



**CRIME VICTIM'S RIGHT TO CONFER WITH THE PROSECUTOR – THE
ADVANTAGES AND DISADVANTAGES VIS-À-VIS PROSECUTORIAL
INDEPENDENCE AND ACCOUNTABILITY**

**BY: MARY KACHALE (Mrs.)
DIRECTOR OF PUBLIC
PROSECUTIONS, MALAWI**

1. SOURCE OF 'RIGHT': IN COMPARATIVE PERSPECTIVE

- Other jurisdictions
 - clear provision in Constitutions or Statutes + Charters, for victim's right to confer
 - Stage at which rights starts differs. Pre-charging right debatable
- Malawi:
 - Presentencing: no clear provision either in Constitution or Statute but in practice, and institutional guidelines
 - Sentencing: not as a right but by Statute at Court's discretion (**Section 321J of Criminal Procedure and Evidence Code**)

SOURCE OF RIGHT CONT.D

- Despite lack of Victim's Right central document = Least Developed Country (LDC) Malawi's progress remarkable and worth sharing.
- promotion and protection of victim's right inconsistent (dependent on individual prosecutors or public interest/outrage)

2. LESSONS LEARNT

- I. Unlike other jurisdictions, lack of central document means no restriction as to when right might be exercised hence might be exercised before charging decision;
- II. Promotion and protection of victim's right to confer inconsistent (dependent on individual prosecutors or public interest/outrage);
- III. Crime victim's right to confer with Prosecutor has both its advantages and disadvantages
- IV. Whether right affects or enhances prosecutor independence or accountability = it depends

3. VAWG AND WHITE COLLAR CRIME AS CASE STUDIES

