paralegal service providers to ensure that the right skills are attained and experienced staff are retained.

The project will also ensure that there are rationalized and user-friendly processes and procedures for legal services. Interventions in this area of change will ensure that court users committees (CUC) and court clerks adhere to court performance standards that will

make vulnerable groups in conflict with the law comfortable with the legal services provided. The project will among other things, advocate for change of user fees, logistical and administrative costs to ensure that they are affordable especially by the poor and vulnerable. Noting that most poor and vulnerable people, especially women and girls, are illiterate, the project will also advocate for change of language used in the court system to create a conducive mediation environment. For the paralegal and mediation services providers, the project will bring the services to the doorstep of the beneficiaries.

The other area of change relates to ensuring well-coordinated criminal justice services among agencies. This will be achieved through ensuring adherence to performance standards of court users committee and referrals. The project management team will be monitoring and mentoring court users, paralegal service providers and mediators to ensure that they adhere to the set standards. Through regular engagement with the CUCs, paralegal service providers and mediators, the project team will create a referral mechanism for cases requiring other jurisdictions. This change is likely to take place under the assumption that PASI and legal service providers will have adequate and skilled human resources and there is cooperation among target groups and political will to support legal service system.

The project will also work towards making the justice system inclusive. Malawi's social and traditional systems often leave women, girls and children out of decision-making processes. Their voices are not heard because the social and traditional systems do not give them the space to voice their concerns. As such, if these systems do not change, women, girls and children in conflict with the law will fail to access justice. Interventions in this area will therefore involve use of objective and inclusive strategies in providing legal services to vulnerable groups. This will require transformation of traditional and social systems to be non-discriminatory and inclusive to ensure that mediation and legal services are available to all. The project interventions will therefore ensure that objectivity is applied in the content and approach to legal service provision. The project will also advocate for transformation of social and traditional systems to ensure that they adopt human rights based approaches specifically the principles of equality.

The above change management of legal services and systems will be possible due to long experience and exposure that PASI has had in providing paralegal services, mediation and legal referral services. From 2011 until 2016 DFID funded PASI's activities in the Access to Justice for Vulnerable Groups (JVG) Programme. The project targeted homicide cases, remanded prisoners and vulnerable groups among convicted prisoners including women, juveniles, terminally and mentally ill persons and foreign inmates. PASI interventions were aimed at protecting detained persons from long periods of pre-trial detention that constituted a violation of detainees' rights. The goal of the project was to reduce the exposure rate of the Malawi population to pre-trial detention by shortening the time in detention of some detainees by expediting their release or preventing those charged with less serious offences and temporarily held in police cells from entering prisons as remandees. Evaluation of the project revealed that the work of PASI was cost effective and the project used an inclusive approach to increasing access to justice for the vulnerable people. This initiative has been replicated in some African countries and in Bangladesh. Beneficiaries interviewed by the evaluation team cite many advantages of the Village

Mediation Programme (VMP) such as: privacy, confidentiality, professionalism, peaceful resolution of conflicts, reconciliation (saying formal justice often makes enemies of the disputants), free access to justice, fast case handling (it was widely reported that cases conclude in under a day) and not having to travel long distances to access formal justice. This is testimony that the approach is among the most effective ones in the contemporary world. The new project (2017 – 2023) intends to also build on the foundations of PASI's paralegal service programme, and to support and enhance its implementation and effectiveness. Lessons learnt with the implementation of the previous programme include the need for the following:

- Improved communication and collaboration with service providers
- Use of gender sensitive approaches to make legal services inclusive
- Joint review and development of training curriculum and materials
- Enforcement of court performance standards
- MoUs to ensure cooperation among criminal justice service providers
- Adequate human and financial resources to reach out to all villages due to overwhelming demand for mediation services
- Adequate human and financial resources to reach out to all police establishments.

The programme also recorded gender-related lessons. Experiences during the programme implementation revealed that mediation services to women and girls by mediators of the same gender is a push-factor for women and girls to take their disputes to locally based legal services institutions that respect and understand their concerns so that their disputes are resolved in a way that is both non-discriminatory and comprehensive.

Another key lesson was that support to one institution alone will have limited results. Rather working in collaboration creates operational partnerships with key players in the primary justice system leading to enhanced legal service provision. Related to this, an additional lesson from the past is that programmes aimed at improving access to justice work best when they include a focus on improving coordination, collaboration, and cooperation amongst role players, when there are procedures in place to allow for minor civil matters to be diverted out of the formal system, where there is greater reliance on alternative sentences (such as community service), and where parole is available to rehabilitated prisoners. In this regard, to ensure efficiency in the primary justice processes, the project will support effort to improve coordination in the provision of criminal justice services among agencies. Among the measures to address this will be the adherence to the Court Users Committee's standard performance guidelines and promotion of referral mechanisms within the justice system.

The village level mediation approach has improved access to justice for women and for the community, with non-discrimination at its foundation. As a result, there is enhanced women's access to, and treatment by, justice systems, enabled women to enforce their constitutional rights to equal treatment (especially regarding land rights, inheritance and property grabbing); and overall, improved social justice for women. Women also favoured the VMP due to its confidentiality. PASI took steps to ensure that women are included in selection of Village Mediators. Sensitisation of women was a critical element in the Communications Strategy, to encourage them to use the village mediation program with

confidence. As a result, 60% of Village Mediators are women and 60% of cases brought to the VMP have also been brought by women⁹.

The beneficial impact of PASI work has been captured in 2011 evaluation, which found that during October 2009 to September 2010 in Mangochi and Lilongwe (Kanengo):

“PASI alleviated household poverty by offering a free legal education (and other support services) to nearly 3,000 detainees of which some 1,996 either: (a) returned home quickly--bailed, released without charge, acquitted, discharged, case withdrawn; or (b) returned home sooner--reduced sentence, fines, community service. Since 80-90% of the detainees are family breadwinners and return to support families (90% live close to the poverty line), this clearly alleviates poverty”¹⁰

III. OBJECTIVES AND EXPECTED RESULTS

3.1 Overall Goal and Objectives

The overall goal of the project is to have ***“Timely, Effective and Inclusive Justice Processes”***. It is expected that the changes that the project interventions will bring about will contribute to good and corrupt free governance practices in the justice sector. The main objective of the project is to increase access to justice for the poor and vulnerable groups including women and girls in conflict with the law. Specific objectives of the Project are:

- To provide an effective and sustainable village mediation programme that improves access to restorative dispute resolution at the local level resulting in substantially reducing the number of minor matters entering the formal justice system, especially those affecting women and children, and strengthening community mechanisms for conflict resolution and access to justice.
- To provide an effective paralegal service in Malawi’s police stations, courts and prisons.
- To provide appropriate legal assistance and advice to those in conflict with the law and the authorities, especially the vulnerable.
- To reduce the number of people in detention, especially women and children, and increase the diversion of those held on minor matters to mediation
- To reduce the duration of incarceration and overcrowding of Malawi’s police cells and prisons as well as the backlog in cases before the magistrate’s courts.

The project is aligned to the UNDP Strategic Plan (2018-2021) **Outcome 2:** Accelerate structural transformation for sustainable development. The project is also aligned to SDG 16 “promote peaceful and inclusive societies for sustainable development, provide access

⁹ PASI VMP statistics 2008-2016

¹⁰Griggs, R. *Evaluation of PASI’s Access to Justice Project 1 October 2009 to 30 September 2010: The Paralegal Advisory Service Institute’s Pilot Programme for adult pretrial detainees originating at Kanengo and Mangochi Police Stations in Malawi. Open Society Justice Initiative, January 2011*

to justice for all and build effective, accountable and inclusive institutions at all levels”. Specifically, the Project will address SDG Target 16.3 that refers to promoting the rule of law at the national and international levels and ensure equal access to justice for all by 2030. Further, the project will contribute to Government implementation of the Malawi Growth and Development Strategy III, which has adopted good governance as the vehicle for delivering Malawi’s sustainable development goals through employment of rights and gender-based approach; transparency and accountability; public sector reforms and institutional strengthening for quality public service delivery.

The Access to Justice project is aligned to the Malawi Growth and Development Strategy III and UNDAF Outcome 1.1: By 2023, rights holders in Malawi access more accountable and effective institutions at the central and decentralized levels that use quality disaggregated data, offer integrated service delivery and promote civic engagement, respect for human rights and rule of law. The project intends to achieve the following outputs and related results.

Results expected from Output 1: *Well-functioning Village Mediation and Paralegal Services backed by strengthened legal frameworks and procedures* which addresses the requirements to strengthen the provision of services of the Village Mediation Programme to improve the mediation of local level disputes. This will promote the settlement of conflicts outside of the formal justice system, especially those affecting women and children, in so doing, reducing unnecessary incarceration. Interventions will include: training village mediation teachers, mediators and paralegals in mediation processes, Human Rights, Gender and Information Management and other relevant issues; providing an alternative to the formal justice and the Traditional Leaders’ justice delivery mechanisms so that community members are able to access restorative justice at their door steps; providing an alternative to the formal and Traditional Leaders justice delivery mechanisms that is more accessible, fairer and inclusive for women and girls; providing referral mechanisms for magistrates, police officers, prison officers, paralegals and traditional leaders; preventing the influx of petty offences to the formal justice system and so reduce over-crowding in police cells and prisons and the escalation of local disputes and conflicts which may result in serious criminal offences, including the violence associated with vigilante action. The provision of village mediation services, and public awareness raising of these services is intended to provide an alternative and effective means of resolving disputes before the potential for these disputes to escalate is realised. At least **56,000** cases are expected to be completed by the end of the programme.¹¹

Interventions in this output will also address the need to update pieces of legislation to ensure an environment which is non-discriminatory, prejudicial and cultural biased against

¹¹The EU Action Document for the Chilungamo Programme, EU, 2016, at Key Result Area 4, Target 4.10, sets a target of 50,000 cases. PASI internal documents show that the mediator case-load over the 8 years from 2008 to March 2016 was an average of 4,950 cases per year. As indicated above, in the table at Point 21, the case-load over the 5 years from March 2011 to March 2016 was an average of 6,249 per year. However, these averages include the PASI start-up period, when there were fewer mediator and little public awareness of these services. The mediator case load has grown considerably over the last few years, with an average of 7,051 cases per year in 2013-2014. This target is therefore calculated to factor in expansion of the services and therefore an increased case-load of 8,500 per year for 4 years.

vulnerable groups especially women, children and the elderly. The output also aims to raise the image and role of paralegal and mediation services as a cost-effective measure for increasing access to justice for the poor and vulnerable. Interventions will therefore include provision of support to revise the following pieces of legislation: Legal Aid Act, Legal Education and Legal Practitioners Act, Traditional Courts' Act¹², Criminal Procedure and Evidence Code-Plea-bargaining, Penal Code-Vagrancy Laws and Prisons Act. The key intervention on promotion of paralegal and mediation services will be implementation of a communication strategy on the project. As a pioneering project of paralegal and mediation services, the Project will facilitate knowledge exchange initiatives with developing countries and regional bodies regarding paralegal and mediation services as an alternative cost- effective mechanisms for increasing access to justice - South-south cooperation; and proper documentation and dissemination of best practices and lessons.

The Project will work with other community based organisations, for instance the National Initiative for Civic Education (NICE) and the Catholic Commission for Justice and Peace (CCJP) to collaborate on awareness raising on the availability and effectiveness of these services.

Results expected from Output 2 - *An effective diversion scheme for minor offences established to benefit both the formal and informal justice sector.* Interventions leading to the achievement of this output will address the requirements for improved coordination in the criminal justice system. This will entail clarifying mechanisms for referral of minor cases from the formal to the informal justice sector and the vice versa and strengthening the application of standard performance guidelines established by the Court Users Committee; reviewing and updating the screening process of cases for referral to the diversion and mediation schemes (both at police and court and within the community) with a view to making it effective; instituting a case management system (Case records, Settlement agreement, follow-up to mediation settlement and build linkages to the justice system; and providing training on diversion and referral of cases to Magistrates, Police officers, Prison officers, Paralegals and Traditional Leaders.

Results expected from Output 3 - *Strengthened provision of first legal aid services (advice, assistance and legal empowerment) to the poor and vulnerable people in conflict with the law in Malawi.* Interventions towards this output will address requirements for improved provision of paralegal services. A key factor in improving the services is the deployment of adequate paralegal services in the police, courts and prisons to perform various tasks to ensure speedy delivery of justice. The paralegal services to be supported by the Programme will include: providing appropriate basic legal advice and assistance to people awaiting trial in places of detention; assisting in defending the legal and constitutional rights of those in detention, especially women and girls; providing Paralegal Aid Clinics to suspects, accused, victims, witnesses, relatives, guardians; screening of detainees in police stations, prisons and at courts to facilitate early disposal of cases;

¹² The 'Traditional Court' is a misnomer as, although originally established by a Traditional Courts Act¹², they were abolished in 1994 effectively removing their statutory authority. The 1994 Constitution makes provision for Parliament to allow them to function within the civil justice system under strictly limited provisions but no legislation has since been enacted to (re)empower them.

facilitating and promoting community participation, especially by women, in Court User Committees (CUCs); facilitating the release of unlawfully held people in prisons through holding of Camp Courts in prisons and Case Coordination Meetings; popularising Pre-trial Custody Time Limits among Law Enforcement Officials as well as judicial officers; building linkages to rural communities and community-based organisations to disseminate information about the criminal justice system as well as to develop effective referral mechanisms between communities and the justice institutions, particularly as it relates to juveniles, providing action-orientated research aimed at advocating for a more efficient and equitable justice system with the principal aim of informing and influencing policy change; arranging with relatives of prisoners to find sureties for bail; sitting in during interviews of child offenders and adults; linking with community-based paralegals in the districts who provide a range of services at primary level outside the formal justice system; providing full-time call-out services (24/7) to the main police stations; following-up cases from prison- and police-based team members and any matters referred to them from the Legal Aid Bureau (LAB). They will liaise with court administrators on block listing of bail applications and pleas in a dedicated court; notifying the prosecuting authorities (whether police or DPP) of pleas to be tendered so that appropriate charges can be drawn up. As with the block listing of bail applications, the Criminal Registry can then block-list several cases for pleas to be taken and mitigation entered by LAB lawyers; developing through the visual aids and literature explaining in attractive format and vernacular languages the criminal justice process in police, prisons, courts and at community. The project will facilitate trainings in Basic Criminal Law & Procedure + Practical Skills + Information Management targeting paralegals along with police officers, prison officers and wardens, court clerks and magistrates. The training will ensure that these groups operate at the same level of understanding of these legal issues.

Private legal matters, that the LAB paralegals require assistance with or seek to refer to the parties, will be outsourced to the networks of community-based paralegals or ‘animators’ (as they are called by the CCJP) or ‘educators’ (as they are called by the CCAP Church and Society) situated in many parts of the country.

Results expected from Output 4 - *Strengthened coordination mechanisms to ensure efficient and effective flow of information and delivery of justice in the criminal justice agencies and the community.* Interventions will address the need for improved coordination and collaboration among key stakeholders to ensure timely and efficient access to justice for the vulnerable who are in conflict with the law. Interventions include: support Court Users Committee meetings at community, district and regional levels; support Camp Courts and Prison visits; facilitate the preparation of status reports on conditions in places of detention to Prisons Inspectorate, heads of justice agencies, parliamentary bodies, development partners and follow up action as appropriate. Furthermore, mindful of the scope and goals of the Financing Agreement for the Chilungamo Project document for the 11th European Development Fund (EDF), the Chief Justice of Malawi has nominated PASI as a member of National Criminal Justice Coordination Committee. PASI shall also nurture links with the new Legal Aid Bureau (LAB) in order to mitigate general challenges of the legal aid scheme in Malawi as the LAB is currently unable to provide legal aid services at all stages of the criminal justice process as well as have offices in all districts in the country.

Results expected from Output 5 - *Strengthened, effective and efficient management, partnership building, research and M and E.* Interventions will aim to address requirements for effective planning, implementation, monitoring and reporting of the project guided by an appropriate Governance structure. The interventions will also host cross-cutting elements such as research requirements, communication and visibility plans. UNDP will provide capacity building interventions in project and financial management including results-based management to ensure that PASI is accountable to project resources and results. The project will therefore provide for properly managed and skilled staff capable of monitoring and evaluating project interventions including management of audits in accordance with UNDP's rules and regulations. Further, with UNDP guidance, the project team will constitute a Technical Committee and Steering Committee that will ensure continuous quality assurance of project plans, interventions and reports.

IV. ASSUMPTIONS AND RISKS

4.1 Assumptions

Among the key assumptions, the success of the project is predicated on the cooperation and willingness of various players in the primary justice system to increase access to justice by vulnerable and poor people in conflict with the law.

The project will not be implemented in isolation of other efforts. It actually falls within the bigger Chilungamo Programme and the expectation is that different efforts within this programme will work together to ensure that formal and informal justice systems complement each other. The cooperation and willingness of the Ministry of Justice and Constitutional Affairs and the Judiciary will therefore be key in reviewing policies, laws and procedures to ensure inclusive and efficient administration of courts not only to serve the poor or vulnerable groups in conflict with the law but also to encourage them to turn to the justice system for redress.

The willingness and cooperation of the Malawi Prison Service, the Malawi Police Service and Traditional Authority is important in ensuring that they protect the rights of suspects and prisoners. Training institutions for the police service, prison service, social welfare and other service providers are also expected to ensure that their trainees acquire basic skills commensurate with the requirements of the primary justice system.

Achievement of the project outcome will require continued respect of the role of PASI by key service providers of primary justice and their appreciation of mediation and paralegal services as critical for improving access to justice for the poor and the associated implications on caseload for courts, congestion in prisons and reduction in the administration of primary justice.

4.2 Risks and Mitigation Measures

The risks of the project include the following:

- EU policy shift in international relations negatively affecting funding allocation to Malawi. This will be mitigated by broadening the scope of resource mobilization and partnerships
- Humanitarian crisis forcing diversion of developmental funds. The broadening of resource mobilization will also address this risk.
- Non-compliance to revised performance standards by legal services staff. This will be mitigated by drawing MoUs to enforce compliance to court performance standards
- Legislative reforms may meet resistance from prominent stakeholders within the justice sector. This will be mitigated by holding advocacy meetings with strategic partners in the sector
- High staff turnover in the primary justice agencies. This would impact on the ability of the justice system to provide timely and adequate services. Likewise, industrial actions by the judiciary would result in the absence of justice services. The project will ensure that project focal points have alternates in their respective agencies and are both trained
- Corrupt practices and self-interests would pose a great threat to the delivery of justice and is likely to deprive victims' opportunities for fair treatment and timely conclusion of cases. Ethics and Integrity training of criminal justice service providers will be organised to minimise this risk

A full list of the risks and their potential impact is provided in Annex 2. The risks will be monitored and log updated periodically during the implementation of the project.

4.3 Stakeholder Engagement

In the initial six (6) months, the Project will begin with a mapping of the key stakeholders in each selected site – including the Traditional Authorities, eminent personalities in the area, personnel at the local police stations, courts and prisons as well as referral and support services for victims of crime, especially women and children, where these exist. The purpose of this mapping exercise is to inform a local level stakeholder engagement and sensitisation strategy, and will include a focus on determining the representation of women in key stakeholder positions.

Based on the stakeholder mapping, a series of face-to-face meetings with key local and national stakeholders, small workshops at District level, and local public meetings will be held to refresh local understanding of the Project and to build further support for the initiative. This stakeholder sensitisation will also aim to determine the issues faced by women and girls in accessing support and justice services in the area, and in addition to the local authorities, specifically focus on district councillors, the police, especially the Victim Support Units, the local magistrates and the prison service as well as local referral or

support services for victims of crime – these stakeholders, it appears, have been insufficiently informed of the PASI programme.¹³ The sensitisation exercise will conclude with an interactive public meeting at which the initiative will be explained through role-plays and questions can be raised by the community and their leaders and answered immediately. In each of the selected districts, meetings should be held with the TA's, the Magistrate's Court, the Police and with any CBO's and NGO's operating in that area. As soon as the new pilot districts are selected, a meeting/event to launch the programme in each of the districts will be conducted.

The overall purpose of this sensitisation exercise is to gain approval for the implementation of the initiative, from all the key stakeholders in the area, and to determine specifically the key issues faced by women and girls in accessing support services and justice in the area. During the meetings, in each of the pilot communities a selection process will take place to identify trainee Village Mediators according to strict criteria, with the Project making the final decision.

4.4 Target Groups and Final Beneficiaries

Target groups including target areas have been detailed in the table on Solution Pathway, targets, assumptions, risks, UNDP Role, PASI Role, Lessons and partners. Specifically, the targets for the Programme are the vulnerable in conflict with the law and disputes which need redress and service providers who will take part in the implementation of programme activities. The targets are both on the supply and demand side. For instance, magistrates, prosecutors, investigators, prison officers, chiefs and vulnerable populations in conflict with the law. Those in conflict with the law will be the final beneficiaries which include: poor and vulnerable groups in urban and rural areas such as women, girls, boys and other vulnerable groups who might be suspects, prisoners or victims whose case require redress.

The service providers who are involved in the provision of first aid legal services and mediation services will be another target group. These include: judges, prosecutors, legal aid advocates and private lawyers, investigators, prison officers, chiefs/traditional authorities, magistrates, social welfare officers, court clerks, community service officers, immigration officers, village mediators, paralegals and religious bodies. Geographically, the first legal aid services will be provided in all the districts including Likoma, while the Village Mediation Programme will initially be implemented in 7 districts rolling out to 12 districts by the end of year 4 of Chilungamo Programme implementation. The seven district are: Lilongwe, Mchinji, Salima, Blantyre, Mangochi, Zomba and Mzimba3.

4.5 Partnerships

As stated above, the project will work closely with the key criminal justice stakeholders including the police service, prison service, judiciary and traditional leaders. In addition, the programme will build and maintain partnerships through Memoranda of Understanding (MoU) with a range of actors to ensure adequate advocacy of project activities and contribution to policy development and enhance the impact of the programme. While

¹³See, Griggs, R. *op cit*.

UNDP will manage the funds, convene quality assurance meetings, and conduct capacity building sessions on financial and project management; the other players will partner with PASI in delivering legal services to the most vulnerable populations. Ministry of Gender, Children, Disability and Social Welfare and other members of the Local Council will assist with gender and conflict analysis to determine populations at risk of not accessing justice services in the communities. Gender and vulnerability assessments will also be conducted in prisons and court rooms to identify vulnerable populations that need assistance.

To ensure availability of adequate and skilled human resources in PASI, Police, Prisons, Judiciary and other legal service providers PASI will also depend on staff training institutions willingness to change curriculum and other elements of the legal service providers' training so that it is more oriented to developing professional skills. Targeted partners include the Judiciary, Legal Aid Bureau, Court Users' Committees, Police and Traditional Authorities. PASI will also engage these partners to lobby for change of policies and legal frameworks to create an enabling environment for provision of paralegal and mediation services at community levels. The project will also utilize the current UNDP efforts at resolving conflicts such as the district peace committees within the National Peace Architecture to build on synergies and collaborate in their efforts at the grassroots. Further partnership will be forged with case handling institutions and human rights institutions to ensure that access to justice and conflict resolution efforts are well coordinated.

Other key actors that PASI will partner with during implementation of the project activities will include Legal Aid Bureau; Inspectorate of Prisons; Malawi Human Rights Commission (MHRC); Catholic Commission for Justice and Peace (CCJP); Citizens for Justice (C4J); Ministry of Gender, Children and Social Welfare; Ministry of Local Government and Rural Development; National Initiative for Civic Education (NICE); Irish Rule of Law International; Child Rights Advocacy And Paralegal Aid Center; Centre for Human Rights Education, Advice and Assistance (CHREAA); Centre for Legal Education and Victim Support (CLEVIS); Youth Watch Society (YOWSO).

4.6 South-South and Triangular Cooperation (SSC/TrC)

Recognition of 'paralegals' as a semi-professional cadre of legal service provider is growing in Africa where there is increasing realization that in most countries, lawyers are unavailable to service the needs of the population (whether because they are too few in number or predominantly located in the urban centers while the majority of people continue to reside in rural areas).¹⁴

The Programme with technical support of UNDP will seek to 'leverage the achievements' of paralegal schemes to 'help make gains' internationally and specifically to: advance the goals of paralegals in providing primary justice services and legal empowerment nationally regionally and internationally; promote formal recognition of paralegals as primary justice service providers; lobby at national, regional and international levels for primary justice

¹⁴ Survey of Legal Aid in Africa, 2010, UNODC

services; set standard for paralegals working in the criminal justice system; and provide a resource base for member organisations.

Key Project personnel will attend the bi-annual Ordinary Sessions of the ACHPR to report on developments and lobby for further recognition of paralegals; and develop and promote the paralegal schemes in the sub-region by supporting knowledge exchange initiatives and introductory seminars.

4.7 Knowledge

Baseline studies: A research process, aimed at setting a baseline for progress monitoring and impact evaluation of the Action will be initiated. The baseline is intended to describe the situation in an area before the implementation of the initiative and so will look to acquire data on the nature and number of local disputes and the current method through which these are concluded (or not); so:

- Available socio-economic data that allows for comparison between districts;
- Assessment of the diversity within the districts in terms of ethnicity, religion, means of livelihood, rural/urban, socio-economic parameters. Particular emphasis on assessing diversity of the potential pilot areas;
- Assessment of the number of courts, police stations/posts/units, and other criminal justice institutions available per person in the different districts of Malawi and the maximum distance for people within the district to reach these institutions;
- The number and types of disputes resolved on a weekly or monthly basis by the TA's in potential pilot areas including pending cases at the Traditional Authorities, and the length of time it takes to resolve a case;
- Number of those in pre-trial detention in the police cells and prisons, disaggregated by alleged offence, sex and age;
- number of people imprisoned in (and if information is available an assessment of categories of ways that the cases of imprisoned have been handled); and
- the number of type of cases and pending cases at the magistrates courts, disaggregated by charge, duration of incarceration of the accused, the length of time it takes to conclude the matter and the sex and age of the accused.

This exercise will also apply in the old VMP target districts. The baseline survey should be adjusted and developed further on the basis of input from UNDP. Furthermore, data should be collected on all the organisations and institutions, including the NGO's, operating in a given district and TA, their extension into the villages, and the content of their work.

Recent evaluative work has pointed to the cost benefits of paralegal work, for those who receive paralegal services (which are free) and for the criminal justice system as a whole. A small research project will analyse the findings of the published work, and, using a sample of cases dealt with by the paralegal, provide estimate cost-savings of this work for the criminal justice system. The results of this research will be presented and discussed with key stakeholders at a policy dialogue the purpose of which will be to advocate a more

direct role for the Government of Malawi in supporting the institutionalization of paralegal services. The Policy Dialogue will be chaired by a senior legal official, preferably the Head of the Legal Aid Bureau and will include senior representatives of the judiciary, including, amongst others the Justice of Appeal at the Supreme Court of Malawi, the Chairperson of the Rules Committee under the Chief Justice and the Chairperson of the Child Justice Forum as well as senior representatives of the police and prisons services.

Research: For the Project, the research function will be limited to only those issues directly related to the programme and its effectiveness. The identified three areas are:

- i) *General research* – including the identification of best practices in the various fields that the paralegals operate in, drawing on best international practices and research in the field. This would require sufficient internet research training and capacity;
- ii) *Legal research* – monitoring changes in local, regional and international laws that impact on the work of paralegals in all spheres; and
- iii) *Empirical research* – developing systems of doing and collecting empirical research from courts, prisons and villages; publishing this research in occasional research papers; disseminating the results of the research to all paralegals and relevant role players; incorporating research results in training materials; and using the results to develop annual policy.

A Monitoring and Research Officer in PASI will help to achieve these three objectives in addition to performing other duties assigned by management.

Communication and Visibility: During the programme's inception phase, a detailed communications strategy will be developed by both the UNDP and PASI. This strategy will be annexed separately to the formal EU contract and the costs for its implementation budgeted for under cross-cutting costs. It is expected that the strategy will include:

- Bi-monthly stakeholders and press briefings on the programme's achievements and the implications of these for the criminal justice system;
- At least three policy dialogues on topical issues of relevance to the programme each year;
- Stakeholder workshops on the results of the research conducted by the programme; and
- Bi-annual Issue Briefs: Short topical notes for stakeholders in the donor community, programming, academic research and NGO think-tanks on issues relevant to the programme and the functioning of the criminal justice system.

Audit of existing mediators: At the same time the baseline study is underway, an audit of the trained mediators currently deployed at the seven districts will be conducted. The PASI programme currently deploys 150 mediators per district, that is, 3 mediators in each of 25 villages in two Traditional Authorities in each district. This audit will aim to establish how many trained mediators are actually in place and working, what the level of their training has been, their current caseload, their achievement and their capacity-building and

logistical needs. In addition, the audit is intended to determine what the ideal number would be for improving the effectiveness of the mediators.

4.8 Sustainability and Scaling Up

The project is dependent on EU and UNDP support for the next 4 years. However, in the course of the implementation of the project, alternative strategies for sustainability of the initiative will be looked into. These are likely to include:

- Greater involvement of the Malawi Government, particularly the Judiciary and the Victim Support Units, in the provision of paralegal services at police stations, courts and prisons.
- Greater involvement of the Malawi Government, particularly, the full committees of the Council at a district level, in the provision of village mediation services
- Identification of alternative funding streams especially through government sources such as pooled funding under the leadership of the Legal Aid Bureau.
- Alternative donor support, including cost-sharing between donors and the Malawi Government, to maintain the paralegal and village mediation services.

At implementation level;

- PASI paralegals are well placed provide on-going support and supervision to the VMP by ensuring mediation is in line with human rights principles and the law as well as by creating the important cross-referral link between the local community and the formal justice system.
- The structure of the VMP furthermore links with the current structure of PASI. The project will build upon the skills transferred to the communities through the PAS linkages with rural communities and community-based animators by introducing them to the skills of mediation.
- The project will continue to actively engage NGOs, CBOs and FBOs such as CCJP to reach through their extensive networks to village level to assist in the dissemination of information and awareness about the programme to grassroots and to empower rural masses with knowledge about the criminal justice system.

Under the just-ended JVG Programme primary justice sites through training and sensitization were established in over 19 districts in Malawi. The focus areas were community sensitization, training of TAs, GVHs, and VHs, as well as establishing primary justice networks at community level. In addition to this, the programme focused on documentation of issues and cases and M&E mechanisms. The aim is to support changes and dynamics at grass-root level, improved coordination with the formal sector and establishment of sustainable primary justice structures with increased Government ownership. The pilot VMP has been building on the ground work done by this programme under the Primary Justice Project.

V. MANAGEMENT AND IMPLEMENTATION ARRANGEMENTS

5.1 General:

The overall cost of the Action is US\$4,949,450. The EU contribution to the project is EUR 3,500,000.

5.2 Geographical area to be covered: Malawi

5.3 Duration of the Programme: 1st January, 2018 to 31 December, 2021

5.4 Target groups: Magistrates, police officers, prison officers, paralegal officers, village mediators, social welfare officers and Traditional Authorities.

5.5 Final Beneficiary: Poor people and vulnerable groups in conflict with the laws of Malawi

5.6 Project Implementing Partner: PASI

5.7 Implementation Arrangements

The Paralegal Advisory Services Institute (PASI) is the Implementing Partner (IP) for Chilungamo – Promoting Access to Justice for the Poor and Vulnerable Groups Project and will be responsible for the overall planning and management of the programme and achievement of its objectives. The project is essentially an expansion of the previous Democratic Governance Programme project which was successfully implemented by PASI between 2011 and 2016. Hence, the choice of PASI, a local NGO, as implementing partner has been influenced by its previous experience and positive performance assessed by an independent evaluation of the previous project.

The National Director of PASI will be the Project Manager and be based at the National Office in Lilongwe. He will be supported by the National Programme Coordinator who acts as head of Mediation and Paralegal Coordinator of Paralegal Services. The National Programme Coordinator will be responsible for providing leadership, coordination and implementation of day-to-day operations of the Project to ensure that the outputs are achieved. The Project will be supported by a Finance Officer/Accountant; a Research, Monitoring and Evaluation Officer; a Finance and Administration Manager; and a Finance/Administrative Assistant. The Project will deploy 38 Paralegal Officers, 120 Village Mediation Programme teachers/supervisors and 2 office assistants based in designated districts across the 3 regions of the country. Job description for the key positions of the project are provided in annex 6. A list of the positions to be covered by the project is provided in Annex 7.

Paralegal Officers will implement activities in all the districts. However, not all the 28 districts will physically be assigned officers. Neno, Mwanza, Phalombe, Dowa and Karonga will not have paralegal officers. These districts will share paralegal officer with other districts as follows: Karonga will share a Paralegal Officer with Rumphi; Likoma

with Nkhata Bay; Dowa with Ntchisi; Mwanza and Neno with Blantyre and Phalombe with Zomba.

The Village Mediation Programme will initially be operational in only 7 districts during the first year of project implementation, viz: Lilongwe, Mchinji and Salima in the Central Region; Blantyre, Mangochi and Zomba in the Southern Region; and Mzimba in the Northern Region. The Village Mediation Programme will target approximately 20 villages or village clusters in each of the 14 TAs of the 7 target districts. Accordingly, 280 villages or village clusters will be targeted. In total, 700 village mediators will be trained and supported during the first year of the project implementation. There will be 100 village mediators in each district (approximately 50 per selected TA and 2 per village). 10 trainers per district (altogether 70 trainers) will be undertaking the training and support village mediators.

The 2 village mediators in a village or village cluster will select among them one mediator to participate in a Village Mediation Group (VMG). The VMG will ensure appropriate selection of mediators for mediating disputes with particular focus on impartiality of the team of mediators and will be the responsible for referring disputes to the appropriate dispute resolution mechanism, including the TA court, the Magistrate Court, police, or mediation structure. Referral to other dispute resolution mechanisms than the mediation process should also involve one of the trainers within the TA. The paralegals that work under the auspices of PASI in the target areas will also participate in referral and diversion procedures, and will undertake some of the training of village mediators on issues of human rights, legal procedures and diversion. It will also be the paralegals who will contact mediators when a prisoner is released in order to facilitate reintegration and reconciliation between the former prisoner and the victim, the victim's family or the community at large.

Selection of target areas

Based on the strategic considerations on the choice of target areas as indicated above, the following criteria should underlie the selection of the target areas:

- accessibility to the community and the stakeholders within that community (including the TA)
- potential for complementarity with other primary justice initiatives that promote diversion scheme
- diversity within and among the selected TAs in terms of gender, ethnic groups, livelihood, religion, rural/urban
- limited access to justice by people in the selected villages within the TA due to absence of the following: police, magistrates' court and chiefs' courts
- caseload in the magistrates' courts, police and chiefs' courts
- a recognised need (by the community) for alternative dispute resolution mechanisms because the formal justice system is slow because procedures can be slow

The target areas should be selected in the first phase of the project so as to start the process of identifying local stakeholders and other diversion actors which the project should try to complement or directly co-operate with.

More districts will be considered in subsequent years based on reviews findings.

5.7.1 Project Governance Arrangements

The project governance arrangements are depicted in Figure 2 below.

Steering Committee

A Project Steering Committee will be established to provide oversight and strategic leadership of the Project. The Steering Committee will enable the Project to have a high-level of strategic consensus on overall direction and provide strategic guidance to the Project on priorities and risks.

The Steering Committee will make key decisions at designated decision points during the running of the project, or as necessary when critical issues are raised by the Programme Manager. The Steering Committee shall convene at least once every quarter. The Steering Committee will be chaired by the Chair of the PASI Board of Trustees and Co-Chaired by the UNDP Resident Representative. The following will be the full list of members of the Steering Committee:

1. PASI Board of Trustees Chair (Steering Committee Chairperson)
2. UNDP Resident Representative – Steering Committee CO-Chair
3. A Representative of the EU
4. A Representative of the Ministry of Justice and Constitutional Affairs (DPP Chambers)
5. A Representative of the Ministry of Local Government and Rural Development
6. A Representative of the Ministry of Gender, Children and Social Welfare
7. A Representative the Inspectorate of Prisons
8. A Representative of the Legal Aid Bureau
9. A Representative of the Judiciary
10. A Representative of the Malawi Prison Service
11. A Representative of the Malawi Police Service
12. A Representative of Malawi Human Rights Commission
13. A Representative of Department of Immigration
14. A Representation of NICE
15. A Representative of CCJP
16. A Representative of Malawi Law Society

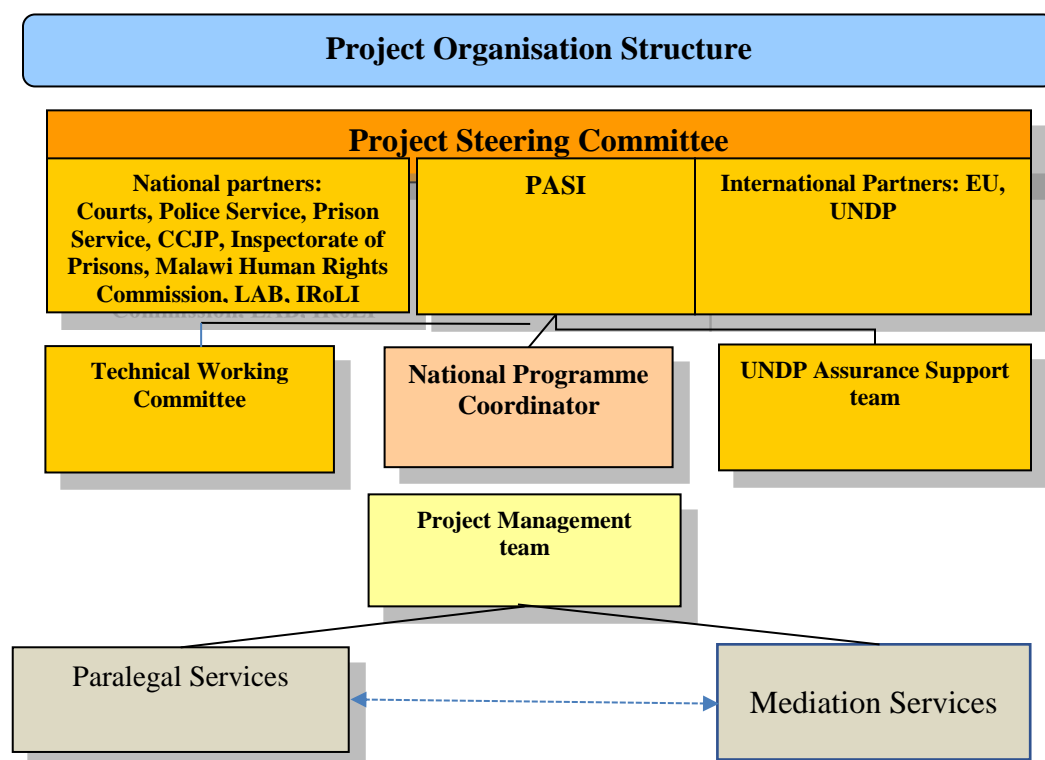
Terms of Reference for the Project Steering Committee are provided in Annex II.

Technical Committee

The Technical Committee will provide on-going quality assurance and monitoring of implementation progress, risk identification and monitoring, and detailed technical oversight of the Project. The Technical Committee will review plans and give substantive guidance on achieving Project results and monitor their achievements, ensuring accountability.

The Technical Committee Chair and co-chairs will report to the Steering Committee and may identify and escalate any strategic or other high-level issues that may require guidance or deliberation. Technical Committee reports will be provided to the Steering Committee together with other supporting documentation. The Technical Committee will be Chaired by the UNDP Deputy Resident Representative (Programmes) and co-chaired by the project manager (PASI National Director)

Figure 2: Access to Justice through Village Mediation and Paralegal Services



As the principal beneficiary of the Project, PASI will work closely with UNDP throughout the Project. PASI responsibilities will include:

- Representation in the Project Committees;
- Provide quarterly narrative and financial progress reports;

- Produce and implement annual and quarterly work plans;
- Report on progress to the Project Committees and any other meetings called as and when necessary;
- Provide a senior representative to the Project Steering Committee
- Serve as the convenor and Secretariat for the Project Steering Committee;

5.7.2 Project Office Costs

The project will cover all costs required to implement project activities listed in Annex III –Budget for the Action. In addition, the budget for the Action will also provide for supplies, equipment, office operations and services. Below is the list of project staff whose full costs will be charged to the Action.

5.7.3 List of Project Staff

1. Project Manager
2. National Programme Coordinator
3. Administrative Officer
4. Research, M&E Officer
5. Accountant
6. Finance and Administrative Assistant
7. Regional Paralegal Officers
8. Paralegal Officers
9. Office Assistant

UNDP will provide project technical and management support as well as financial assurance activities to ensure that the project meets quality standards in the achievement of results, management and reporting on activities and finances. In this regard, UNDP will assign dedicated programme management and financial services personnel for the project. UNDP will also complement project's monitoring and evaluation functions.

Programme Analyst (Grade NOB): UNDP will utilise 50% Programme Analyst's time to support the effective implementation of the Chilungamo – Promoting Access to the Justice by the poor and vulnerable groups ensuring timely and efficient achievement of results. Among the key duties, the PA will participate in annual and quarterly work planning, budgeting and ensure regular progress and finance reporting by the project; Support implementation of quality assurance activities including actions arising from UNDP's Annual Project Quality Assurance Assessments recommendations; ensure that project adheres to value for money principles and practices during planning and implementation of activities; regularly follows up on implementation of audit, steering committee and field visit recommendations; participates in project monitoring activities including financial, technical and risk monitoring; Ensures strong teamwork with other UNDP programme staff and PASI colleagues and in all activities, seek to transfer skills and build capacity of local staff and institutional capacity for sustainability of the organisation. He will provide leadership in the management of the Basket Fund ensuring compliance with the EU/UNDP Contribution Agreement. The analyst will further assist in

identification and synthesis of best practices and lessons learnt as well as linking the programme to UNDP regional center and other knowledge networks and communities of practice within the region and globally.

M and E Officer (NOA) (100%): UNDP will engage an M&E officer who will support the project in all data collection, analysis, and learning activities to help ensure accountability and efficiency from start to finish. The M&E Officer will work closely with project team to assess field conditions, support capacity building initiatives, and facilitate the collection of quality data under dual supervision of the programme manager and UNDP programme analyst. S/he will be expected to assist in preparation and review monthly, quarterly and final narrative and financial donors' reports.

Finance Associate (GS7): UNDP will recruit a Finance Associate with additional procurement experience at GS7 who will dedicate 100% of his/her time to support management of PASI and CO in preparation of required budgets, implementation of project activities, processing payments, and tracking use of financial resources. The Finance Associate will also maintain internal expenditures control system, prepare reports, support regular analysis of the project financial situation, identification of operational and financial problems. The Finance Associate will also assist in ensuring that procurements for the project are timely and efficiently undertaken by UNDP. In addition, the Finance Associate will also ensure that all financial and procurement processes are performed according to sound internal controls at PASI.

He/she will also support preparation for audits of the project and implementation of audit recommendations.

Other UNDP officers who will make contribution to the management of the project are as follows:

Portfolio Manager (Responsive Institutions and Civic Engagement) (10%): Responsible for the project's overall supervision to ensure it is efficiently managed and in tune with the broader objectives of the portfolio and shares synergies with portfolio's projects.

Communications Analyst (NOA) (10%): Harmonize a joint approach to the communication and visibility activities of the project including communicating "positive results of the partnership" between PASI, EU and UNDP and provide for appropriate visibility of the partners.

In addition to the management arrangements outlined above, UNDP will utilise the services of a firm to build capacity of PASI in financial management. This capacity building will be based on the results of the micro-assessment, which will be performed by the UN HACT group. The company will also assist in development of a business sustainability plan for PASI.

5.7.4 Financial Management Arrangements

EU and UNDP will provide funds for implementing Project activities. The EU will conclude a Delegation Agreement with UNDP

Among others, UNDP will be responsible for the following:

- ensuring that adequate financial resources are available for the implementation of activities as agreed in the Annual Work Plans;
- ensuring that all financial reporting requirements are adequately complied with by reviewing quarterly financial reports from PASI;
- Timely processing direct payments to cater for the needs of the project;
- facilitating audits as per UNDP regulations and rules;
- ensuring timely submission of regular progress and financial reports to the EU Delegation, as per the reporting requirements set out in the General Conditions;
- monitoring project implementation together with national counterparts (e.g. spot checks, inventory checks, field visits);
- Processing procurement and recruitments for the project;
- providing relevant technical advice and assistance in project implementation, including sharing of best practices in M&E obtained through local sectoral experiences and regional and global UN Knowledge Networks.

Management

Based on Annual Work Plans (AWPs) agreed between PASI, EU and UNDP, UNDP as Managing Agent will make payments according to the NGO Implementation modality and following the procedures of the UN Harmonised Approach to Cash Transfers (HACT). The UN HACT group will perform HACT micro-assessment during the first months of the project life.

During the first year of the project, payment modality will be strictly through direct payments. During this time UNDP will be building the capacity of PASI in project and financial management. Results of regular spot-checks on the utilisation of funds and a HACT micro-assessment will provide a basis for decision on future cash transfer modality.

Once micro-assessed with positive results, cash transfers for activities in AWP's can be made by UNDP using the following modalities:

- a) Direct cash transfers (DCT) whereby cash is transferred directly to the implementing partner prior to the start of activities based on agreed cost estimates; DCT, they shall be requested and released for project implementation periods not exceeding three months. The Programme Manager will be responsible for preparing and submitting monthly financial reports and requests for quarterly advance funds to UNDP. The financial reports and requests are to be submitted according to the Funding Authorisation and Certificate of Expenditures (FACE) standard format every month.
- b) Reimbursements whereby the Implementing Partner is reimbursed for expenditures agreed prior to the costs being incurred;
- c) Direct payments to vendors or third parties for obligations incurred by the implementing partners on the basis of requests signed by the designated official of the implementing partner;

- d) Direct payments to vendors or third parties for obligations incurred by UN agencies in support of activities agreed with implementing partners.

Reimbursements of previously authorized expenditures shall be requested and released quarterly or after the completion of activities. UNDP shall not be obligated to reimburse expenditures made by the implementing partner over and above the authorized amounts. Following the completion of any activity, any balance of funds shall be reprogrammed by mutual agreement between the implementing partner and UNDP, or refunded.

PASI will be responsible for the management of a project specific bank account where the advance will be deposited by UNDP on a quarterly basis. Based on the quarterly work plan prepared by PASI, UNDP will review the request for advance and disburse the appropriate amount. The Programme Manager will be accountable for the use of funds advanced to the project according to agreed upon work plans. PASI will be expected to maintain books of accounts for the basket fund, in accordance with UNDP's National Execution accounting and reporting guidelines.

In terms of the rates applied for Daily Subsistence Allowances (DSA), the harmonised DSA guidelines as stipulated in the guidance note effective April, 2017 will be strictly applied. UNDP will make sure that the correct rates are applied and inform PASI accordingly whenever the rates are adjusted.

5.7.5 UNDP Support

UNDP will provide services in the following areas:

- Identification, assistance with and/or recruitment of long-term or short-term technical personnel in accordance with UNDP rules and regulations.
- Procurement of goods and services for the project except for smaller items like stationery.
- Identification and facilitation of training activities.
- Providing relevant information and technical advice obtained through UN global information systems, UN Knowledge Networks, Regional Centres and other UNDP Country Offices, e.g. rosters of consultants and providers of development services.

5.7.6 Audit

As set out in the EU-UN Financial and Administrative Framework Agreement, financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the Financial Regulations, Rules and directives of the United Nations Development Programme.

UNDP will facilitate the Project implementation. UNDP's role will include:

- Provide senior representation in the Steering Committee (SC) through the UN Resident Coordinator;
- Management and administration of the basket fund;
- Coordination with PASI on the submission of technical and financial reports;
- Coordination and delivery of international technical assistance;
- Provide timely financial and technical reports as outlined in the Contribution Agreements with the EU.

VI. REQUIREMENTS

6.1 Procurement of Goods and Services

UNDP will carry out procurement of goods and services for the Project except for small items like stationery using UNDP procurement policies. For contracting of national and international technical personnel, UNDP Country Office in collaboration with its Headquarters will lead the recruitment process and ensure that the selection and recruitment process is transparent in accordance with the UNDP's rules and regulations. Further, UNDP will use its global knowledge networks and regional support centres to identify the most suitable candidates in consultation with partners identified in the Project Document.

VII. MONITORING AND EVALUATION

In compliance with UNDP's monitoring, evaluation, and reporting requirements, Monitoring

and Evaluation will be undertaken as defined in UNDP's Programme and Operations Policies and Procedures (POPP).

Any monitoring and evaluation exercise, undertaken by the EU as a donor to the project will

be in compliance with the provisions of the FAFA (Article 1) and the General Conditions (Article 10). Such exercise will be planned and implemented in a collaborative manner and funded by the EU outside the scope of the present Contribution Agreement.

VIII. COMMUNICATION AND VISIBILITY

UNDP will ensure that information and visibility activities will be undertaken in accordance with the Joint Visibility Guidelines for the EC-UN Actions in the Field adopted in 2008¹⁵ and in compliance with Article 11 of the FAFA and Article 8 of the General Conditions. Refer to Annex V1 for specific activities on visibility.

¹⁵Available on the EC website:

http://ec.europa.eu/europaaid/work/procedures/financing/international_organisations/other_documents_related_united_nations/index_en.htm

IX. CROSS-CUTTING ISSUES

Gender and Human Rights in the Mediation Context

Gender-based violence is one of the most prominent features of women's experiences during and after a dispute. The project is designed to ensure practical measures for mainstreaming gender during its designing, implementation, monitoring and evaluation since Gender analysis means thinking about the effect and impact of conflict on men and women, boys and girls during the process of mediation. During training, the mediators will be equipped with skills which will help them to be sensitive to gender-based violence when mediating cases.

Generally, PASI's VMP will engage women from different ethnic, social and cultural groups and give them an opportunity to take their disputes to a locally based programme that respects and understands their concerns and will help to resolve disputes in a way that is both non-discriminatory and comprehensive.

PASI shall ensure that women are included in selection of Village Mediators. This is particularly important since women:

- are considered less threatening to parties in conflict
- can promote a better atmosphere and facilitate difficult discussions
- are linked closely to community and civil society and this delivers broader support for success of a mediated outcome.
- can provide input on how conflict affects children, health, community and families.
- are viewed as actors and protagonists rather than victims.
- have the energy and creativity to contribute positively to peace building or mediation efforts.

Sensitisation of women is going to be a critical element in the Communications Strategy, to encourage them to use the VMP with confidence in order to improve access to justice for women and for the community, with non-discrimination at its foundation.

Gender appraisal through paralegal services in the formal justice system.

The Action will contribute to prevention and reduction of cases of violence against women and children through legal empowerment, monitoring and access to justice for victims of gender-based violence at community and district levels using paralegal services. The Paralegals will also facilitate referral of cases as well as alternative dispute resolution options.

A multi-stakeholder approach to improving access to justice by women and children subjected to domestic and all other forms of violence is thus critical in realising a violence-free society for women and children. In this regard, PASI shall work with various

stakeholders at community, district, regional and national levels through Court User Committees (CUCs) to effectively address the problem of violence against women and children at all levels.

Through community sensitization meetings, the public will become aware of the criminal justice system, how it operates and how the law affects them. It is envisaged that in the sensitised communities, many cases of human rights abuse including those related to issues of violence against women and children will be reported to police or relevant authorities.

Administratively, the project will ensure that PASI work policy is in line with the guiding principles of gender and Social appraisal and that the approach adopted is rights-based.

Environmental sustainability

Though the project does not exclusively mention environmental issues, the interventions to ensure justice amongst communities themselves are uniting in nature such that other interventions will find fertile ground for implementation. Sensitisation on rights issues also boost the potential of the communities to stand firm against exploitative behaviour on issues like environment. It encourages responsibility.

Human rights

Human rights are one of the programming principles on the UN. In line with the Sustainable Development Goals (SDGs) stresses the promotion of the rule of law at the national and international levels and ensure equal access to justice for all by 2030 the project will specifically focus on addressing SDG 16 Target 16. The project is designed to also promote human rights based approach to programming focusing on the marginalised groups including women, youth and other vulnerable groups targeted in special campaigns.

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XII. BUDGET

The overall cost of the Action is US\$4,949,450. The EU contribution to the Action is EUR 3,500,000.

¹⁶ “By 2030, provide legal identity for all, including birth registration.” Notably, in the absence of foundational identity being met for parents, children often suffer inter-generational identity gaps, unable to claim and prove their birth and citizenship rights.

TABLE 1: RESULTS FRAMEWORK**Project title award Atlas Project Number: Improving access to Justice by the poor and vulnerable people****Component A: Village Mediation Service in Target districts**

EXPECTED OUTPUTS	OUTPUT INDICATORS ⁱ	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)					DATA COLLECTION METHODS & RISKS
			Value	Year	Year 1	Year 2	Year 3	Year 4	Total Year 4 Plus Baseline	
Output 1 Well-functioning Village Mediation and Paralegal Services backed by strengthened legal frameworks and procedures	1.1 Number of cases resolved by mediation in target districts	<ul style="list-style-type: none"> PASI VMP reports Case records 	35,600	2016	11,817	27,954 (11+817 16137)	44,091 (27,954+16,137)	60,288 44,091+16,137)	95,888	DCMs: <ul style="list-style-type: none"> Project reports Registers Risks: <ul style="list-style-type: none"> Unavailability of operational support Delays in submission of data
	1.2 Percentage of users who perceive mediation as an appropriate alternative to formal justice system in targeted districts	<ul style="list-style-type: none"> On-going User perception survey Minutes of Community sensitisation meetings 	55%	2015	55%	60	70	75%		DCMs: <ul style="list-style-type: none"> Survey/questionnaire Focus groups Interviews Official speech/minutes Project reports Risks: <ul style="list-style-type: none"> Delayed availability of survey data Lack of official records and supplementary materials
	1.3 Ratio of women to men accessing village mediation services in target districts	<ul style="list-style-type: none"> PASI VMP reports Case records 	60:40	2016	60:40	60:40	60:40	60:40		
	1.4 Number of amendment bills submitted to MoJCA (Legal Aid Act , Penal Code, Legal Education and Legal	<ul style="list-style-type: none"> Laws of Malawi Law Commission reports 	Zero	2010	1	2	3	4		DCMs: <ul style="list-style-type: none"> Research from literature Progress reports Risks:

	Practitioners Act, Prison Act to include paralegals).	<ul style="list-style-type: none"> Parliament records CLE accreditation 								<ul style="list-style-type: none"> Unavailability of official records and supplementary materials
	1.5 Practice Direction on Court Mandatory (Mediation) Rules, 1994 to apply in Magistrates' Courts issued by the Chief Justice of Malawi	<ul style="list-style-type: none"> Judiciary report 	Zero	Zero	0	1	1	1		DCMs: <ul style="list-style-type: none"> Workshops Official minutes Project reports Speeches Letters Risks
Output 2 An effective diversion scheme for minor offences established to benefit both the formal and informal justice sector	2.1 Percentage of minor criminal and civil cases diverted from the formal to informal justice system in the target districts	<ul style="list-style-type: none"> PASI reports Diversion scheme records Court reports/register rs 	20%	2016	25%	30%	35%	40%		DCMs: <ul style="list-style-type: none"> Project reports Trial observations Survey/research Interviews Risks: <ul style="list-style-type: none"> Poor cooperation and systematic record keeping and information Poor official documentation and supplementary materials
	2.2 % of caseload of minor cases in formal justice institutions in the target districts	<ul style="list-style-type: none"> PASI reports Diversion scheme records Court registers 	40%	2016	40%	30%	25%	20%		
	2.3 % of prisoners serving a sentence of less than three years in target districts	<ul style="list-style-type: none"> Prison records PASI records Court records 	40%	2016	40%	30%	20%	10%		
	2.4 An updated template for appropriate screening of cases for referral to the diversion and mediation schemes (both at police and court and within the community) in place in the targeted districts	<ul style="list-style-type: none"> PASI screening forms 	0	2016	1	1	1	1		DCMs: <ul style="list-style-type: none"> Questionnaire/survey Project reports Risks <ul style="list-style-type: none"> Poor management of screening forms

										<ul style="list-style-type: none"> Unavailability of operational support
	2.5 % of caseload of minor cases in chiefs courts in the target districts	<ul style="list-style-type: none"> Chiefs court registers 	40%	2016	35	30	25	20%		DCMs <ul style="list-style-type: none"> Diaries/registers Risks: <ul style="list-style-type: none"> Limited commitment to proper case record keeping
Output 3 Strengthened provision of first legal aid services (advice, assistance and legal empowerment) to the poor and vulnerable people in conflict with the law in Malawi	3.1 Number of police stations with paralegal services	<ul style="list-style-type: none"> PASI reports Police reports 	16	2016	36	56	76	96		DCMs: <ul style="list-style-type: none"> Progress reports Registers Risks: <p>Limited commitment of MPS, Magistrate Courts and Prisons to provision of paralegal services</p>
	3.2 Number of Magistrates' courts (including Child Justice Courts) with paralegals services	<ul style="list-style-type: none"> PASI reports Judiciary reports 	25	2016	35	35	35	35		
	3.3 Number of prison formations (including juvenile centers) with paralegal services	<ul style="list-style-type: none"> Prisons reports PASI reports 	20	2016	25	25	25	25		
	3.4 Number of Paralegal Aid Clinics	<ul style="list-style-type: none"> PASI reports 	332,898	2016	383,298	433,698	494,098	201,500	534,498	DCMs: <ul style="list-style-type: none"> Project reports Registers Diaries Risks: <ul style="list-style-type: none"> Double counting of beneficiaries
	3.5 Number of suspects, accused, prisoners, witnesses, parents/guardians, victims benefitted from basic legal advice and assistance	<ul style="list-style-type: none"> PASI reports 	149,004		191,004 (42,000/year : <i>Suspects:</i> 25,350 <i>Witnesses/sureties:</i> 15,200 <i>Guardians:</i>	233,004	275,004	317,004		

					1,450)					
	3.6 Number of releases facilitated by Paralegals at Police, Court, Prisons and Juvenile centers	<ul style="list-style-type: none"> PASI reports 	73,389	2016	75,489	77,589	79,689	81,789	8% women	DCMs <ul style="list-style-type: none"> Project reports Questionnaire Interviews Trial observation Individual case follow-up Risks: <ul style="list-style-type: none"> Possibility of fluctuating figures and false ownership of beneficiaries
	3.7 Monitoring tools developed by the National Court Users (CUC) on adherence to Performance Standards for the Criminal Justice System	<ul style="list-style-type: none"> National Taskforce on CUC report 	Zero		1	1	1	1		DCMs: <ul style="list-style-type: none"> Workshops Progress reports Evaluation Interviews Official minutes Risks: Commitment of court users to adhere to performance standards
Output 4 Strengthened coordination mechanisms to ensure efficient and effective flow of information and delivery of justice in the criminal justice agencies and the community	4.1 Percentage of districts holding monthly Court Users Committee meetings	<ul style="list-style-type: none"> PASI reports District CUC Minutes 	30%	2016	40	50	60	60%		DCMs <ul style="list-style-type: none"> Registers Official minutes Project reports Photography Risks: None
	4.2 Percentage of districts holding Case Coordination/Management meetings in order to adhere to Pre-Trial CTL	<ul style="list-style-type: none"> PASI reports 	30%	2016	50	60	70	70%		
	4.3 Number of Camp courts held in places of detention to screen remand population	<ul style="list-style-type: none"> PASI reports Reports on Magistrates visit to places of detention 	100	2016	110	220	330	440		

	4.4 Availability of annual report on conditions in places of detention to Prisons Inspectorate, heads of justice agencies, parliamentary bodies, development partners	<ul style="list-style-type: none"> PASI reports Prison Inspectorate reports CJAs reports Press reports 	Zero	2016	1	2	3	4		DCMs: <ul style="list-style-type: none"> Survey Interviews Questionnaire Press reports Photography Progress report Video Exhibition Risks: <ul style="list-style-type: none"> Non-cooperation of authorities Unavailability of official records and supplementary materials
Output 5 Strengthened effective and efficient management, partnership formation, research and M and E	5.1 Project annual financial delivery rate	PASI project financial reports		2017			90%			
	5.2 Percentage project board decisions implemented	Steering Committee Meeting Minutes	Zero	2017	90%	90%	90%	92%		
	5.3 Communication and Visibility (C&V) Plan in place on stakeholders involvement		No	2017	Yes	-	-	-	Yes	
	5.4 Number of occasional research papers published and disseminated on results of the empirical research		1	2016		2		3		
	5.5 Project and financial management capacity building programme for PASI in place and operational	PASI Reports	No	2017	Yes	Yes	Yes	Yes		

Table 2. Monitoring And Evaluation

In accordance with UNDP's programming policies and procedures, the project will be monitored through the following monitoring and evaluation plans:

Monitoring Plan

Monitoring Activity	Purpose	Frequency	Expected Action	Partners (if joint)	Cost (if any)
Track results progress	Progress data against the results indicators in the RRF will be collected and analysed to assess the progress of the project in achieving the agreed outputs.	Quarterly, or in the frequency required for each indicator.	Slower than expected progress will be addressed by project management.		
Monitor and Manage Risk	Identify specific risks that may threaten achievement of intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP's Social and Environmental Standards. Audits will be conducted in accordance with UNDP's audit policy to manage financial risk.	Quarterly	Risks are identified by project management and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken.		
Learn	Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project.	At least annually	Relevant lessons are captured by the project team and used to inform management decisions.		
Annual Project Quality Assurance	The quality of the project will be assessed against UNDP's quality standards to identify project strengths and weaknesses and to inform management decision making to improve the project.	Annually	Areas of strength and weakness will be reviewed by project management and used to inform decisions to improve project performance.		
Review and Make Course Corrections	Internal review of data and evidence from all monitoring actions to inform decision making.	At least annually	Performance data, risks, lessons and quality will be discussed by the project board and used to make course corrections.		
Project Report	A progress report will be presented to the Project Board and key stakeholders, consisting of progress data showing the results achieved against pre-defined annual targets at the output level, the annual project quality rating summary, an updated risk log with mitigation measures, and any evaluation or review reports prepared over the period.	Annually, and at the end of the project (final report)			
Project Review (Project Board)	The project's governance mechanism (i.e., project board) will hold regular project reviews to assess the performance of the project and review the Multi-Year Work Plan to ensure realistic budgeting over the life of the project. In the project's final year, the Project Board shall hold an end-of project review to capture lessons learned and discuss	Specify frequency (i.e., at least annually)	Any quality concerns or slower than expected progress should be discussed by the project board and management actions agreed to address the issues identified.		

	opportunities for scaling up and to socialize project results and lessons learned with relevant audiences.				
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Evaluation Plan

Evaluation Title	Partners (if joint)	Related Strategic Plan Output	UNDAF/CPD Outcome	Planned Completion Date	Key Evaluation Stakeholders	Cost and Source of Funding
Mid-Term Evaluation	PASI	Outcome 2: Accelerate structural transformation for sustainable development	: By 2023, rights holders in Malawi access more accountable and effective institutions at the central and decentralized levels that use quality disaggregated data, offer integrated service delivery and promote civic engagement, respect for human rights and rule of law.	31 December, 2019	Ministry of Justice, Judiciary, Prisons and Police	\$20,000 TRAC
End of Project evaluation	PASI	Accelerate structural transformation for sustainable development	: By 2023, rights holders in Malawi access more accountable and effective institutions at the central and decentralized levels that use quality disaggregated data, offer integrated service delivery and promote civic engagement, respect for human rights and rule of law.	31 December, 2021	Ministry of Justice, Judiciary, Prisons and Police	\$23,000 TRAC

Table 3: **MULTI-YEAR WORK PLAN**

Expected Output	Planned Activity	Planned Budget by Year				Responsible Party	Planned Budget		
		Y1	Y2	Y3	Y4		Funding Source	Budget Description	Amount
Output 1 : Well Functioning Village Mediation and Paralegal Services Backed by Strengthened Legal Framework and Procedures	1.1 Conduct Local Level Stakeholder Mapping	8,675.91	-	-	-		EU	Fuel, DSA, stationery	8,675.91
	1.2 Conduct Stakeholder Sensitization and Launch Village Mediation Services (Including printing of IEC Materials)	58,521.09	17,434.45	17,434.45	17,434.45		EU	Workshop Fuel, Stationery	110,824.44
	1.3 Baseline Research	26,854.01					UNDP	Local Consultant	26,854.01
	1.4 Audit of Existing Mediators	6,747.93					EU	Fuel, stationery	6,747.93
	1.5 Review of PASI Training Approach and Printing of Materials	68,684.30	-	-	-		EU	Local Consultant	68,684.30
	1.6 Select and Train Village Mediators	106,514.03	47,221.75	37,375.28	-		EU	Fuel and workshop	191,111.05
	1.7 Implement Village Mediation Services at Community Level (Operational Costs, Stipends, Supplies, Logistics)	185,818.10	134,108.89	146,025.87	159,134.54		EU	Stipends, fuel, stationery	625,087.40
	1.8 Establish Formal Collaborative Arrangements with key Criminal Justice Agencies to Support the Work of Paralegals and VMs	13,192.89	-	3,298.22	-		EU	Fuel and workshop	16,491.12
	Support Reviews in Thematic Areas of Court Mandatory Rule 1994 to Apply in Magistrates' Courts	5,783.94	1,927.98	-	-		EU	Workshop Fuel, Stationery	7,711.92

	1.10 Conduct Advocacy Activities on Justice Policy Changes to Promote Paralegal and Mediation Services in Malawi	2,582.12	2,582.12	2,582.12	2,582.12		EU	Workshop Fuel, Stationery	10,328.47
	1.11 Develop a Communication Strategy for Promoting Paralegals and Mediation Services	58,321.41	10,397.32	10,397.32	10,397.32		UNDP	Workshop Fuel, Stationery, local consultant	89,513.37
	1.12 Support Knowledge Exchange Initiatives	6,751.96	6,751.96	6,751.96	6,751.96		UNDP	Air ticket, DSA	27,007.85
Subtotal		548,447.69	220,424.47	223,865.22	196,300.40				1,189,037.78
Output 2: An Effective Diversion Scheme for Minor Offences Established to Benefit both the Formal and Informal Justice Sector	2.1 Orient Magistrates, Police Officers, Prison Officers, Paralegals and Traditional Leaders on Diversion and Referral Mechanisms	21,028.76	15,520.24	-	-		EU	Workshop Fuel, Stationery, Communication	36,549.00
	2.2 Conduct retreat for paralegals and mediators for the purposes of diverting suspects to informal justice system from places of detention		13,964.09	13,964.09	13,964.09		EU	Workshop Fuel, Stationery	41,892.26
	2.3 Operationise of Diversion of Cases	164,980.03	14,872.99	14,872.99	14,872.99		EU	Airtime, Fuel,	209,599.01
Sub Total		186,008.79	44,357.32	28,837.08	28,837.08				288,040.27
Output 3 : Strengthened Provision of First Legal Aid Services to the Poor and Vulnerable People in Conflict with the Law in Malawi	3.1 Paralegal Trainings	23,437.36	-	23,135.76	-		EU	Workshop Fuel,	46,573.12
	3.2 Hold Community Sensitization meetings	To be carried out together with VMP Sensitization meetings							
	3.3 Provide Paralegal Services to People Awaiting Trial in Places of Detention Through Legal Empowerment, Advice and Assistance	330,867.98	322,468.20	354,186.20	389,076.01		EU	Workshop Fuel, Stationery	1,396,598.39
	3.4 Performance of Paralegals at Regional and National Levels	18,756.49	18,756.49	18,756.49	18,756.49		EU	Fuel, Stationery	75,025.98

Sub Total		373,061.83	341,224.70	396,078.46	407,832.50				1,518,197.49
Output 4 : Strengthened Coordination Mechanisms to Ensure Efficient and Effective Flow of Information and Delivery of Justice in the Criminal Justice Agencies and the Community	4.1 Support Court Users Committee (CUCs) Meetings at Community, District and Regional Levels	14,322.14	14,322.14	14,322.14	14,322.14		EU	Workshop Fuel, Stationery	57,288.56
	4.2 Support Camp Courts and Prison Visits	15,203.50	15,203.50	15,203.50	15,203.50		EU	Workshop Fuel, Stationery	60,814.01
	4.2 Support Case Management Committee Meetings	6,720.39	6,720.39	6,720.39	6,720.39		EU	Workshop Fuel, Stationery	26,881.55
	4.4 Popularise New Pieces of Legislation Among Law Enforcement Officers and Judicial Officers	To be taken care by the Court Users Committee meetings							
	Support Joint Commemoration Events in Prison on Human Rights Day, Torture Day and Day of the African Child	To be Covered by operational cost by attending the events							
Sub Total		36,246.03	36,246.03	36,246.03	36,246.03				144,984.12
Output 5 : Strengthened Effective and Efficient Management, Partnership Formation, Research and M&E	5.1.Support Project Management and Operations : Salaries and Benefits	284,996.52	260,455.01	269,435.60	279,314.26		EU & UNDP	Salaries	1,094,201.39
	5.2 UNDP Programme and Financial Management and Quality Assurance Activities	76,418.51	76,418.51	76,418.51	76,418.51		UNDP	DSA, Fuel, Stationery	305,674.04
	5.3 Staff Capacity Building	14,259.33	14,259.33	-	-		UNDP	Workshop Fuel	28,518.66
	5.4 Support to Audits and Independent Programme Evaluation	2,365.40	41,394.50	13,009.70	53,221.50		UNDP	Audit	109,991.10
	5.5UNDP Programme Management	67,701.29	67,701.29	67,701.29	67,701.29		UNDP	Salaries, GMS	270,805.14
Sub Total		445,741.05	460,228.64	426,565.10	476,655.55				1,809,190.34
Grand Total		1,589,505.40	1,102,481.15	1,111,591.89	1,145,871.56				4,949,450.00

Table 4: Chilungamo Project - Risk Log

Chilungamo – Promoting Access to Justice by the poor and vulnerable				Project ID:	Date:		
#	Description	Type	Impact & Probability (scale from 1-low to 5-high)	Countermeasures/ Management response	Owner	Last Update	Status of risk
1	Political instability especially towards the general elections could hinder or disrupts progress of project implementation	Political	Risk occurring would have a very serious negative impact making it extremely difficult to achieve the project outcome. Probability: 3 Impact: 5	Frontload activities to avoid scheduling implementation during critical election activities	Project Steering Committee		
2	Non-compliance to revised performance standards	Organizational	Risk occurring would make it difficult to achieve the project outcome. Probability: 4 Impact: 4	Draw MoUs to enforce compliance to court performance standards	PASI		
3	Frequent industrial action affecting court operations	Organizational	Risk occurring would make it difficult to achieve the project outcome. Probability: 3 Impact: 4	Lobbying Ministry of Finance and Chief Justice	Steering Committee		
4	Lack of willingness by CJS partners to attend project activities due to allowance syndrome or too much expectations in	Strategic	Project activities could be compromised as other service providers might offer hefty allowances to participants of similar activities. Probability = 3	Lobbying with OPC	Steering Committee		

	terms of compensation for attending project activities.		Impact = 4				
5	Delays in financial reporting by PASI	Financial	Will lead to delays in transfer of quarterly advances to PASI, hence potential delay in the implementation of project activities. Probability: 2 Impact: 3	PASI adherence to financial reporting rules and regulations. UNDP to provide on-the job training.	PASI Program Coordinator, Manager & Accountant. UNDP Programme Analyst, Program Associates		
6	Staff Turnover in key agencies affecting implementation of activities	Operational	Absence of staff will lead to delays in completion of activities Probability: 3 Impact: 3	Ensure that project focal points have alternates in their respective agencies and are both trained.	PASI Project Management		
7	EU policy shift in international relations negatively affecting funding allocation to Malawi	Financial	Reduced funding will impact on completion of activities and project outcome Probability: 1 Impact: 4	Broaden scope of resource mobilization and partnerships	PASI and GOM		
8	Corruptive practices by service providers due to vested-interests	Political & Financial	Risk occurring will negatively affect project outcome. Probability: 3 Impact: 3	Ethics and Integrity training of criminal justice service providers	PASI and GOM		

Rules of Court Procedure require all civil actions to go through court annexed mediation before being heard by either the High Court or any subordinate court but have severe limitations:

- a) the court gives no guidance as to how parties refer a case to mediation or where to go;
- b) the court-annexed mechanism required does not provide either a mediation scheme or any mediators; and
- c) the Rules specifically exclude small claims which would normally lie at the foundation of any Magistrate Court-based mediation scheme;
- d) they do not provide for immunity of mediator being called as witness to any ensuing proceedings.

Nevertheless, provisions in the **Penal Code** allow the Court to consider non-custodial options and order a person convicted of a crime to pay appropriate compensation to the victim in addition to or by way of substitution for a punishment. Diversion to community-based mediation and restorative justice will provide a options for reintegration and reconciliation. The Chief Justice would be required under the Courts Act, to respond by amending policy and rules accordingly¹⁷.

2.7 The formal court system is not an option for poor citizens: court fees, transport, lawyers costs as well as the threat of fines and compensation act as deterrents. Anyone with a case in Mchinji Magistrates Court¹⁸, for example, may have to travel a great distance to get to court without public transport and cover costs of a lawyer travelling from Lilongwe. Despite this, the courts are overloaded with petty crimes, small claims and frivolous actions the passage of which is further strangled by poor court administration

2.8 It has been said that Magistrates Courts stand at the interface of the formal and informal systems¹⁹; being the last point of reference for poor disputants where the informal system has failed them, and the first point of reference in the formal justice system. If a Traditional Authority (TA) is unable to resolve an issue, the disputants are referred by letter to the Magistrate; however, the reverse does not apply. As a consequence of this interface, the role of the Magistracy and its engagement in any community-based dispute resolution system is pivotal to the programme's reach and impact.

2.9 Scope exists for local communities to access alternatives to court; nevertheless the need to

¹⁷ s67 Courts Act Cap 3.02 permits the Chief Justice to make Rules of Court

¹⁸ Interview Mchinji Magistrates Court, March 2007

¹⁹ MASSAJE Final Report on Primary Safety, Security and Access to Justice Systems in Malawi, May 1999

enforce non-court settlements, particularly those relating to criminal behaviour, requires the full engagement of the Courts in the programme.

2.10 Processes can be designed which divert the majority of cases away from the courts completely, in the first instance, to alternative mechanisms within the informal sector. Court Users Committees, which comprise court officers, police, prison officers, paralegals and users themselves, seek to coordinate interests in promoting access to justice, will have a key collaborative role within the Diversion programme.

Job Descriptions for Key Staff

Project Team at PASI National Office

1. The roles of the PASI core Team is are outlined below in this Action. To integrate various functions and to minimise costs, these roles have dual functions:

Project Manager

- Provision of all legal related trainings for paralegals and village mediators
- Responsible for all programme public events, for instance, policy dialogues, informative workshops, training workshops etc in Malawi and abroad .
- Represent the programmes at public events, for instance policy dialogues, informative workshops, training workshops
- Accountability to the client for all aspects of programme design, implementation and delivery.
- Oversight of and the provision of strategic direction for the programme
- Ensuring the programme maximises value for money for UNDP, and the client
- Oversight and approval of key programme deliverables and client reporting, prior to submission.
- Approval of logframes and milestones and the establishment and maintenance of the Research, M&E system
- Approval of expenditure within delegated authority

-
- Approval of programme team employment and subcontractor agreements
 - Approval of formal external communications
 - Problem solving and the resolution of client concerns
 - Line management of the Coordination.
 - Full time.

National Project Coordinator

- Supervise and evaluate technical delivery of both components
- Facilitate and maintain effective engagement with the local counterparts, stakeholders and implementing partners
- Support the Programmes Manager in consultations and negotiations with counterparts and stakeholders as required
- Responsible for the effective management of the delivery of the programmes- mediation services paralegal services
- Assist the programmes manager to prepare programmes' activity reports
- Provision of related training for paralegals and village mediators
- Mentor paralegals and village mediators
- Provide reports on the implementation of the VMP and PAS
- Facilitate and maintain effective engagement with the local counterparts and stakeholders
- Support the programmes manager in consultations and negotiations with counterparts and stakeholders
- Co-ordinate and attend all programme public events, for instance, policy dialogues, informative workshops, training workshops in Malawi or abroad
- Full time.

Research, Monitoring and Evaluation Officer

- Responsible for the effective management of the delivery of the programmes' research, M&E framework
- Manage data collection for the programmes' logframe
- Present weekly progress reports against the targets agreed for delivery
- Provide input to the programmes' reporting requirements, for example, its quarterly and annual reports
- Facilitate and maintain effective engagement with the local counterparts and stakeholders
- Full time.

Finance Officer/Accountant

- Support the PASI Programmes Manager and UNDP Programme Finance Manager with regard to effective management of the programmes' operational platform including financial, human resource management and procurement systems
- Responsible for:
 - budgeting
 - cost control and monitoring,
 - revenue control and monitoring,
 - manage relationship with sources of funding: donors, clients,
 - cash management,
 - manage relationship with financial institutions,
 - develop administrative policies and manage administrative tasks
 - develop proper human resources and equipment policies and ensure implementation of these policies, and
 - ensure regular and transparent appraisal processes and personal development of employees
- Other duties: to be determined by PASI Programmes Manager and UNDP Programme Finance Manager

Paralegal Officer***Village Mediator*****1. Staffing table**

Position/function title and location of the positions for the two components			
PASI Office	Position	No	
National Office- Lilongwe	Programmes Manager	1	
	Programmes Coordinator	1	
	Accountant/Finance Officer	1	

	Administration Officer	1			
	Research Officer	1			
	Finance and Admin Assistant	1			
	Office Assistant/Driver	1			
TOTAL		7			
PASI District offices	Position	No	VMP District	Position	No. of VMs Teachers/Supervisors
Lilongwe	Regional Paralegal Officer/Team Leader	1	Lilongwe (old VMP district)	VMP Teachers/Supervisors	10
	Paralegal Officer	3			
	Office Assistant	1			
Mchinji	Paralegal Officer	1	Mchinji (old VMP district)	VMP Teachers/Supervisors	10
Salima	Paralegal Officer	1	Salima (old VMP district)	VMP Teachers/Supervisors	10
Ntchisi	Paralegal Officer	1			0
Kasungu	Paralegal Officer	2	Kasungu (2018)	VMP Teachers/Supervisors	10
Dowa	To be serviced by Ntchisi office	0		0	0
Dedza	Paralegal Officer	1		0	0
Nkhotakota	Paralegal Officer	1		0	0
TOTAL		12			40

Zomba	Regional Paralegal Officer/Team Leader	1	Zomba (old VMP district)	VMP Teachers/Supervisors	10
	Paralegal Officer	3			
	Office Assistant	1			
Mangochi	Paralegal Officer	1	Mangochi (old VMP district)	VMP Teachers/Supervisors	10
Phalombe	To be serviced by Zomba office	0		0	0
Balaka	Paralegal Officer	1	Balaka (2018)	VMP Teachers/Supervisors	10
Ntcheu	Paralegal Officer	1	Ntcheu (2018)	VMP Teachers/Supervisors	10
Machinga	To be serviced by Balaka	0		0	
TOTAL		8			40
Blantyre	Regional Paralegal Officer/Team Leader	1	Blantyre (old VMP district)	VMP Teachers/Supervisors	10
	Paralegal Officer	3			
	Office Assistant	1			
Mwanza	To be serviced by BT office	0		0	0
Chikwawa	Paralegal Officer	2		0	0
Nsanje	To be serviced by CK office	0		0	0
Thyolo	Paralegal Officer	1			0

Mulanje	Paralegal Officer	2	Mulanje (2018)	VMP Teachers/Supervisors	10
Neno	To be serviced by BT office	0		0	0
TOTAL		10			20
Mzuzu	Regional Paralegal Officer/Team Leader	1	Mzuzu/Mzimba (old VMP district)	VMP Teachers/Supervisors	10
	Paralegal Officer	3			
	Office Assistant	1			
Mzimba	Paralegal Officer	2		0	0
Nkhata Bay	Paralegal Officer	1			
Likoma	To be served by Nkhata Bay	0			
Rumphi	Paralegal Officer	1		0	0
Chitipa	Paralegal Officer	1		0	0
Karonga	To be serviced by Chitipa office	0	Karonga (2018)	VMP Teachers/Supervisors	10
TOTAL		10			20
GRAND TOTAL		47			130

Project Team at UNDP Country Office

Programme Analyst

- Application of Results Based Management tools, establishment of management targets (BSC) and monitoring achievement of results for the project;
- Introduction of performance indicators/ success criteria, cost recovery, targets and milestones
- Coordination of programme implementation with PASI;
- Presentation of the project to PAC, finalization of contribution agreement; determination of required revisions; coordination of the mandatory and budget re-phasing exercises,
- Participates in recruitment processes for projects;
- Lead the financial and substantive monitoring and review of the projects,
- Identify operational and financial challenges and lead the development of solutions.
- Participation in audit of the project and follow up on audit recommendations.
- Preparation of donor reports.
- Expansion of partnerships with other UN Agencies, development partners, based on strategic goals of UNDP, country needs and donors' priorities.
- Provide capacity support to PASI to effectively exercise
- Identification and synthesis of best practices and lessons learnt as well as linking the programme to knowledge networks and communities of practice within the region and globally
- Organization of trainings for the operations/ projects staff on programme issues.

M and E Officer (NOA) (100%):

- Supports the project in all data collection, analysis, and learning activities to help ensure accountability and efficiency from start to finish
- Assesses field conditions, support capacity building initiatives
- Facilitates the collection of quality data under dual supervision of the programme manager and UNDP programme analyst.
- Assists in preparation and review monthly, quarterly and final narrative and financial donors' reports.

Programme Associate

- Participates in the analysis and summarization of proposals on the thematic areas assigned.
- Presentation of information/ reports for identification of areas for support and interventions.
- Implementation of the CO partnerships and resources mobilization strategies,
- preparation of reports.
- Effective support in the application of RBM tools, establishment of project targets (BSC) and monitoring and achievement of results.
- preparation of project documents' drafts, work plans, budgets, proposals on implementation arrangements.
- Initiation of a project, contribute to presentation of the project to PAC, entering project into Atlas, finalization of contribution agreement, preparation of required budget revisions and closure of projects through review.
- Analyzes and submits procurement processes to CAP.
- Provision of guidance to the executing agencies on routine implementation of projects, tracking use of financial resources.
- Follow up on performance indicators/ success criteria, targets and milestones, preparation of reports.
- Contribution to operational and substantive analysis of programme financial resources identification of operational and financial problems, and development of solutions.
- Support to audit of NEX projects, implementation of audit recommendations
- Guidance in the elaboration of proper control of the supporting documents for payments, review of NEX projects Financial Reports.
- Guidance in the maintenance of the internal expenditures control system which ensures that vouchers processed are matched and completed; transactions are correctly recorded and posted in Atlas.
- Timely monitoring and execution of corrective actions on unposted vouchers, including the vouchers with budget check errors, match exceptions, unapproved vouchers
- Analysis of information on donors, preparation of donor's profile and database, establishment of contacts with donor counterparts.
- Track and reporting on mobilized resources.
- Liaises with donor and partner counterparts on the implementation of common initiatives and projects.
- Organization and facilitation of trainings for the operations/ projects staff on programme.

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- Synthesis of lessons learnt and best practices in programme Sound contributions to knowledge networks and communities of practice