



# **PABWALO TOWN HALL ACTIVITY REPORT**

**Ufulu Gardens Conference**

**Lilongwe, Malawi**

**31<sup>st</sup> March 2023**

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## **1.0 INTRODUCTION AND RATIONALE**

The Gender and Justice Unit (GJU) is implementing a nine-month project on Enhancing access to justice for marginalized communities, including women and young girls in Malawi, through the Operationalization of the Independent Complaint Commission (ICC) mechanism " which is funded by The Open Society Foundations (OSF) previously known as the Open Society Initiative for Southern Africa (OSISA). The project aims to support the operationalization of and strengthen the ICC's oversight, accountability, and integrity and enhance access to gender justice for marginalized groups. This project is aligned with the human rights and the rule of law cluster.

GJU is a non-governmental organization that hones in on legal empowerment as one of the most powerful catalysts of gender equality and social justice. The GJU utilizes the law as a tool for gender equality and social justice through; strategic litigation, legal research, mobilization through strategic partnerships, and strengthening access to justice through pro bono legal representation, research, and advocacy.

The Independent Complaints Commission (ICC) was established in 2020 under Section 128 of the 2010 Police Act to receive and investigate complaints by the public against police officers and the Police Service and ensure the overall accountability of the service. Operationalization of the ICC was galvanized by a court ruling in the prominent rape case when members of the Malawi Police sexually assaulted 18 women and girls in Msundwe, M'bwatalika, and Mpingu in Lilongwe District on 8th October 2019. The Court noted that the failure by the Parliament to operationalize the ICC as provided for under section 133(2) of the Police Act is unlawful, and it violates the women and girls' right to access to justice as provided for under section 41 of the Constitution.

The ICC began its operations on 1st July 2021 and has its Secretariat in Lilongwe. The ICC investigates complaints lodged by individuals and those referred by other human rights oversight bodies, including The Malawi Human Rights Commission (MHRC), the Anti-Corruption Bureau (ACB), the Office of Ombudsman, and the Malawi Police Service, and those walk-in complaints by the citizens. It has now been two years since the ICC was established and three years since the horrific violence against women and girls occurred in Msundwe, M'bwatalika, and Mpingu. Therefore, GJU sees this as an excellent opportunity to reflect upon the ICC, its mandate, and the experiences of citizens who seek justice through this avenue.

As such, GJU, in partnership with the ICC, intends to conduct a town hall / Pabwalo to assess and highlight citizens' experiences and evaluations of the MHRC, ACB, Ombudsman, and ICC's performance in handling the complaints from citizens, particularly marginalized groups (women, persons with albinism, persons with disabilities, female sex workers and sexual and gender minorities). The Town Hall/ Pabwalo presents an opportunity to raise awareness of human rights and the mechanisms for reporting violations and clarify the referral pathways to access justice through these human rights oversight bodies. In addition, the activity will target representation from marginalized groups to shed light upon their experiences when accessing justice through the human rights oversight bodies.

## **RATIONALE**

The Town Hall/ Pabwalo comes when the country is grappling with multiple natural disasters, a significant financial downturn, widespread food shortage, ongoing pandemics (Cholera and COVID 19), and the election cycle fast approaching. Malawi has faced one of the worst inflations within the last two decades, and the cost of living has risen. Prices of commodities have doubled and, in some instances, tripled. In addition, the global financial crisis driven by Russia's invasion of Ukraine and the lingering effects of the COVID-19 pandemic has impacted Malawi. Headline inflation peaked at 12.1 percent in January 2022, while food inflation reached 14.2 percent, primarily due to increased maize prices. Non-food inflation edged to 9.6 percent, driven mainly by rising global commodities and the upward adjustment in domestic fuel pump prices.

Furthermore, the ongoing forex crisis, increasing fuel scarcity, and extended load-shedding periods have significantly impacted the economy. These varied social tensions invariably result in higher gender-based violence and human rights violations. In particular, there is always an escalation of violence against women in elections (VAWE) and increases in the abductions and murders of persons with albinism during elections.

Since the outbreak of COVID-19, gender-based violence, which was already a major global issue before the pandemic, has become more severe. Many marginalized groups have been locked up with their abusers and cut off from social contact and support networks due to lockdowns and other mobility restrictions. The capacity of many women to flee abusive situations has been further impacted by rising financial insecurity (UN Women, n.d.). Consequently, this has affected marginalized groups' access to justice institutions. The effects of poverty, including abuse, malnutrition, and a lack of access to school and employment, are most likely to affect women and children (World Bank, n.d.).

In addition to that, the Cholera outbreak that started in March 2022, towards the end of the rainy season, has also severely affected women and girls who are the home's primary caregivers. Women and girls have been disproportionately affected by the Cholera epidemic, as they have a heightened risk of coming into contact with highly infectious cases of Cholera through their domestic roles, taking care of sick family members, cleaning latrines, fetching and handling untreated water and preparing contaminated raw food.

Few VAWE offenders are held to account, despite laws on the books and multiple punitive mechanisms that might exist across different institutions. There is often a double standard for electoral violence cases involving women's political participation, relegating them to second-class citizen status. Impunity can make such offenses viable in campaigning and post-election agitation. For public confidence in the rule of law and a meaningful path to political gender equality, offenses mustn't go unpunished. The issue of impunity for VAWE is particularly acute as women already face more significant barriers to participation in public life and experience distinct forms of violence – especially ones that are often overlooked or hidden, including sexual assault, intimidation, and threats. Overcoming VAWE and ensuring perpetrators do not go unpunished is not just an issue of individual rights but one of broader electoral justice and electoral integrity

Persons with Albinism: Full implementation of the National Action Plan on Persons with Albinism

to ensure that the criminal practice of attacking persons with albinism (PWA) is eliminated in Malawi is yet to take full effect.<sup>3</sup> As the next election cycle draws closer, the personal security of PWA tends to intersect with other threats and restricted movements that further position them as a particularly vulnerable group. As it stands, this state of constantly living in fear of attacks continues to be met with the lack of meaningful prosecutions or results despite the various promises that have been made.

GJU research study with FSW of 2021 assessed the responsiveness of the Malawi Police Service towards minority groups and the magnitude and nature of different abuse sex workers encounter at the hand of the Police as minority groups in Malawi. The research study discovered that out of the 19 sex worker respondents, most reported that they had faced various cases of abuse at the hands of Police either during their time of arrest or when they wanted to register for a case. The report also discovered that a total of six sex workers encountered issues that deserve further investigation by the ICC.

## **2.0 OBJECTIVES OF THE ACTIVITY**

The overall objective of the Town Hall/ Pabwalo is to assess and highlight citizens' experiences and evaluations of the MHRC, ACB, Ombudsman, and ICC's performance. Furthermore, to raise awareness of and strengthen the referral pathways for marginalized communities, including women and young girls, victims and survivors of gender-based violence, and social injustices to access justice.

### **Specific Objectives of the Town Hall / Pabwalo**

- To assess and highlight citizens' experiences and evaluations of the MHRC, ACB, Ombudsman, and ICC's performance.
- To provide space for sharing and documenting lived realities and experiences on access to justice services by marginalized groups.
- To provide a learning space and a platform for participants and the officials to engage in a facilitated dialogue about the justice services offered and the realities, obstacles, and opportunities towards achieving access to justice.
- To commemorate International Women's Day and focus on the responses to technology facilitated VAWE ahead of the elections.
- To raise awareness of the GJU Resource on Human Rights and align the contents to reflect citizen needs and practical realities.

### **Expected Outcomes**

- A performance assessment of citizens' experiences with MHRC, ACB, Ombudsman, MPS, and ICC is shared and evaluated.
- Documentation of shared experiences of justice services by marginalized groups.
- Empowered marginalized groups can access appropriate justice services from human rights oversight bodies- the MHRC, ACB, Ombudsman, and ICC.
- The human rights oversight bodies are aware of the obstacles/challenges marginalized groups face when accessing justice.

- To ensure marginalized groups are well-informed of the existing human rights oversight bodies, particularly the ICC.
- GJU Resources on Human Rights is validated.
- International Women’s Day is commemorated jointly by the different stakeholders.

### 3.0 METHODOLOGY

The Gender and Justice Unit conducted a #Pabwalo (Town Hall) event under the theme “Enhancing Access to Justice for Marginalised Communities” designed to follow the format of community gatherings. The Town Hall engagement is an opportunity to bring representatives of the key oversight bodies and marginalised community members together to engage on the challenges that are faced in accessing justice. The activity was held at Ufulu Gardens in Lilongwe on the 31<sup>st</sup> of March, 2023 and 106 people attended.

*Table 1: List of activity presenters*

<b>INSTITUTION</b>	<b>FOCAL PERSON</b>
Malawi Police Victim Support Unit,	Superintendent Grace Manda
Malawi Police Service Cyber Crime Unit	Senior Superintendent Gladwell Kubwalo
MACRA	Thokozani Chimbe
Angle Dimensions	Bram Fudzulani
Office of the Ombudsman	Martha Ndeyana Kwengwere
Malawi Human Rights Commission	Habiba Osman
Anti-Corruption Bureau	Mgwambula Nundwe
Independent Complaints Commission	Christopher Tukula
<b>MARGINALISED GROUP</b>	<b>REPRESENTATIVE</b>
Women	Tiwonge Gondwe
Survivors of cyberbullying	Bridget Oscar Phiri
Sex workers	Mary Tembo
Children and adolescents	Prudence Chavula
LGBTQI	Monica
Women in politics	Councilor Munira – in absentia



Figure 1: Panel of Institution Focal Persons

The table above shows the list of participants who made presentations at the activity. Each participant was given 5 – 10 minutes to make a presentation. The event was live-streamed for audiences on the internet with sign language translation. The activity also featured poetry and a play performed by JASS.



Figure 2: JASS Performers

## 4.0 PRESENTATIONS

The key points of the presentations from the key institutions and beneficiaries will be highlighted below.

### KEY INSTITUTIONS

#### Malawi Police Victim Support Unit

- The office was established in 2001 with the aim of protecting, promoting and upholding the rights of victims/survivors of various forms of criminal and civil activities.
- The office was established as part of the police reform program in which the police was expected to diversify their service and provide assistance in a holistic manner. This required the police to not only focus on offenders but also on victims so as to ensure they do not suffer greater harm.
- The VSU provides the following services: counselling, first aid, referral services, general sensitization, gender and domestic violence services, private interviews, community awareness campaigns, school outreach programs, hospital and chiefs' wives initiatives.

- The VSU are equipped to handle the following cases: sexual violence, physical violence, economic violence, emotional violence, child abuse and child marriages.
- The VSU faces the following challenges: lack of skills and knowledge in the management of SGBV, lack of office space, harmful cultural practices, inadequate materials for the management of SGBV, lack of data management skills, lack of adequate mobility to implement VSU activities
- The recommendations for improving the VSU were as follows: capacity building of Victim Support Unit officers, revamping and trainings of the One Stop Centers, equipping VSUs with necessary facilities, revamping of VSU sub committees, conduct a docket tracing exercise for SGBV cases.

### **Malawi Police Service Cyber Crime Unit**

- Cybercrimes are defined as crimes that are done against a person or persons with criminal intention to deliberately harm the status of the victim or cause physical or psychological destruction to the victim directly or indirectly, using modern telecommunication networks such as Internet and mobile phones.
- Examples of cybercrimes include: social engineering, cyber extortion, cyber stalking, identity theft, cyber harassment. Anyone can be a victim of cybercrime and they are mainly perpetrated by prisoners.
- The Cyber Crime Unit has the following duties: investigations of cyber and other related crimes, identification and collection of digital evidence, analysis of digital evidence, apprehension of cybercrime offenders, tendering of digital evidence in court, carrying out digital awareness campaigns, sharing cybercrime investigative techniques/ skills/ approaches/tips with other law enforcement agencies and neighboring countries.
- The Cyber Crime Unit works with the following partners: NRB, TNM, Airtel, MACRA and prison authorities.
- The Unit faces the following challenges: lack of resources such as a forensic laboratory, public mistrust and mob justice incidences.



Figure 3: Panel of Institution Focal Persons

## MACRA

- MACRA was established in 1998 with the mandate to regulate and monitor the provision of communications services and ensure that, as far as it is practicable, reliable and affordable communications services are provided throughout Malawi. MACRA regulates telecommunications, broadcast and postal services.
- In terms of digitization, there is a clear gap between males and females in the country. There is a 15% gender gap of phone owners and a 41% gender gap of internet users.
- The main challenges that contribute to this gender marginalization are: affordability of gadgets and internet, lack of relevant online content for women, and low digital literacy for women.

## National Human Rights Organisation

- National Human Rights Organisation (NHRO) are national structures that are established by laws made by Parliament and are funded out of tax money to achieve effective democratic governments.

- In Malawi the NHRO established by the Constitution include the Courts, Malawi Human Rights Commission, the Office of the Ombudsman, Electoral Commission, Malawi Law Commission. In addition, ACB focusses on transparency and accountability but established by a creature of statute.
- The following are the roles of the NHRO: provide a platform for laying and investigating complaints by citizens who are of the view that their rights have been violated, provide advice to government on legislation, policies and programmes to be in consistent with human rights norms and administrative justice, promote rights and educate the public, conduct public inquiries, and build bridges between government and civil society and between groups within the civil society.

### **Office of the Ombudsman**

- The OoO is an independent institution established by the 1994 Republic of Malawi Constitution (the Constitution), and is complemented by the Ombudsman Act (Chapter 3:07 of the Laws of Malawi).
- The Ombudsman has the mandate to inquire into and investigate any complaint laid before her concerning: any alleged instance or matter of abuse of power or unfair treatment of any person by an official in the employ of an organ of government, manifest injustice or instances where any decision or recommendation taken by or made by or under the authority of any organ of Government or any act or omission of such organ is unreasonable, unjust or unfair or biased.
- The goals of the Ombudsman are: increased accountability, increased access to administrative justice, strengthened institutional capacity, strengthened institutional capacity, strengthened partnerships with stakeholders
- The following are the challenges and limitations of the office: non-responsiveness by the ministries, departments and agencies (MDAs) to issues under investigations, delays by the MDAs in responding to correspondence, the MDAs do not follow up on issues that require urgent action for resolution leading to delays to resolve the complaints, the MDAs record keeping is poor thereby hindering smooth processes of investigations, lack of resources to carry out investigations including equipment, vehicles stationery, fuel
- These are the recommendations for the office to remain effective: resource Mobilization from the Developing Partners, joint investigations in order to tap resources from the other institutions, Memorandum of Understanding with National Initiative for Civic Education Trust who collects complaints from all areas of Malawi due to their wide presence, intensive sensitization of OoO operations through website, Facebook and twitter, though limited only to those who can easily access such modes of communication, and lobbying with authorities on amendment to the Staff Terms and Conditions of Service



Figure 4: Panel of Institution Focal Persons

### **Anti-Corruption Bureau**

- The Anti-Corruption Bureau was established under the Corrupt Practices Act No. 18 of 1995. It is an independent body legally mandated to lead Government's efforts in the fight against corruption. The Anti-Corruption Bureau is headed by the Director General who oversees the day to day running of the Bureau. ACB has offices in Blantyre, Zomba, Mzuzu and its headquarters is in Lilongwe
- The mandate of the ACB is to perform the following functions: corruption prevention, public education, corruption investigation and corruption prosecution

### **Independent Complaints Commission**

- The mission of the ICC is to conduct independent, impartial and quality investigations into public complaints against police officers to ensure the highest standards of accountability, professionalism and respect for the rule in the Malawi Police Service
- The statutory functions of the commission are: receive and investigate complaints by the public against police officers and the police service, investigate death or injury as a result

of police action, investigate all deaths and injuries which occur in police custody, make recommendations on any findings pursuant to any investigation conducted.

- The following are the measures that ensure the independence of the ICC: the Commission shall function independently of the Malawi Police Service, no organ of State and no member or an employee of an organ of State or any other person shall interfere with the Commission or any of its personnel in the exercise and performance of its powers and functions, all organs of State shall accord such assistance as may be reasonably required for the protection of the independence, impartiality, dignity and effectiveness of the Commission in the exercise and performance of its powers and functions.
- Currently these are the areas that can be improved in the ICC: review the legal framework to fill gaps, add clarity and provide for regulations for the better implementation of the Act, recruit more staff and enhance skills development for both ICC & MPS, lobby for increased budgetary allocation from Government, intensify civic awareness on functions of ICC to both the general public and MPS and enhance collaboration with MPS and other oversight bodies/Authorities

## **BENEFICIARIES**

### **Women's experience in relation to access to land**

- The women were represented by Tiwonge Gondwe from Bolero, Rumphi.
- Both patrilineal and matrilineal customs are marginalising women when it comes to access to land in their villages.
- Chiefs are the first referral point for all land disputes but in most cases these chiefs are not able to effectively mediate cases.
- There are some situations where some women are asked to perform sexual favours for chiefs when they want to but land. And despite these demands, chiefs sometimes resell the land that they promised to the woman.
- In cases where there are disputes and the two parties are male and female, the chiefs tend to favour the males regardless of circumstances, taking advantage of women's lack of legal knowledge.
- Women do not have the means to go to courts for legal disputes, and in some cases some institutions, such as the MHRC, do not have offices in the Northern Region, making their services inaccessible for women in the north.
- For the women that are able to take their cases to court, the process takes too long to reach a resolution, resulting in victims abandoning their cases. Maintenance orders are not

processed efficiently, some beneficiaries never receive their funds. In some cases, court officials have been abusing funds meant for victims.

- Ombudsman offices are inaccessible to a lot of women in the north and their toll-free numbers are rarely operational.
- The police are also ineffective as cases take too long to process and they do not intervene in a timely manner when there is an emergency. Additionally, some stations have poor record keeping systems; case files and hospital reports sometimes get lost and the victim has to start the process from scratch.
- Social welfare services are rarely accessible and there are no safehouses for victims of abuse.



## Women's experience in cyberbullying

- The women were represented by Bridget Oscar Phiri.
- There is a general lack of knowledge among women as to what actions constitute cyberbullying and the referral pathways for reporting them.
- Victims who have reported issues concerning leaked photos or revenge porn are sometimes shamed by service providers and not assisted adequately. As a consequence, some victims are unwilling to report issues of cyberbullying
- The relevant authorities often do not have the forensic expertise or equipment to track perpetrators of cyberbullying.



Figure 5: Bridget Oscar Phiri

## Female sex-worker experiences

- The sex-workers were represented by Mary Tembo
- Sex workers are sometimes physically and financially abused by their clients. In some instances, workers are forced into recording sexual activities
- The police often marginalize sex-workers when abuses such as these are reported. In some cases, the perpetrators are able to bribe the police and sex-workers end up being apprehended instead of the perpetrator.

## Children's experiences with abuse and access to justice

- The children were represented by Prudence Chavula from Go Child, an organisation that was formed by women survivors of abuse.
- The main types of abuse that children are facing are sexual defilement and abandonment.

- A lot of AGYW resort to sex work for their financial needs. However, due to their young age they are easily exploited and abused by older men.
- There is a general lack of legal awareness, some AGYWs are illiterate or do not go to school and are unable to access information via schools or posters
- Some victims do not know or are afraid to report cases of defilement. There have been cases where mothers are aware and allow step-fathers to defile their step-daughters. In these cases, victims are less likely to report abuses.
- The police shame and abuse sex workers when they report. In some cases of defilement, the police try to insinuate that the victims participate in the act willingly.
- Organisations such as the police, social welfare and youth clubs are not adequately coordinated. In some cases, AGYW are only comfortable reporting abuse to their peers in youth clubs but there isn't an established referral link between youth clubs and the necessary authorities

#### **Women's GBV survivors' experiences**

- The main type of abuse that women in Mtandire are facing is abandonment. Men are abandoning wives and children in rented houses and go to start other families.
- In most cases the authorities are not able to track the men down.
- There are a lot of cases of child marriages due to a lot of AGYW growing up in poor households.
- CBOs endeavor to break up these marriages, however the girls tend to eventually go back due to their lack of financial resources



### **Widows' experiences when accessing justice services**

- A prevalent issue amongst married couples is economic abuse, where the husband does not fully disclose their assets and sources of income. In cases where the husband dies without a will, the widow does not have the tools or the knowledge to be able to claim all of the assets she is entitled to.
- In some cases of asset distribution, some officials are biased towards, and sometimes bribed by, the relatives of the deceased husband to the detriment of the wife and children.
- Some cases of inheritance take so long and exact such a toll on the widow that sometimes they just give up and try to move on with their lives
- There are sometimes situations where the family of the deceased will try to undermine the widow's right to inheritance by casting aspersions on her character. In some cases, the family of the deceased accuse the widow of being a witch and killing the husband. This causes widows to abandon their claims out of fear.

### **LGBTQI experiences with access to justice**

- The LGBTQI community was represented by Monica.

- There are not enough legal or medical services that cater to the specific needs of the LGBTIQ community.
- Some hospitals and clinics do not have medication for anal-related complications that are common amongst gay sex workers and sexual abuse victims
- LGBTIQ victims are marginalised when they report cases to the police. In some instances, officers use abusive language towards victims and refuse to assist them.
- Awareness campaigns and educational materials deliberately ignore the existence, needs and challenges that the LGBTIQ face when it comes to GBV



### **Women's experiences in politics**

- The women in politics were represented by Councilor Munira
- There is a general bias towards men at all political levels
- There is a lack of education and support for prospective female politicians
- During elections, male candidates subject female candidates to abuse in their campaigns by spreading misinformation to undermine their campaigns
- During electoral turmoil, women and young girls are usually the first victims of abuse. The case of the Msundwe women, who were abused by members of the police, has yet to be resolved 3 years down the line.

## **5.0 FINDINGS OF THE ACTIVITY**

This chapter will analyse the key findings from the presentations in the activity. The findings will be categorized in the following focus areas: Police and CVSU, Judiciary, Health, Local Leaders and Politics.

### **Police and CVSU**

With regards to the police and the CVSU, the following are the major challenges that were unearthed in the testimonials: marginalisation of vulnerable groups, lack of professionalism towards victims of GBV, lack of resources and poor record keeping practices and lack of coordination between police and other GBV institutions.

According to victim testimonials, occurrences are fairly common where officers treat sex workers and victims who happen to be LGBTQI with disdain and disrespect. On multiple occasions victims reported that their cases were handled incorrectly, and in some cases officers refuse to handle their cases at all. It can be argued that the biasness on display here stems from negative societal attitudes towards the LGBTQI community and the sex-work profession. The sex-work profession has traditionally been viewed as immoral and sex workers tend to be maligned in society by both men and women. It seems that these in-built attitudes and viewpoints contribute to the police's lack of professionalism when it comes to handling cases that involve case workers.

In terms of the LGBTQI, the same point of societal attitudes can be argued. Same-sex partnerships are also viewed as immoral by both the society at large and, more prevalently, in multiple religious communities. Compounding the problem is the fact that there is currently uncertainty regarding the legality of same-sex relationships in Malawi. The Malawi Penal Code proclaims that indecent practices between females (Section 137A) and carnal knowledge of any person against the order of nature (Section 153) are crimes. Since 2011 there have been multiple attempts to have these statutes reviewed, but as of 2023 no discernible progress has been made. All of these factors seem to contribute to the general lack of care, consideration and professionalism in the way the police sometimes handle GBV cases involving members of the LGBTQI community.

Another significant problem that was reported was that there is a culture of victim shaming in the police. On multiple occasions, victims, who are sometimes underaged, have been accused of provoking their abusers. In one specific example, a representative from Go Child recalled a case where during an interview with a victim the officer asked whether the victim, an underaged girl, felt any pleasure when she was being sexually abused. It can be argued that these instances of unprofessional conduct are as a result of a lack of specialised training for officers who handle cases of GBV, especially those involving victims who are underaged. According to the VSU representative, one of the challenge their office has is the lack of skills and knowledge in the management of SGBV. Consequently, some officers are poorly equipped to handle these types of cases. It can also be argued that victim shaming is as a result of negative societal attitudes where actions of sexual abusers are explained away by excuses such as “the victim was provocatively dressed” or “the victim led the abuser on”. This type of victim shaming is also common in cases of cyberbullying where victim's private pictures are leaked on social media.

With regards to record keeping and filing systems, it was reported that in some cases victim's case files, statements or hospital reports have gone missing at police stations, making it necessary for the victim to start the process of reporting all over again. This was corroborated by the representative of the VSU as it was highlighted that some of the main challenges that the office faces are that they have inadequate materials for the management of SGBV and they lack data management skills. Additionally, it was noted that VSUs do not have enough office space to adequately do their jobs.

It was also acknowledged by both the Cyber Crime Unit representative and victims of cyberbullying that the unit does not have the necessary equipment to carry out crucial activities such as tracing perpetrators. As a result of this, a lot of cyber-crime cases are left unresolved and victims are left with no discernible recourse. According to the Cyber Crime Unit representative, this has resulted in a loss of public trust in their ability to resolve cases.

In terms of lack of coordination, victims reported that sometimes they faced difficulties when their cases were referred between multiple institutions. In some cases, victims are required to shuttle back and forth between different offices (the police, hospital, social welfare etc.) when they find that their cases have not been properly referred. As a result of this poor coordination, some victims end up abandoning their cases due to high travel costs and frustration. This lack of coordination can be as a result of inadequate coordination structures and referral systems amongst GBV institutions.

According to the VSU representative, the first main recommendation for addressing these challenges is the establishment of capacity building programs for VSU officers in order to ensure that they are properly equipped to handle all types of GBV cases. Secondly, VSUs need to be equipped with the necessary resources (adequate office space, mobility) to be able to provide services properly. The third recommendation is that One Stop Centers need to be revamped so that victims are able to receive different types of services adequately in one location. Additionally, VSU subcommittees need to be revamped so that there are more providers to cater to a wider population. The final recommendation was that there needs to be docket tracing exercise activities for SGBV cases.

### **Judiciary**

In terms of the judiciary, the main challenges that were presented were: unavailability and inaccessibility of courts and human rights offices, length of time it takes for cases to be resolved and the inefficiency and corruption of court staff.

A major challenge that was reported by the representative of women in the northern region was that a lot of women find it difficult to access court and human rights offices. Women have to travel long distances on multiple occasions to get to court, and there are no human rights offices in the whole of the northern region. As a result of this lack of availability and accessibility, a lot of victims abandon their cases of abuse, while some are reluctant to even start the process at all. It was also reported that a lot of the hotlines that women are provided for GBV services do not work. These challenges seem to stem from the lack of infrastructure and judiciary personnel, especially in the northern region.

Compounding matters further, women who manage to get their cases to court have to endure long waiting times for their cases to be resolved. Some cases take multiple years in court, and this proves to be too much of a financial and psychological burden on women, many of whom end up abandoning their cases. These delays seem more pronounced in cases involving police abuse such as the Msundwe case, as noted by Councilor Munira. In this case, multiple officers were accused of sexually assaulting women in Msundwe, Mbwatalika and Mpingu in 2019. Despite high media scrutiny and assurances of justice from authorities, the case still remains stagnant in 2023.

It was also reported that in some instances, maintenance orders for wives and children are not processed correctly by court officials, increasing the financial burden on victims. In the testimony it was also alleged that some court officials are bribed by men to not process the orders or they embezzle the funds intended for the victim.

According to the Office of the Ombudsman, one of its mandates is to inquire into and investigate any complaint laid before her concerning any alleged instance or matter of abuse of power or unfair treatment of any person by an official in the employ of an organ of government. However, the representative of the Ombudsman acknowledged that the office faces some challenges in achieving this mandate, and some of them are the non-responsiveness and delays of MDAs to issues under investigation, poor record-keeping by MDA. These challenges elongate the length of time that it takes for investigations to be resolved. Another challenge mentioned was that the Office of the Ombudsman does not always have the necessary resources, such as equipment, stationery, vehicles and fuel to efficiently carry out investigations.

In order to mitigate these challenges, the first recommendation suggested was that there is a need for resource mobilisation from developing partners, in order to equip the office with the necessary resources it needs to carry out its duties. Secondly, the office needs to collaborate with relevant institutions when conducting investigations in order to pool resources which would result in increased efficiency. It was also suggested that there needs to be a Memorandum of Understanding with National Initiative for Civic Education (NICE). This MoU would help make coordination between the two offices more efficient and effective as NICE has a larger reach in the country when it comes to cataloguing people's complaints. The fourth recommendation was that the office needs to lobby authorities on the amendment of staff terms and condition of service.

In addition to the Office of the Ombudsman, the Independent Claims Commission was established in 2020 with the mandate of conducting independent, impartial and quality investigations into public complaints against police officers. However, the office experiences challenges when conducting their investigations. The first challenge is that the ICC is widely regarded as persecutors and witch hunters by the police, and as such there is significant resistance or even hostility whenever there is a need for collaboration or sharing of reports. Some officers do not report cases to the ICC because of fear of reprisal. In addition to this, the culture of comradery in the police results in officers protecting each other, as well as senior officers interfering in cases by writing or editing the reports of suspected officers. The interference also extends to the exclusion of ICC to crucial activities such as scene visits and post mortem examinations.

In order to tackle these issues, the first thing that ICC recommends is that the legal framework should be reviewed in conjunction with the police, in order to add clarity, fill in gaps and add new regulations for the better implementation of the act. In addition to this, there is a need for robust civic awareness activities to both the public and the Malawi Police Service (MPS) to increase awareness of the functions of the ICC. The second recommendation is that there is a need to enhance collaboration with the MPS and other oversight authorities in order to increase the efficiency of investigations. The third recommendation is that the office needs more resources and staff in order to efficiently carry out their work. On top of this, there is a need to build the capacity of both ICC and the MPS.

### **Health**

With regards to the health sector, the main complaints revolved around the lack of expertise and resources that medical staff have with dealing with the specific health needs of LGBTQI patients.

It was noted by the LGBTQI representative that hospital staff tend to not have the expertise to deal with their specific needs. A significant portion of staff have not been trained on psychosocial counseling or the unique medical needs of sexually active LGBTQI people. In addition to this, hospitals and clinics tend to not have medication for anal-related complications that are common amongst gay sex workers and sexual abuse victims. As a result of this, LGBTQI patients are do not get the care or advice they need from hospitals, diminishing their health and quality of life.

### **Local Leaders**

Concerning local leaders, the following are the prominent points that were raised: lack of knowledge of GBV laws and unprofessionalism when handling cases involving women.

The first problem reported was that some chiefs tend to trivialize cases of sexual abuse and child marriages in their areas. Instead of reporting these cases to the relevant authorities, some chiefs elect to handle the matter themselves. If the case involves sexual or physical abuse between spouses, some chiefs choose to involve traditional marriage counselors to help resolve the problem instead of referring the case to the police. In cases of child marriages, some chiefs do not take an active role in dissolving the marriages, and in some cases some chiefs allegedly officiate marriages involving underaged girls. This unprofessionalism could be a result of a lack of awareness of GBV laws and referral systems.

It was also reported that some chiefs take advantage of women by demanding sexual favours in exchange for services. The testimonial of the women's representative alleged that some chiefs in the northern region demand sexual favours from women looking to buy land in their villages. Since competition for land is usually high, some women feel they have no choice but to acquiesce to these types of demands. Additionally, it was reported that some chiefs tended to defraud women who paid to buy land by selling the land a second time to a third party. According to the representative, chiefs do this primarily to women because they are confident that women will be unable or unwilling to report them to the relevant authorities.

### **Politics**

In terms of the challenges women face in politics, it was reported that there is a general lack of support for female politicians in the country. Societal and cultural norms and general sexist

attitudes mean that most people are used to, and prefer to see, males in positions of power. This gives women in politics an uneven playing field because when they are up against a male opponent, they are considered the inferior choice by default, regardless of their policies or capabilities.

Another factor that contributes to this uneven playing field is the economic inequalities between males and females in Malawi. Politicians need to generate a significant amount of capital in order to run successful campaigns, and in this regard, female politicians are at a disadvantage because of the disparity of earning power between men and women in Malawi. In addition to this, it was noted that there is a significant lack of mentorship or training programs that can groom future female politicians. This lack of educational opportunities provides fewer opportunities to prospective female politicians as opposed to their male counterparts.

Another challenge that was mentioned was that male politicians tend to abuse their female opponents during election campaigns. Some female politicians have been subject to misinformation spread by their male opponents, while in other cases female politicians and their supporters have been assaulted during their rallies and gatherings. All of these factors create an environment of intimidation for female politicians and lead to a drop in levels of participation for females in politics.

## **6.0 CONCLUSION AND RECOMMENDATIONS**

### **6.1 Conclusion**

The town hall meeting has highlighted that there are significant gaps and shortcomings with regards to GBV service provision. The gaps will be highlighted below and segregated by sector. It is recommended that these gaps form the basis for the follow-up breakfast meeting with service provision institutes.

#### **Police and CVSU**

- Marginalisation of certain types of victims (sex workers, LGBTQI)
- Lack of respect and verbal abuse toward GBV victims
- Poor filing and record keeping, resulting in lost case statements
- Lack of resources to adequately tackle cybercrime
- Lack of coordination between GBV institutions
- Lack of training in GBV and psychosocial services

#### **Judiciary**

- Judicial services are inaccessible for a lot of women as there are very few courts and human rights offices
- Cases take too long to resolve, resulting in most victims abandoning their cases
- Maintenance orders are sometimes not processed efficiently by the courts. Some court officials have embezzled funds intended for victims
- Cases, where police have abused their powers, are not adequately addressed

## **Health**

- Some hospitals and clinics do not have medication for anal-related complications that are common amongst gay sex workers and sexual abuse victims
- Not enough staff are trained to handle the specific needs of LGBTQI patients

## **Local Leaders**

- Some chiefs trivialize cases of GBV and child marriage and do not report them to the necessary authorities
- Some chiefs take of advantage of women and ask for sexual favours in order to provide them with services
- In some cases, chiefs defraud women by selling them land that has already been bought by another party

## **Politics**

- There is a general bias towards men at all political levels
- There is a lack of education and support for prospective female politicians
- During elections, male candidates subject female candidates to abuse in their campaigns by spreading misinformation to undermine their campaigns

## **6.2 Recommendations**

The following are the recommendations presented by the following institutions: CVSU, Office of the Ombudsman and the ICC.

### **CVSU**

- Capacity building of Victim Support Unit officers
- Revamp and trainings of the One Stop Centers
- Equip VSUs with necessary facilities
- Revamp VSU sub committees
- Conduct a docket tracing exercise for SGBV cases

### **Office of the Ombudsman**

- Resource Mobilization from the Developing Partners
- Joint investigations in order to tap resources from the other institutions
- Memorandum of Understanding with National Initiative for Civic Education Trust who collects complaints from all areas of Malawi due to their wide presence
- Intensive sensitization of OoO operations through websites Facebook and Twitter
- Lobby with authorities on amendment to the Staff Terms and Conditions of Service

### **ICC**

- Review the legal framework to fill gaps
- Add clarity and provide for regulations for the better implementation of the Act
- Recruit more staff and enhance skills development for both ICC & MPS
- Lobby for increased budgetary allocation from Government
- Intensify civic awareness on functions of ICC to both the general public and MPS
- Enhance collaboration with MPS and other oversight bodies/Authorities

# APPENDICES

## Appendix 1: The Nation Newspaper Pabwalo Article

**4 NATIONAL**

*Our Services  
Our People*

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# Gaps in women's rights advance raises concern

**BRENDA BULIYANI**  
STAFF REPORTER

**G**aps in the advancement of women's rights have caused worry among rights defenders who have called for the need to enhance women's access to justice and empowerment.

Human rights activist Scader Louis, delivering her keynote speech on Friday at the Pabwalo Town Hall organised by the Gender and Justice Unit (GJU) to assess and highlight citizens' experiences and evaluations of human rights oversight bodies, called for the need to address the gaps to ensure that women are adequately protected and empowered.

She said spaces such as the Pabwalo Town Hall can also play a crucial role in addressing the gaps in access to justice, thereby improving the accountability and integrity of human rights oversight bodies.

Louis, who recently completed her tenure as Malawi Human Rights Commission (MHRC) chairperson, said: "Despite some achievements, marginalised groups, such as women, persons with albinism, persons with disabilities, female sex workers, and sexual and gender minorities, continue to face various challenges when seeking justice.

"There are inadequate resources allocated to human rights oversight bodies, which limits their capacity to monitor and investigate human rights violations effectively."

On her part, Just Associates (Jass) Northern Region coordinator Tiwonge Gondwe observed that there is still delayed justice for both women and children; that women still face challenges in land ownership, and accessing human rights bodies such as the Ombudsman and MHRC which mainly operate from cities.

Jass is an international organisation that is building women's collective power for justice.

In her response, MHRC executive secretary Habiba Osman conceded that with their presence

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## Ammended land laws stir panic

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economic benefits.

He said: "Restriction in selling customary land helps Malawians to have something to hold on to. Land is culture. We do not need to have a case where Malawians become landless.

"Foreigners for their financial muscle already have an upper hand. We do not have to wake up one day where the whole land is gone to foreigners."

On the other hand, Lilongwe University of Agriculture and Natural Resources agriculture economist Dr. Henry Kamkwamba proposed a middle-way which would allow Malawians to own land they can lease to foreigners to have a win-win situation.

Former minister of Lands Atupele Muluzi, who was the line minister during the 2016 enactment, said the amendments have come rather too early even before the laws were fully piloted to draw important lessons.

He described the amendments as a case of populism, saying: "Land reform is a very complex, sensitive and emotive matter. Government may have rushed with the amendments and populism may have been considered over evidence. The amendments of 2022 can negatively impact on Malawi's growth and development."

In his statement in Parliament on June 8 2017, Muluzi spoke highly of the land laws, saying they were a game-changer to Malawi's development trajectory.

**Louis, ICC's Christopher Tukula and Ombudsman  
Office's official Martha Kwengwere**

PHOTOGRAPH: BRENDA BULIYANI

## Appendix 2: PowerPoint Presentation of Invited Institutions

Below is the Google Drive link for the PowerPoint presentations administered at the event.

[https://drive.google.com/drive/folders/1\\_SaZyccVhg-FSIGTwPan4XNfaEMILHa?usp=sharing](https://drive.google.com/drive/folders/1_SaZyccVhg-FSIGTwPan4XNfaEMILHa?usp=sharing)

