

# **MALAWI DRAFT NGO LAW**

**A CRITICAL REVIEW BY INTERNATIONAL EXPERTS**

Compiled by the National Democratic Institute

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<b>SECTION</b>	<b>SOURCE</b>	<b>COMMENT</b>
S.1 <b>Definition</b>	Dr. Atalia Molokomme <i>Emang Basadi</i> <i>Botswana</i>	<p>The details under the definition of an "NGO" are eligibility criteria. They would be better placed in the body of the proposed legislation and are generally unsuitable for the purposes of a definition section per se.</p> <p>The criteria could be set out under a separate provision appropriately headed e.g. "Eligibility and Registration" immediately preceding section 3.5. A short definition would then be prescribed by cross reference to the relevant provision(s) dealing with registration; for example:</p> <p>"NGO" means an organization that is registered under the terms of this Act.</p> <p>Some of the issues addressed in the consideration of eligibility criteria are:</p> <p>(a) the scope of the definition of NGO under existing legislation regulating NGOs e.g. Societies Act (re associations etc.); Companies Act (re non-profit companies limited by guarantee); Deeds Registry Act (re trusts registered under a notarial Deed of Trust); statutory bodies (e.g. Red Cross); other applicable laws.</p> <p>a selection of eligibility criteria by reference to statutory requirements under existing legislation could:</p> <ul style="list-style-type: none"> <li>(i) - adopt existing scope</li> <li>(ii) - adopt a broader scope accommodating organizations otherwise not eligible for registration as NGOs under applicable laws.</li> <li>(iii) - adopt a narrow scope imposing additional requirements or excluding associations otherwise recognized as NGOs (e.g. such as the exclusion of churches, burial societies, etc.)</li> </ul> <p>(b) whether it is intended to regulate all NGOs or only those organizations that are registered under the proposed law.</p> <p>(c) the requirements of the Constitution of CONGOMA (if any) regarding eligibility for membership.</p>

<b>SECTION</b>	<b>SOURCE</b>	<b>COMMENT</b>
S.1 continued	Donor Comments 20/6/95, 11/7/95 & 2/8/95	<p>The draft law has very much been written from the perspective of development NGOs, which are often working quite closely with government. As a result, the perspective of human rights NGOs, which tend to guard themselves (more) against government, is not adequately reflected.</p> <p>There needs to be a distinction between NGOs, cooperatives and charities. In the draft law definition, as it stands, the definition of NGO has tended to become synonymous with that of a charity working for the poor. This raises the question of whether a cooperative, which aims to benefit its members, can be regarded as an NGO.</p> <p>The following distinctions also need to be made:</p> <p><i>NGO vs. professional consulting bureau</i></p> <p><i>NGO vs. grassroots organization</i></p> <p><i>NGO vs. a church (Could Mua Mission qualify as an NGO?)</i></p>
<b>S.1.1 Nongovernmental Organization (NGO)</b>  <i>An organization which seeks formal registration under the Act must fulfill All the following conditions:</i>	International Center For Not-For-Profit Law <i>United States</i>	<p>The term "NGO" is not a legal term as such but a commonly used acronym for both mutual benefit and public benefit organizations.</p> <p>There should be a distinction between Not for Profit Organizations that:</p> <ul style="list-style-type: none"> <li>o serve the public interest, (health, culture, underprivileged, etc.) and those that;</li> <li>o promote the interests of their members (social clubs, professional organizations, associations of people with a common interest). It is generally recognized that both serve the public interest.</li> </ul>

SECTION	SOURCE	COMMENT
<p>S.1.1b  <i>"...managed and controlled by a Committee/Board/Trust which has been democratically elected by its NGO memberships defined within the constitution of the NGO"</i></p>	<p>International Center For Not-For-Profit Law  <i>United States</i></p> <p>Claire Wright  <i>Jacobson, Rosin &amp; Wright South Africa</i></p> <p>Gail Harmon  <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i></p> <p>NDI  <i>United States</i></p>	<p>Many organizations do not have a membership per se. These organizations may have a self-perpetuating (non-elected) Board of Directors.</p> <p>Mandatory election of Board members requires a democratic (and therefore expensive) process. This is not necessary for charities and NGOs that are governed by self-perpetuating Boards.</p> <p>Some NGOs have self-perpetuating board members.</p> <p>The following clauses should be added:</p> <p><u>Membership:</u></p> <p>The membership should be qualified as a minimal number of people. Typically these would include the three main officers of the organization, i.e. Chairperson, Vice Chairperson and Secretary/Treasurer. There can be more than three officers and more than three members, but the emphasis should be on the minimal number of persons with fiduciary responsibility.</p>

SECTION	SOURCE	COMMENT
S.1.1b continued	NDI continued	<p><u>Offices:</u></p> <p><i>Chairperson:</i> elected by the members of the Board. Responsible for the calling, conducting and reporting on Board meetings.</p> <p><i>President:</i> chief operating officer of the NGO (sometimes referred to as the "Director"). Typically a Board member.</p> <p><i>Secretary:</i> responsible for recording and filing minutes of all meetings, for providing adequate notice to all members and for maintaining an accurate record of all discussion of the Board.</p> <p><i>Chief Financial Officer:</i> responsible for all financial records, audits, and financial reports to donors and appropriate government agencies.</p> <p><u>Decision Making:</u></p> <p>Decisions of the Board are made conventionally by a simple majority (51%) of the Board of Directors.</p> <p><u>Terms of Office:</u></p> <p>Terms of office are defined in the constitution of the NGO.</p> <p><u>Duties:</u></p> <p>The Board of Directors are responsible for registration under the laws of Malawi.</p> <p>The Board of Directors have all fiduciary responsibility.</p> <p><u>Annual Reporting:</u></p> <p>The NGO is responsible on a specific date for filing a report to the appropriate government offices including an audit, financial statement, minutes of Board meeting(s), current list of officers and their contact information.</p>

SECTION	SOURCE	COMMENT
<p>S. 1.1c  <i>"It is not for private profit or gain of those who control and manage the affairs of the NGO without prejudice to the rights and privileges of employees to be adequately remunerated."</i></p>	<p>International Center For Not-For-Profit Law  <i>United States</i></p> <p>Gail Harmon  <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i></p>	<p>This definition is narrow and likely to be abused. Benefits can be distributed to family members of those who manage the affairs. To avoid misuse of funds, it would be better to provide that e.g. <i>"any expenditures must further the purposes of the NGO"</i> (all profits channeled back in to further the NGOs aims etc.) This will avoid distributions for personal reasons.</p> <p>Substitute <i>"any private person or interest"</i> for <i>"those who control and manage the affairs of the NGO"</i> to prevent benefits to family etc.</p> <p>Add <i>"No income or assets of the organization shall be transferred to any private individual or private interest except in exchange for full and just payment."</i> This is to address both the purposes for which the NGO is formed and its actual transactions and activities.</p>
	<p>NDI  <i>United States</i></p>	<p>Combine this section with section 1.1g -- rewrite as <i>"not for profit or gain entity and has no political affiliation and does not represent any specific economic benefit."</i></p>
	<p>Donor Comments  20/6/95, 11/7/95 &amp; 2/8/95</p>	<p>Unclear as to what level of income generating activities by NGOs is allowed. This needs to be quantified before the status of an NGO can be linked to tax benefits.</p>

SECTION	SOURCE	COMMENT
<p>S. 1.1d  <i>"It shall pursue objectives which are focused on disadvantaged people, ecosystems and on aspects of vulnerable groups in society as a whole."</i></p>	<p>International Center For Not-For-Profit Law  <i>United States</i></p> <p>Gail Harmon  <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i></p> <p>Akua Kuenyehia  WILDAF  <i>Ghana</i></p> <p>Gail Harmon  <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i></p> <p>NDI  <i>United States</i></p>	<p>The term "NGO" is being confused with the public benefit issue.</p> <p>The "objectives" are being focused on disadvantaged people, ecosystems and on aspects of vulnerable groups in society as a whole. This fails to include promotion of such things as science, culture and education for society as a whole.</p> <p>Must the NGO be organized and operated <i>solely</i> for these purposes? If so would the NGO be restricted in their activities? Would it be less restrictive to broaden the enumerated activities or fix a percentage of the NGO activities which have to be those enumerated?</p> <p>This definition, though broad, may exclude organizations which validly do good work. It may be better to keep the definition wide re: work undertaken, but distinguish on the basis of all profits etc. being used to pursue the aims of the organization. Benefits must be for the public as a whole.</p> <p>Do issues outlined in the organization's aims have to be the <i>only</i> or the <i>primary</i> focus of the organization's work?</p> <p>The phrase <i>"It shall pursue objectives which are focused on disadvantaged people, eco-systems..."</i> is too restrictive. Some NGOs are organizations that advocate for changes in public policy and that do not directly benefit disadvantaged or vulnerable people. Some NGOs complement government activities while others check government powers.</p> <p>The definition would be less restrictive if the objectives were reformulated from looking at the beneficiaries of the programs to the purposes.</p> <p>Replace "ecosystems" with <i>"conserving natural resources and protecting the environment."</i></p> <p>Delete -- too restrictive.</p>

SECTION	SOURCE	COMMENT
S.1.1e <i>"It serves all eligible people, regardless of youth or age; gender; tribe or race; religious belief or creed; sexual orientation; political affiliation; nationality; disability; or membership of a minority group."</i>	International Center For Not-For-Profit Law <i>United States</i>  Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i>	This clause does not accommodate/tolerate positive discrimination.  Should avoid the situation where a group is precluded from serving a particular group of people such as women.
	Gail Harmon <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i>	This clause imposes obligations which neither U.S law or law charities impose on U.S. charities. Is this what is wanted?
S.1.1f <i>"It is not a church or religious organization of a purely evangelistic or proselytizing nature."</i>	NDI <i>United States</i>	Delete -- too restrictive



SECTION	SOURCE	COMMENT
<p>S.1.1g  <i>"It is not a political party, trade union, a business-for-profit; created to pursue the pleasure of its members; or be a social club."</i></p>	<p>Gail Harmon  <i>Harmon, Curran, Gallagher &amp; Spielberg United States</i></p> <p>NDI  <i>United States</i></p> <p>Claire Wright  <i>Jacobson, Rosin &amp; Wright South Africa</i></p>	<p>This section should be re-written to broaden; there is a principal statutory interpretation that this sort of list is inclusive. To prevent that unfortunate result it might better read:</p> <p><i>"It will not serve political, commercial, social, recreational or other private functions such as those served by political parties, trade unions, etc."</i></p> <p>While it is possible for cooperatives to operate in a charitable manner, providing goods, services and financial opportunities to disadvantaged people, if the goal is for NGOs not to be providers of goods and services, then you may want to make some specific references to this section. However, keep in mind that defining may be limiting.</p> <p>Combine with 1.1c</p> <p>Why exclude a social club if it fulfills all other criteria? If it fills these criteria then it will not have been created to <i>"pursue the pleasure of its members"</i>.</p>
<p>S.1.1h  <i>Bodies established by Act of Parliament, such as Malawi Red Cross, shall be considered as an NGO.</i></p>	<p>Claire Wright  <i>Jacobson, Rosin &amp; Wright South Africa</i></p>	<p>Existing NGOs should have to apply for registration like any other new organization. These organizations would be able to continue their activities pending approval of registration.</p>

SECTION	SOURCE	COMMENT
<p>S.1.2  <i>"Disadvantaged" includes: children and young people; women, both old and young; refugees and displaced persons; victims of calamitous disaster; unemployed people of employable age; people lacking skills; mentally and physically disabled peoples living a lifestyle different from mainstream lifestyle in Malawi; the sick; the poor; people or communities affected by change in the physical environment, remoteness, poor access to resources; and any activity that marginalizes people.</i></p>	<p>NDI  United States</p>	<p>Delete -- too restrictive.</p>

SECTION	SOURCE	COMMENT
<p>S.1.3 Types of NGOs</p> <p><i>International: An international NGO is an NGO which has incorporated in one or more countries other than Malawi but is registered in Malawi under the law.</i></p> <p><i>National: A National NGO is an NGO initially registered in Malawi by Malawians and non-Malawians operating in one or more districts in Malawi.</i></p>	<p>NDI United States</p>	<p>Define terms that will be used in the law. For example "Types of NGOs" is not a definition. It should read as follows:</p> <ul style="list-style-type: none"> <li>o <i>Committee/Board/Trustees: A group of individuals that serve the NGO particularly with fiduciary responsibilities for a certain length of time.</i></li> <li>o <i>Board of Directors: For the purpose of the Act, the governing body of the NGO is referred to as the Board of Directors. This body of individuals can be identified by other terminology such as Committee/Trustees, etc.</i></li> </ul> <p>The Board of Directors are primarily responsible for the finance and governance of the organization. They are also responsible for ensuring the NGO's compliance with laws governing NGOs in Malawi.</p> <ul style="list-style-type: none"> <li>o <i>Officers: see section 1.1b</i></li> <li>o <i>International NGO: An NGO whose base of operation is outside the boundaries of Malawi. Registration in Malawi is not necessary.</i></li> <li>o <i>National NGO: An NGO that serves the interest of the nation at large by providing services in the name of the nation to a large constituency.</i></li> <li>o <i>Not-for-Profit Organization: Any revenue received by a not-for-profit NGO is applied to execution of the NGOs activities as defined in its constitution. Income generated by the sale of products produced by the NGO is also intended for execution of the activities of the NGO. No financial profit or gain is allowed to be distributed to the NGO's members.</i></li> <li>o <i>Community Based Organization: A grassroots organization which is not for the profit of its members.</i></li> <li>o <i>Constitution: (Define here what is required to be included in the constitution of an NGO.)</i></li> <li>o <i>Government Office: The appropriate office under the appropriate department responsible for registration of NGOs and enforcement of this law.</i></li> </ul>

SECTION	SOURCE	COMMENT
<p>S.2 Policy Environment</p> <p><i>The Government of Malawi shall create a conducive policy environment for NGOs.</i></p>	<p>NDI <i>United States</i></p> <p>Donor Comments 20/6/95, 11/7/95 &amp; 2/8/95</p>	<p>The following statement of principal should be included:</p> <p><i>"The Government of Malawi encourages the development and function of non-governmental organizations (NGOs) according to the Constitution and laws of Malawi."</i></p> <p>This section could contain a reference to the right of association, as included in the Constitution.</p>
<p>S.3 NGO Liaison Board</p> <p><i>A Nongovernmental Liaison Board - to be known as the NGO Liaison Board - will be established by the Act.</i></p>	<p>Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i></p> <p>NDI <i>United States</i></p>	<p>It is important to establish a Board that is independent of government especially in arenas where government has previously held and abused power. Thus in South Africa, in matters such as broadcasting, and indeed the NGO sector, it is argued that it would be appropriate for the Board to be as independent as possible of government. It is not possible for legislation to establish a Board which has no ties and absolutely no accountability to government, because this too may run contrary to the principals of representative democracy, where government is chosen by the people. There is thus a tension between recognizing that the government is elected democratically (in accordance with the principals of representative democracy) and therefore should be entrusted to carry out the will of the people, and another principal of democracy, that it is important to have measures and controls which are independent of government and which can, up to a point, act independently of government. Government should accept that this latter function is seen as one of the principal functions of civil society.</p> <p>This section should include a statement of purpose which is inclusive of the "independence" of the Board. It should also be stated that all proceedings of the Board will be open to the public. Votes will be recorded and minutes will be available to the public.</p>

SECTION	SOURCE	COMMENT
<p>S.3.1 Membership and Board Structure</p>	<p>NDI <i>United States</i></p> <p>Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i></p> <p>Donor Comments 20/6/95, 11/7/95 &amp; 2/8/95</p>	<p>Delete "Board Structure" and provide qualifications for membership such as: a citizen of Malawi, a qualified voter, not currently in the employment of government or a contractor to any Malawi government structures or parastatal or foreign government, no officer of any political party.</p> <p>The significance of the Board in the legislation cannot be overstated. The Board should never be seen as a passive implementor of the policy considerations dealt with in the legislation, but rather as active interpreter of such policy with a very real influence on the policy itself.</p> <p>The NGO Liaison Board should be a public body, set up as a separate entity, created by Parliament. The Board should have an appropriate balance of representatives from the various sides. It might be useful to have an odd total number of members.</p> <p>Professional bodies could as well be represented on the Board to reflect the need for technical competence in deciding on registration. If the specific technical ministries are to be represented, they need to be named.</p> <p>It is unclear how the NGO members will be selected since the existence of just one NGO coordinating body cannot be assumed. Possibly a meeting of all registered NGOs should be held every two years to openly elect the membership for the Board.</p> <p>NGO members in the Board should be there in their individual capacity not as a representative of a specific NGO.</p> <p>A Board member from the NGO community should only be able to remain a member as long as they form part of the NGO community.</p> <p>Approval of the NGO members by government is not deemed necessary.</p>

SECTION	SOURCE	COMMENT
<p>S.3.1a  <i>The NGO Liaison Board will be composed of ten members drawn on an equal representation basis from the government and NGO sectors.</i></p>	<p>NDI  United States</p>	<p>This section should be called "Nomination and selection (appointment or election) of Board members.</p> <p>Delete "government representation," it is contrary to the purpose of the legislation. It is possible that this provision could be challenged in court.</p> <p>This section should include a statement to the effect of: "<i>Any qualified person can be a member of the Board of Directors. On _____ (a significant date like January 1st or September 30th) of every odd number year -- the Ministry of _____ will broadly and actively advertise for nominations to the Board of Directors.</i>"</p> <p>An application for the Board must address the following:</p> <ol style="list-style-type: none"> <li>1. NGO experience;</li> <li>2. Compliance with standards set forth in the previous section; and</li> <li>3. The names and signatures of 25 qualified Malawian voters from the total number of nominees.</li> </ol> <p>The Minister will select at least 25 candidates taking into consideration gender, age and geographical balances. The candidate's individual names will be provided to all registered NGOs who will be asked to vote for the specified number and returned to the Minister by post within 30 days of receipt.</p>

SECTION	SOURCE	COMMENT
<p>S.3.1a continued</p>	<p>Akua Kuenyehia WILDAF Ghana</p> <p>Claire Wright Jacobson, Rosin &amp; Wright South Africa</p>	<p>The composition of the Board gives the government undue advantage over the issues within the competence of the Board. This is particularly important in view of the fact that the Board has the power to reject applications.</p> <p>In the event that government representation on the Board is to remain strong it may be worthwhile making sure that the government's quota is not simply "five people from the government." Legislation could stipulate that within the government's quota there has to be one person with knowledge and experience in welfare development, one person with special interest and commitment to workers' issues, one person with knowledge of the press and freedom of expression, etc. This way it may prevent the government from being an autonomous force on the Board and to have different interests represented through individuals.</p> <p>Is it possible to have a neutral Board composed of various people from professional bodies, one or two people from government &amp; one or two people from the NGO community?</p>
<p>S.3.1b The Board will meet at least four times a year.</p>	<p>Claire Wright Jacobson, Rosin &amp; Wright South Africa</p> <p>NDI United States</p>	<p>It is correct that the legislation should provide for a minimum number of meetings of the Board. The question arises as to whether these meetings will be open to the public, and it is recommended that they are. If there is any problem with this, and if for example, an applicant has a good reason to want the meeting in which their application is heard to be held in camera, then they can apply this section of the law, and the Board can decide.</p> <p>All meetings should be given public announcement and be open to the public. Minutes from these meetings should be recorded and made available to the public.</p>
<p>S.3.1c The Board will elect a chair from among themselves.</p>	<p>NDI United States</p>	<p>Add: "To serve for a two year term and not more than two consecutive terms."</p> <p>List all the duties of the chair and other officers including the Secretary and Treasurer.</p>

SECTION	SOURCE	COMMENT
<p>S.3.1d The quorum will be six members present excluding the Chairperson.</p>	<p>Claire Wright Jacobson, Rosin &amp; Wright South Africa</p> <p>NDI United States</p>	<p>Depending on the number of people who are ultimately chosen to sit on the Board, the quorum should simply be the majority of members. The legislation should also make provisions for decisions which are taken when someone was a sitting member and they should not have been sitting, or where there was a vacancy of one of the members.</p> <p>For the purpose of holding a meeting, a quorum shall be 50% of the number of the Board, all of whom have acknowledged receipt of notification of the meeting scheduled.</p>
<p>S.3.1e Where there is a tied vote, the Chair will have the casting vote.</p>		<p>No comment</p>
<p>S.3.1f Board Members representing the community will be appointed by the relevant Ministry on recommendation of the NGO community.</p>	<p>Claire Wright Jacobson, Rosin &amp; Wright South Africa</p>	<p>Control over Board appointment by government is inconsistent with <i>non-governmental</i> status of NGOs.</p>
<p>S.3.1g Board Members will serve for two years after which half the Board will resign.</p>	<p>Claire Wright Jacobson, Rosin &amp; Wright South Africa</p> <p>Donor Comments 20/6/95, 11/7/95 &amp; 2/8/95</p>	<p>The principle of people not necessarily being elected for life is a good one. Whether the proponents of the legislation want the period to be two years or a longer period, such as five years, is up to them. However, when it comes to the wording, I would recommend that it be phrased along the lines of that "<i>once a member is elected they will serve for five years</i>". The legislation must then deal with whether or not, and how such a person could be re-appointed.</p> <p>Detailed procedures for changing the membership of the Board need to be put in place.</p>





SECTION	SOURCE	COMMENT
<p>S.3.2 Duties of the Liaison Board</p>	<p>Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i></p>	<p>The following are points to consider when setting out the duties of the NGO Liaison Board:</p> <p>a) Is the Board going to assist and facilitate the <u>formation, registration and operation</u> of the NGO sector throughout the country? If so, what exactly is meant by "assist". For example, if the Act is going to require that an NGO register as a trust, will the Board assist with this exercise? Alternatively, is the Board going to be more passive with respect to the NGO sector, and not offer any assistance?</p> <p>b) The object of the legislation may also be to establish registries and also to provide public access to information with respect to the NGO sector. This could serve donors, beneficiaries, and also recognizes the public's right to information.</p> <p>c) Is the Board going to provide any professional or technical assistance, and if so does it need to set up sub-committees in order to do this? Obviously this kind of assistance to the NGO sector costs money, and it may or may not be preferable for this function to be carried out independently of the Board.</p> <p>It is <i>very</i> important when deciding on what the functions of the Board will be, to bear in mind <i>who</i> the Board will be.</p> <p>A provision needs to be made for how the Board is going to run financially.</p> <p>The purpose of the Board is directly related to the purpose of the Act especially pertaining to promoting dialogue and enhancing transparency and accountability of NGOs and ensuring consistent treatment of NGOs by government.</p>
<p>S.3.2a <i>To consider for approval or rejection, applications for registration as an NGO.</i></p>	<p>Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i></p>	<p>The Board should have discretion to refuse an application even if all of the criteria are fulfilled.</p>

SECTION	SOURCE	COMMENT
S.3.2b <i>De-register an NGO which has violated this Act.</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	It is unclear how an NGO can violate the Act, since the link with the Code of Conduct has been relinquished. De-registration could only now take place when an organization no longer fulfills the objective criteria contained in the definition. However, it might be advisable to include certain key elements of the Code (requirements of an audit; provision of financial-statements) in the law.  Provisions need to be made for written reasons for de-registration and appeal procedure.
S.3.2c <i>Appoint, supervise and terminate the services of the Registrar of NGOs.</i>		<i>No comment</i>
S.3.2d <i>Provide a regular forum for consultations between government and NGOs and the donor community.</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	Could be rephrased " <i>Facilitate consultations between Government, NGOs and other interested parties.</i> "
S.3.2e <i>Make annual reports in the ministry on the NGO community, the implementation of the Act and other connected matters.</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95  Ozias Tungwarara ZIMRIGHTS Zimbabwe	The Board should report to the public, for example Parliament, and not to a specific ministry.  There are concerns in Zimbabwe that there is too much ministerial interference.
S.3.2f <i>Recommend to the Minister amendments to the Act or necessary subsidiary legislation.</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	Could be reworded to read " <i>and make recommendations as appropriate</i> ".

SECTION	SOURCE	COMMENT
S.3.3 Registrar of the NGO Liaison Board	NDI United States	<p>Registration should be a separate section of the law under a section entitled "application for NGO status."</p> <p>The following sub-sections should be added:</p> <p><u>Registration:</u></p> <p>Registration procedure: What is typically required is a copy of the NGO constitution, names and current contact information for all officers, principal location of NGO, an agreement to provide an annual financial report or audit to the appropriate government office.</p> <p><u>Government Responsibility:</u></p> <p>The government office responsible for registration should be fixed by law and is required to:</p> <ul style="list-style-type: none"> <li>o provide necessary forms for registration;</li> <li>o provide a timely response (within 30 working days of the request) to the applicant;</li> <li>o provide an authorizing seal or stamp and registration number;</li> <li>o inform the NGO of any information missing from the application;</li> <li>o provide general information on legal requirements in this and other laws pertaining to NGOs.</li> </ul> <p><u>Enforcement:</u></p> <p>The appropriate government office is responsible for publishing on an annual basis, a list of all registered NGOs and a list of all NGOs who have applied for registration and those applicants who have been rejected.</p> <p>The office can initiate an audit of an NGO, then request at any time the schedule and minutes of the NGO Liaison Board meetings.</p>

SECTION	SOURCE	COMMENT
S. 3.3 continued	NDI continued	<p>The appropriate government office can, with due notice and process, notify the NGO that their registration is being repealed.</p> <p><u>Appeals:</u></p> <p>An NGO that is refused registration can appeal the decision to the Magistrate Court. If the NGO wins the appeal, the cost of the legal process will be born by the government office.</p> <p>This law provides for a group of individuals who have applied for registration and been denied by the government office to appeal the decision of the government offices in the Magistrate Court.</p> <p>If the decision of the office is revised by the court, the applicants cost will be recovered.</p>
S. 3.3a The office of the Registrar on nongovernmental organizations is established by the Act and the Registrar will be the Secretary of the NGO Liaison Board.	Claire Wright Jacobson, Rosin & Wright South Africa	<p>It is not clear whether the Registrar is going to be a member of the Board who simply performs this specific function, or whether the Registrar is not going to be a member of the Board, in which case the Board would have to pay a salary. If the post of Registrar is to be provided by government, then it would be important for the functions and powers of the Registrar to be clearly defined, and it would be important that the Registrar was always subject to the Board and that the Registrar would simply be carrying out the decisions of the Board.</p>
S. 3.3b The post shall be provided for by government.	Donor Comments 20/6/95, 11/7/95 & 2/8/95	<p>The post of Registrar should have a more independent status and not be provided by government, hence, the phrase could read "The post of Registrar shall be a public office."</p>
S. 3.4 Duties of the Registrar	Donor Comments 20/6/95, 11/7/95 & 2/8/95	<p>The Registrar may be given too many responsibilities and subsequently, too much power.</p>
S. 3.4a The NGO Liaison Board will mandate the Registrar to act in its behalf and to;		<p>No comment</p>

SECTION	SOURCE	COMMENT
S. 3.4b <i>receive, acknowledge, and to present to the Board for applications of registration as an NGO;</i>	Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i>	This issue ties in with how the Board is going to run - whether it just receives paperwork from applicants, or whether there will be a hearing at which the applicant can make verbal representations. In this case, it would be a good idea for the NGO to be able to do their own presentation, or appoint someone to do it for them.
S. 3.4c <i>carry out investigative research on applications including, where necessary, making visits to the NGO premises.</i>	Claire Wright <i>Jacobson, Rosin &amp; Wright South Africa</i>  Donor Comments <i>20/6/95, 11/7/95 &amp; 2/8/95</i>	The issue of inspection of NGOs is an important one. It is argued that if an organization claims to be operating in public interest, and has access to funding, that it should be open to public scrutiny and it should be accountable.  The main objective of investigative research should be to verify and monitor NGOs compliance with the Act. Clear criteria for investigative research need to be established by the Board and made known to the general public.
S. 3.4d <i>recommend to the Board, approval or rejection of the registration as an NGO;</i>		<i>No comment</i>
S. 3.4e <i>inform organizations of the decision of the Board;</i>		<i>No comment</i>
S. 3.4f <i>inform organizations which have had their application for registration rejected by the NGO Liaison Board;</i>		<i>No comment</i>
S. 3.4g <i>liaise with the designated coordinated body for NGOs;</i>	Donor Comments <i>20/6/95, 11/7/95 &amp; 2/8/95</i>	The existence of "the designated coordinated body for NGOs" cannot be assumed.

SECTION	SOURCE	COMMENT
S.3.4h <i>prepare an annual report on the state of affairs of the NGO community.</i>		<i>No comment</i>
S.3.5 <b>NGO Registration Process</b>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	NGOs should be given the choice to register under this Act.
S.3.5a <i>NGOs registered under other Acts may also register under this Act.</i>		<i>No comment</i>
S.3.5b <i>On registration, an NGO will be issued with a uniquely numbered registration certificate which must be hung prominently in the NGO's main offices.</i>		<i>No comment</i>
S.3.5c <i>Registration of existing NGOs:  In normal circumstances, all existing NGOs registered in Malawi and eligible for membership of CONGOMA, or operating under the Memoranda of Understanding, will, on the designated date for enforcement of this Act, providing only that they sign an agreement confirming adherence to the Code of Conduct.</i>	International Center for Not-For-Profit Law <i>United States</i>  Donor Comments 20/6/95, 11/7/95 & 2/8/95	Suggest another mechanism, other than the Code of Conduct, Which would be explicit in the documents, that proves the NGO's transparency and accountability.  The last part of the sentence, starting from "providing..." could be deleted. However, in order to ensure consistent treatment of all NGOs, it might be useful to consider asking all NGOs, including the existing ones, to register under the new Act.

SECTION	SOURCE	COMMENT
<p>S.3.5d  <i>Applications for registration as NGOs of organizations and hitherto recognized as NGOs:</i></p> <p><i>The Liaison Board will undertake to consider applications for registration within thirty days of receipt of application.</i></p>		<p><i>No comment</i></p>
<p>S.3.5e  <i>The Board may approve applications; approve with conditions; or refuse applications.</i></p>	<p>Ozaias Tungwarara  ZIMRIGHTS  Zimbabwe</p> <p>Akua Kuenyehia  WILDAF  Ghana</p>	<p>This raises the importance of having to give <i>reasons</i> for decisions.</p> <p>A law that seeks to comprehensively regulate civil society bodies has an inherent tendency towards arbitrary control rather than enabling such bodies.</p>
<p>S.3.5f  <i>Conditional registration will be granted where the Registrar suggests alterations in the NGO governance or mission which should be addressed within the stated time period; after which, on satisfactory completion of the alterations, full registration will be granted.</i></p>		<p><i>No comment</i></p>



SECTION	SOURCE	COMMENT
<p>S.3.5g  <i>The Liaison Board will require such documents from new NGOs as are required to allow the Registrar to make recommendations about conformity to the definition of an NGO as contained in the Act.</i></p>	<p>Claire Wright  <i>Jacobson, Rosin &amp; Wright South Africa</i></p>	<p>Does the constitution of the NGO applying for registration have to be approved by the Board?</p>
<p>S.3.6  <b>Development Fund</b>  <i>A development fund may be initiated to generate and distribute funds for NGO activities.</i></p>	<p>NDI  <i>United States</i>    Donor Comments  20/6/95, 11/7/95 &amp; 2/8/95</p>	<p>Delete - government should not regulate NGO funding.</p> <p>It is suggested that all references to the NGO Development Fund be taken out of the law. It is better not to mix funding with registration.</p>
<p>S.3.7  <b>Development Fund Purposes</b>  <i>The fund will assist NGOs by:</i></p>		<p><i>No comment</i></p>
<p>S.3.7a  <i>providing information and guidance to new organizations wishing to establish themselves as NGOs;</i></p>		<p><i>No comment</i></p>
<p>S.3.7b  <i>supporting and developing the institutional capacity of national NGOs through the supply of commodities, training administrative costs and overheads;</i></p>	<p>Akua Kuenyehia  WILDAF  Ghana</p>	<p>The procedure of funding for NGO activities appears to reduce NGOs to parastatal organizations.</p>

SECTION	SOURCE	COMMENT
S.3.7c <i>providing project funds to both national and international NGOs;</i>		<i>No comment</i>
S.3.7d <i>by promoting the development of NGO work in geographical areas where there is significant unmet need.</i>		<i>No comment</i>
S.3.8 <i>Income into the Development Fund</i> <i>The fund will be managed by a NGO Development Committee. The NGO Liaison Board will make regulations regarding the management of funds including investments.</i>	Akua Kuenyehia WILDAF Ghana	The control and access to financial resources could be considered another ploy to control and manipulate NGOs.

SECTION	SOURCE	COMMENT
S.4 Fiscal Incentives	<p data-bbox="316 451 446 577">International Center for Not-Profit Law <i>United States</i></p> <p data-bbox="592 451 690 577">Ozias Tungwarara <b>ZIMRIGHTS</b> <i>Zimbabwe</i></p> <p data-bbox="722 451 787 577">NDI <i>United States</i></p>	<p data-bbox="316 1669 381 2068">There needs to be a comprehensive law governing the incorporation of both types of organization. Distinction centers on the issue of tax and fiscal incentives.</p> <p data-bbox="414 1669 511 2068">Public-benefit-institutions (PBIs) have the full range of tax benefits (income tax exemption, the ability to receive tax deductible contributions, exemptions from customs duty on certain items etc.), as result the PBIs are subject to greater public scrutiny.</p> <p data-bbox="576 1669 657 2068">Define PVO vs. NGO. An NGO is more general but does not have the same fiscal and tax advantages.</p> <p data-bbox="722 1669 755 2068">Rename <i>Taxation/Exemptions/Incentives</i></p> <p data-bbox="787 1669 820 2068">Could be re-written as follows:</p> <p data-bbox="852 1669 885 2068"><i>Under this Act NGOs are not-for-profit organizations registered to do business in Malawi.</i></p> <p data-bbox="917 1669 982 2068"><i>The NGO is exempt from all taxation under the revenue codes of Malawi relative to the execution, implementation and performance under the constitution of the NGO.</i></p> <p data-bbox="1015 1669 1079 2068"><i>The NGO will file, with the Department of revenue, an annual statement on all income and goods it has received and expenditures it has made i.e., salaries, purchases of goods etc.</i></p> <p data-bbox="1112 1669 1144 2068"><i>The NGO will file for each employee or consultant a record of income provided.</i></p> <p data-bbox="1177 1669 1242 2068"><i>At the time of termination of the NGO, distribution of all assets, financial and material, will be distributed by the principal donor.</i></p> <p data-bbox="1291 1669 1323 2068">The following sub-sections should be added:</p> <p data-bbox="1356 1669 1388 2068"><u>Government Subsidies:</u></p> <p data-bbox="1421 1669 1485 2068"><i>The Government of Malawi will provide to NGOs, at no expense, the use of the postal system and broadcast time on all private and government broadcasting corporations.</i></p>

SECTION	SOURCE	COMMENT
<p>S. 4. continued</p>	<p>NDI continued</p>	<p><u>Grants:</u></p> <p>The issue of partnership between NGOs and the government needs extensive information arguments both for and against.</p> <p><u>Termination:</u></p> <p>NGOs in non-compliance with the requirements of registration and reporting will be audited by the government and, with due cause, notified of their termination resulting in the repeal of their registration.</p> <p>Notification of repeals will be published in the government gazette and made available upon request by the government office.</p> <p>Any repeals relating to malfeasance on the part of the NGO will be referred to the magisterial court where the NGO had been registered.</p> <p>The appeals process is applicable to the termination process by the government office.</p>
<p>S. 4a</p> <p>An organization registered under this Act as an NGO will be entitled to the following financial incentives on application:</p>	<p>Donor Comments</p> <p>20/6/95, 11/7/95 &amp; 2/8/95</p> <p>Claire Wright</p> <p>Jacobson, Rosin &amp; Wright</p> <p>South Africa</p>	<p>It would be advisable to have a financial specialist look at this section, especially to ensure that it complies with the existing financial laws operating in Malawi.</p> <p>Is an NGO defined around the issue or kind of work it does or issues of profit and taxation?</p> <p>This definition is too narrow, the South Africa Tax Act includes an exemption for all religious, charitable &amp; educational institutions.</p> <p>In South Africa according to tax benefits for donors, the NGO receiving the donation must have the required tax-exempt status.</p> <p>It might be advisable to establish different categories of NGOs and link financial incentives to specific categories of NGOs, rather than giving them to all NGOs.</p>

SECTION	SOURCE	COMMENT
S.4b <i>exemption on imported commodities intended for use by the NGO, other than for personal use by members and employees of NGOs;</i>		<i>No comment</i>
S.4c <i>exemption on duties and goods for their personal use imported by expatriate personnel working for registered NGOs during the first six-months of their stay in Malawi;</i>		<i>No comment</i>
S.4d <i>tax exemption on interest from banking investments;</i>		<i>No comment</i>
S.4e <i>exemptions on surpluses made from national fundraising;</i>		<i>No comment</i>
S.4f <i>tax exemption for individuals and corporations making donations in cash or kind to NGOs;</i>		<i>No comment</i>
S.4g <i>tax exemptions on foreign currency donations;</i>		<i>No comment</i>
S.4h <i>the right to hold foreign accounts and receive funds from abroad;</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	There may be a need to correlate between the option of holding a foreign account and the need for transparency and accountability.

SECTION	SOURCE	COMMENT
S.4i <i>exemptions on taxes and duties on local purchases intended for use by the NGO, other than personal use of the Director or staff of NGO.</i>		<i>No comment</i>
S.4j <i>Payments from the fund will be direct to NGOs and will not require to pass through accounts departments of the government of Malawi.</i>		<i>No comment</i>
S.5 <b>National NGO Coordination &amp; Networks</b>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	It is proposed that this section be deleted. Instead, the right of the NGOs to establish coordinating bodies could be restated in a sentence that would be incorporated in the section on policy environment.
S.5.1 <b>Establishment of a coordinating body</b>		<i>No comment</i>
S.5.1a <i>A coordinating NGO body in Malawi will facilitate the implementation of this Act working collaboratively with the government.</i>		<i>No comment</i>
S5.1b <i>The body will have in membership all NGOs registered under the Act.</i>		<i>No comment</i>

SECTION	SOURCE	COMMENT
<p>S5.1c  <i>Additionally, NGOs working the same sector will establish networks which will communicate with line ministries.</i></p>		<p><i>No comment</i></p>
<p>S.5.2  <b>Duties of the coordinating body</b>  <i>The coordinating body shall:</i></p>		<p><i>No comment</i></p>
<p>S.5.2a  <i>create and maintain an enabling environment for NGOs within Malawi;</i></p>		<p><i>No comment</i></p>
<p>S.5.2b  <i>provide a forum for, and build enabling networks of NGOs;</i></p>		<p><i>No comment</i></p>
<p>S.5.2c  <i>strengthen the organizational, operational and conceptual capacities of the NGO community so that it performs efficiently, effectively and independently;</i></p>		<p><i>No comment</i></p>
<p>S5.2d  <i>champion and defend the rights of members of the NGO community;</i></p>		<p><i>No comment</i></p>

SECTION	SOURCE	COMMENT
S5.2e influence public policy as it affects members of the NGO community;		No comment
S.5.2f provide publicity about the role and responsibility of NGOs;		No comment
S.5.2g represent the NGO community at national and international levels;		No comment
S.5.2h act as center of information on social development, democratization and human rights services in Malawi;		No comment
S5.2i liaise with the NGO Liaison Board;		No comment
S5.2j develop and maintain a Code of Conduct for NGOs.		No comment
S.6 <b>Penalties Under The Act</b> Non-compliance with the terms of this Act may incur all of the following penalties:	Donor Comments 20/6/95, 11/7/95 & 2/8/95	A provision should be included to give NGOs a specified period to get their house in order prior to effecting a penalty.
S6.1 de-registration under the Act;	Donor Comments 20/6/95, 11/7/95 & 2/8/95	De-registration under the Act should be publicized and lead to a termination of tax exemption.



SECTION	SOURCE	COMMENT
S.6.2 <i>reduction of grants made under the NGO Development Fund;</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	Should not be included in the law governing registration.
S.6.3 <i>cessation of grants made under the NGO Development Fund;</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	Should not be included in the law governing registration.
S.6.4 <i>civil or criminal proceedings;</i>		<i>No comment</i>
S.6.5 <i>any combination of the above.</i>	Donor Comments 20/6/95, 11/7/95 & 2/8/95	Delete

# CONGOMA

## Council For Non-Governmental Organizations in Malawi

### DRAFT NGO LAW

#### AS AGREED AND RATIFIED AT THE 1995 AGM

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## 1. DEFINITIONS

### 1.1 Non-Governmental Organization (NGO)

An organization which seeks formal registration under the Act must fulfil ALL the following conditions:

- a. "... formed, run, developed or terminated through free and voluntary acts of individuals ..."
- b. "... managed and controlled by a Committee/Board/Trust which has been democratically elected by its NGO memberships defined within the constitution of the NGO."
- c. "It is not for private profit or gain of those who control and manage the affairs of the NGO without prejudice to the rights and privileges of employees to be adequately remunerated."
- d. "It shall pursue objectives which are focused on disadvantaged people, ecosystems and on aspects of vulnerable groups in society as a whole."
- e. "It serves all eligible people, regardless of youth or age; gender; tribe or race; religious belief or creed; sexual orientation; political affiliation; nationality; disability; or membership of a minority group."
- f. "It is not a church or religious organization of a purely evangelistic or proselytizing nature."
- g. "It is not a political party, trade union, a business-for-profit; created to pursue the pleasure of its members; or be a social club."
- h. Bodies established by Act of Parliament, such as Malawi Red Cross, shall be considered as an NGO.

### 1.2 "Disadvantaged" includes:

children and young people; women, both old and young; refugees and displaced persons; victims of calamitous disaster; unemployed people of employable age; people lacking skills; mentally and physically disabled people; offenders and ex-offenders; indigenous peoples living a lifestyle different from mainstream life style in Malawi; the sick; the poor; people or communities affected by change in the physical environment, remoteness, poor access to resources; and any activity that marginalizes people.

### **1.3 Types of NGOs**

International: An international NGO is an NGO which has incorporated in one or more countries other than Malawi but is registered in Malawi under this law.

National NGO: A national NGO is an NGO initially registered in Malawi by Malawians and non-Malawians operating in one or more Districts in Malawi.

## **2. POLICY ENVIRONMENT**

The government of Malawi shall create a conducive policy environment for NGOs.

## **3. NGO LIAISON BOARD**

A Non-Governmental Organization Liaison Board - to be known as the NGO Liaison Board - will be established by the Act.

### **3.1 Membership and Board structure**

- a. The NGO Liaison Board will be composed of ten members drawn on an equal representation basis from the government and NGO sectors.
- b. The Board will meet at least four times a year.
- c. The Board will elect a Chair from among themselves.
- d. The quorum will be six members present excluding the Chair.
- e. Where there is a tied vote the Chair will have the casting vote.
- f. Board Members representing the NGO community will be appointed by the relevant Ministry on recommendation of the NGO community.
- g. Board Members will serve for two years after which half the Board will resign.
- h. Members may serve for two two-year terms.
- i. The Board may co-opt Members where specialist advice is sought but coopted Members will not be able to vote at meetings of the Board.

### **3.2 Duties of the Liaison Board**

- a. To consider for approval or rejection, applications for registration as an NGO.
- b. De-register an NGO which has violated this Act.

- c. Appoint, supervise and terminate the services of a registrar of NGOs.
- d. Provide a regular forum for consultations between government and NGOs and the donor community.
- e. Make annual reports in the Ministry on the NGO community, the implementation of the ACT and other connected matters.
- f. Recommend to the Minister amendments to the Act or necessary subsidiary legislation.

### **3.3 Registrar of NGO Liaison Board**

- a. The office of the Registrar on Non-Governmental Organizations is established by the Act and the Registrar will be the Secretary of the NGO Liaison Board.
- b. The post shall be provided by the government.

### **3.4 Duties of the Registrar**

- a. The NGO Liaison Board will mandate the Registrar to act on its behalf and to;
- b. receive, acknowledge, and present to the Board applications of registration as an NGO;
- c. carry out investigative research on application including where necessary making visits to NGO premises;
- d. recommend to the Board, approval, conditional approval or rejection of registration as an NGO;
- e. inform organizations of the decision of the Board;
- f. inform organizations which have had their application for registration rejected by the NGO Liaison Board of their right to appeal;
- g. liaise with the designated coordinated body for NGOs;
- i. prepare an annual report on the state of affairs of the NGO community.

### **3.5 NGO Registration Process**

- a. NGOs registered under other Acts may also register under this Act.
- b. On registration, an NGO will be issued with a uniquely numbered registration Certificate which must be hung prominently in the NGOs main offices.

c. Registration of existing NGOs

In normal circumstances, all existing NGOs registered in Malawi and eligible for membership of CONGOMA, or operating in Malawi under Memoranda of Understanding, will, on the designated date for enforcement of this Act be granted either conditional or full registration as NGOs under this Act, providing only that they sign an agreement confirming adherence to the Code of Conduct.

d. Applications for registration as NGOs of organizations and hitherto recognized as NGOs

The Liaison Board will undertake to consider applications for registration within thirty days of the receipt of application.

e. The Board may approve applications; approve with conditions; or refuse registrations.

f. Conditional registration will be granted where the Registrar suggests alterations in the NGOs governance or mission which should be addressed within the stated time period; after which, on satisfactory completion of the alterations, full registration will be granted.

g. The Liaison Board will require such documents from new NGOs as are required to allow the Registrar to make recommendations about conformity to the definition of an NGO as contained in the Act.

### **3.6 Development Fund**

A development fund may be initiated to generate and distribute funds for NGO activities.

### **3.7 Development Fund Purposes**

The fund assist NGOs by:

- a. providing information and guidance to new organizations wishing to establish themselves as NGOs;
- b. supporting and developing the institutional capacity of national NGOs through the supply of commodities, training administrative costs and overheads;
- c. providing project funds to both national and international NGOs;
- d. by promoting the development of NGO work in geographical areas where there is significant unmet need.

### **3.8 Income into the Development Fund**

The fund will be managed by a NGO Development Committee. The NGO Liaison Board will make regulations regarding the management of funds including investments.

## **4. FISCAL INCENTIVES**

- a. An organization registered under this Act as an NGO will be entitled to the following financial incentives on application:
- b. exemption on imported commodities intended for use by the NGO, other than for personal use by members and employees of NGOs;
- c. exemption on duties on goods for their personal use imported by expatriate personnel working for registered NGOs during the first six-months of their stay in Malawi;
- d. tax exemption on interest from banking investments;
- e. exemptions on surpluses made from national fundraising activities;
- f. tax exemption for individuals and corporations making donations in cash or kind to NGOs;
- g. tax exemptions on foreign currency donations;
- h. the right to hold foreign accounts and receive funds from abroad;
- i. exemptions on taxes and duties on local purchases intended for use by the NGO, other than for personal use of Directors or staff of NGO.
- j. Payments from the Fund will be direct to NGOs and will not be required to pass through the accounts departments of the Government of Malawi.

## **5. NATIONAL NGO COORDINATION AND NETWORKS**

### **5.1 Establishment of a Coordinating body**

- a. A coordinating NGO body in Malawi will facilitate the implementation of this Act working collaboratively with the government.
- b. The body will have in membership all NGOs registered under the Act.
- c. Additionally, NGOs working the same sector will establish networks which will communicate with line Ministries.

## **5.2 Duties of the Coordinating Body**

The coordinating body shall:

- a. create and maintain an enabling environment for NGOs within Malawi;
- b. provide a forum for, and build enabling networks of NGOs;
- c. strengthen the organizational, operational and conceptual capacities of the NGO community so that it performs efficiently, effectively and independently;
- d. champion and defend the rights of members of the NGO community;
- e. influence public policy as it affects members of the NGO community;
- f. provide publicity about the role and responsibility of NGOs;
- g. represent the NGO community at national and international levels;
- h. act as center of information on social development, democratization, and human rights services in Malawi;
- i. liaise with the NGO Liaison Board;
- j. develop and maintain a Code of Conduct for NGOs.

## **6. PENALTIES UNDER THE ACT**

Non-compliance by NGOs with the terms of this ACT may incur all of the following penalties:

- 6.1 de-registration under the Act;**
- 6.2 reduction of grants made under the NGO Development Fund;**
- 6.3 cessation of grants made under the NGO Development Fund;**
- 6.4 civil or criminal proceedings;**
- 6.5 any combination of the above.**



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This draft Malawi NGO Law came into being as a result of a long period of discussion and rests on the amalgamation of a number of previous drafts.

The NGO community in Malawi is most grateful to the Government of Malawi and to colleagues working professionally in the Civil Service for allowing it to participate in the planning stages of this ACT, for guidance given, and for the opportunity to influence the future of the development process in Malawi.

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