



Over a period of ten years Malawi's Paralegal Advisory Service Institute (PASI) has contributed to reducing the percentage of detainees held in pretrial detention from around 60% to around 12%.

- ▶ Malawi ranks 171 out of 187 countries on the UN's Human Development Index.
- ▶ The prison population has increased by more than one-third since 2001.
- ▶ Overcrowding is severe: prison population is double official capacity.
- ▶ Malawi has fewer than 400 lawyers; a ratio of 1 lawyer for 38,500 people.

For the vast majority of detainees in Malawi, legal services are both unaffordable and inaccessible. The country's prisons are chronically over-crowded, with occupancy rates double official capacity. While the percentage of detainees awaiting trial has been significantly reduced over the past decade, many pretrial detainees still wait for months or even years before their cases are brought to trial.

The Paralegal Advisory Service started in 2000 with eight paralegals who provide front line legal aid to ordinary people. The vision was to bring justice to the poorest communities, particularly in rural areas where there are few, if any, lawyers. Over the last twelve years PASI has evolved to meet new demands at home, while also assisting organizations in other countries to establish similar paralegal programmes.

## Frontline Legal Assistance

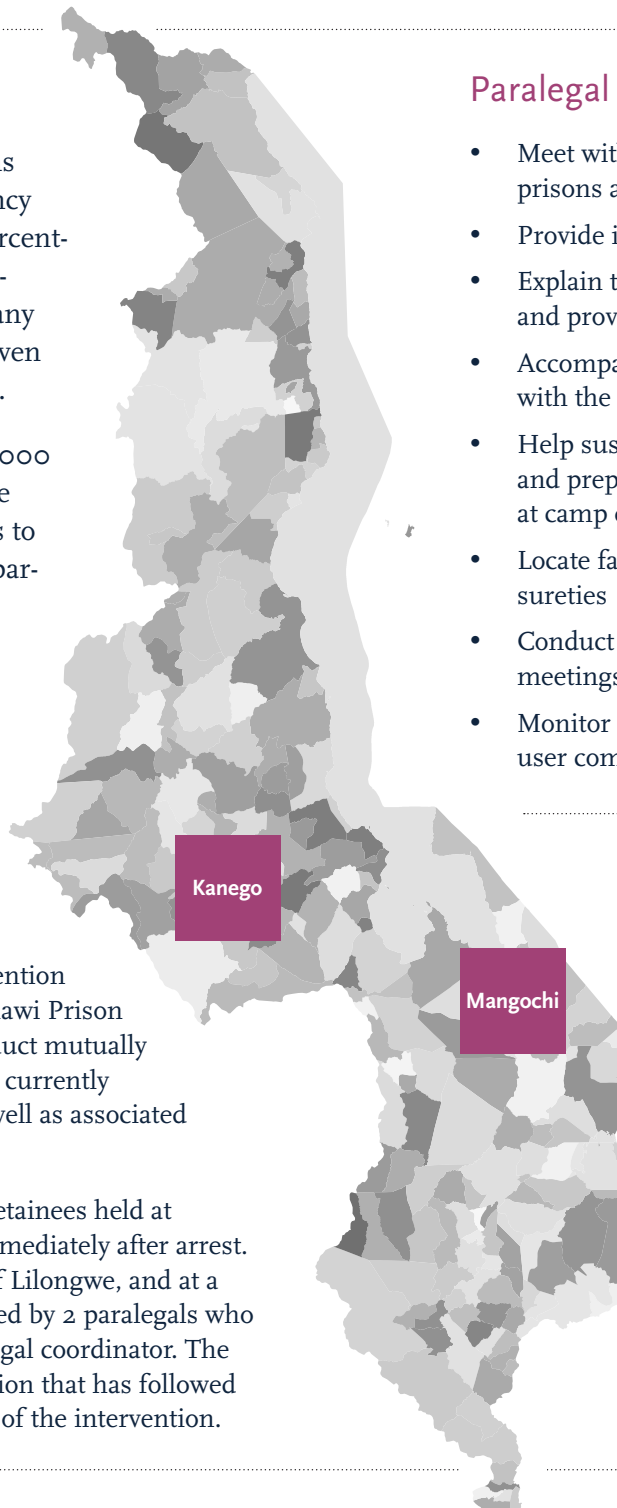
PASI's paralegals have access to places of detention under an open door policy adopted by the Malawi Prison Service; they work according to a code of conduct mutually agreed with the prison service. The paralegals currently work in 25 prisons and 23 police stations, as well as associated magistrates courts and district centres.

In 2009, PASI started a pilot to assist adult detainees held at police stations with the aim of intervening immediately after arrest. It operates at two sites - Kanengo in the city of Lilongwe, and at a rural site in Mangochi. Both sites are supported by 2 paralegals who are supervised by a roving lawyer and a paralegal coordinator. The pilot has been the focus of an external evaluation that has followed progress since 2009 and assessed the impact of the intervention.

## Paralegal Tasks

- Meet with suspects at police stations, prisons and in court.
- Provide information on rights
- Explain the criminal justice process and provide basic advice
- Accompany suspects to interviews with the police
- Help suspects complete bail forms and prepare them for pretrial hearings at camp courts
- Locate family members and trace sureties
- Conduct community sensitisation meetings
- Monitor cases and liaise with court user committees

By intervening early in the criminal justice process, paralegals are able to resolve problems as they arise – problems that might be magnified further down the criminal justice chain if left unaddressed. Their presence, at interviews with the police also provides an external check on the system and helps minimise bribe taking and ill treatment.



## Results at Police Stations to Date

|                | Number of suspects provided with assistance by the paralegals | Number released on bail – (and as a % of those assisted) | Number of cases where the charges were dropped – (and as a % of those assisted) |
|----------------|---|--|---|
| 2010           | 1,232 (30% of total arrests)                                  | 616 (50%)  | 316 (26%)   |
| 2011           | 2,701 (79% of total arrests)                                  | 872 (32%)  | 1,231 (46%)   |
| 2012 (Jan-Aug) | 2,300 (77% of total arrests)                                  | 1,058 (46%)  | 923 (40%)   |

An external evaluation that followed the pilot concluded that PASI has **contributed to significantly reducing the number of people held unnecessarily in pretrial detention, and to lowering the average time from arrest to case conclusion by one month.** As a consequence, many people have been able to return to their communities either permanently or temporarily. They continue to support their families, thus reducing the burden of poverty.

## Factors Driving The Reduction In Malawi's Pretrial Population

- Paralegals intervening early in the process
- The creation of 'camp courts' inside the prisons that screen the remand caseload
- Case coordination meetings at the local level to improve case-flow management
- Information sessions for justice sector stakeholders on amendments to the criminal procedure code and other laws

Mr Isaac, a 46 year old farmer, was arrested for theft. He was provided with no means to contact his family and his case only surfaced when he attended a paralegal clinic nine months after his arrest. The paralegals contacted his family and helped him to secure bail –later that month the police prosecutors withdrew his case for lack of evidence. In the meantime, however, his family had struggled to survive: they lost over \$6000 during the course of his detention – a fortune in Malawi. When Mr Isaac was released he had lost many of his trading connections and his earning capacity dropped by over 80 per cent.

## Policy Developments

PASI has worked with different justice sector stakeholders to advocate for reforms and to seek ways of establishing a sustainable system of paralegal aid. PASI has been involved in the reform of a number of laws:

- The amendment of the **Criminal Procedure and Evidence Code** (2010) to introduce pretrial custody limits;
- Amendments to the **Police Act** (2010) to create an Independent Police Complaints Commission and a Lay Visitors Scheme, providing external oversight at police stations to ensure suspect are treated according to the law and with dignity;
- The adoption, in 2011, of the **Legal Aid Act** which created an independent Legal Aid Bureau empowered to employ paralegals alongside lawyers.

## Next Steps

PASI is working to expand its services across the country, to assist more people at police stations and broaden the use of mediation to divert minor cases away from the criminal justice system.

Advocacy is also on-going in particular on the current revision of the penal code and in utilising the last ten years of experience working with paralegals to contribute to discussions on the set up of the Legal Aid Bureau and the implementation of the Legal Aid Act.

## Paralegal Advisory Service Institute – PASI

The Paralegal Advisory Service started in Malawi in 2000 as an initiative of Penal Reform International. The aim was to create a public/private partnership between civil society and the Malawi Prison Service. In 2007 PAS evolved into the autonomous PAS Institute (PASI).

PASI's work forms part of a collaborative effort with the Global Campaign for Pretrial Justice which aims to address the over-reliance on pretrial detention and promote greater access to legal assistance. Criminal justice organizations are working to document the scale and consequences of the problem, pilot innovative practices and advocate reform.

Paralegals stationed at police stations have proved to be a cost-effective way of providing legal access. Frontline legal assistance by paralegals is 22 times cheaper than engaging a lawyer – and also saves valuable time for lawyers allowing them to take up complex cases and focus on representation in court.

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