



# The Civil Justice Needs of Women in Rural and Peri-Urban Lilongwe

PILOTING WOMEN'S LEGAL EMPOWERMENT AS A MEANS OF IMPROVING ACCESS TO CIVIL JUSTICE; AND,  
ENHANCING INTEGRITY WITHIN THE FORMAL AND TRADITIONAL JUSTICE MECHANISMS (AUGUST 2019)

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## ACRONYMS

<b>CA</b>	Community Activist
<b>CAG</b>	Community Action Group
<b>CBO</b>	Community Based Organisations
<b>CDA</b>	Community Development Assistants
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CHAG</b>	Community Health Action Groups
<b>CSC</b>	Community Scorecard
<b>CSO</b>	Civil Society Organisations
<b>CVSU</b>	Community Victim Support Unit
<b>DEC</b>	District Executive Committee
<b>FGD</b>	Focus Group Discussion
<b>FP</b>	Family Planning
<b>GBV</b>	Gender-Based Violence
<b>GJU</b>	Gender and Justice Unit
<b>GVH</b>	Group Village Headman
<b>HIV</b>	Human Immunodeficiency Virus
<b>HSA</b>	Health Surveillance Assistant
<b>LE</b>	Legal Empowerment
<b>MGCDSW</b>	Ministry of Gender Children Disability and Social Welfare
<b>NRC</b>	Natural Resources College
<b>OSISA</b>	Open Society Initiative for Southern Africa
<b>SRH</b>	Sexual and Reproductive Health Rights
<b>STI</b>	Sexually Transmitted Infection
<b>TA</b>	Traditional Authority
<b>UDHR</b>	Universal Declaration of Human Rights
<b>VDC</b>	Village Development Committees
<b>VSL</b>	Village Savings and Loans
<b>VSU</b>	Victim Support Unit
<b>YFHS</b>	Youth Friendly Health Services

## EXECUTIVE SUMMARY

This baseline study for the Gender and Justice Unit (GJU) explored the civil justice needs of women and girls in three rural and peri-urban communities in Lilongwe using Lumbadzi, Chitipi, and Chigwirizano as research sites. The baseline study explored civil justice needs of women and girls through the voices of the women themselves as well as those of service providers. The study identified needs and outlined proposed solutions to those needs and problems and provided action plans for implementing the proposed solutions.

### Methodology

The study employed a mixed-methods approach, using both qualitative and quantitative research methodologies. The Community Score Card© (CSC) methodology was used to facilitate the collection of qualitative data with groups of targeted women and key justice sector actors. CSC is a citizen-driven accountability approach for the assessment, planning, monitoring, and evaluation of service delivery. The approach engaged both the service providers and users into Focus Group Discussions (FGDs) and interface meetings to identify issues and possible solutions to identified challenges. This approach brought together community members, key actors, and local government officials to collaborate on finding solutions to barriers they identified. An FGD guide was used to guide the CSC process. For the quantitative portion, a structured questionnaire was used to collect data through in-depth interviews with randomly selected women within the study sites.

Finally, the research findings were presented to national stakeholders who shared their responses to the research findings and their perceptions of access to civil justice for rural and peri-urban women.

### Study Population/Sampling

A targeted, non-random sampling framework was utilised to identify both focus group discussion and in-depth interview representatives from each of the locations. One hundred and fifty women between the ages of 18 and 65 were selected from each of the locations for FGDs, leading to a total sample of 450. For in-depth interviews, 160 respondents were sampled from the three locations.

### Data Management and Analysis

Quantitative data was analysed using Microsoft Excel and the Survey Monkey online system while the qualitative data was analysed using content analysis by theming and coding the data generated.

### Key Findings

#### 1. Civil Justice Needs

Civil justice needs of women in all the three locations were similar with very slight variations. Most of the needs cited revolved around access to or lack thereof of civil justice services on issues such as child support, gender-based violence (GBV), land, and financial disputes. Participants highlighted that the most common child support issues involved young women who fall pregnant out of wedlock and women who are separated or divorced. Also highlighted were issues of land and property grabbing, especially involving widows. The graph (Figure 1) below illustrates common civil cases or issues as identified by the respondents at the three locations with GBV (69.49%) lack of child support after being impregnated (55.90%) being the two most common and financial disputes (5.59%) being the least common problem.

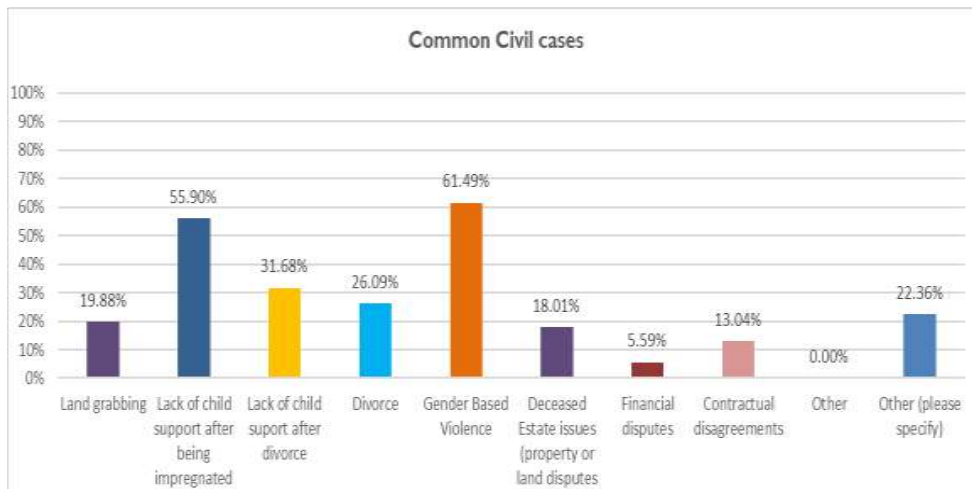


Figure 1: Common Civil Justice Issues

## 2. Access to and Availability of Services

The results revealed that there is an unmet need for women’s civil justice services in all three locations. The participants highlighted (as illustrated in Figure 2 below) that traditional leaders (chiefs) (75.7%) and police (67.7%) are the primary service providers for the civil justice issues cited above at all the sites. Marriage counsellors were mentioned as service providers, especially for civil cases involving marital disputes. Respondents indicated that the first point of contact for marital disputes were marriage counsellors. However, if a marriage counsellor fails to handle a case, the case is then referred either to the chief or the police. Chiefs are the central point of referral for cases from both from the police and the marriage counsellors. The results indicate that matters are hardly taken to court: only 12.42% of the participants indicated reporting cases to court.

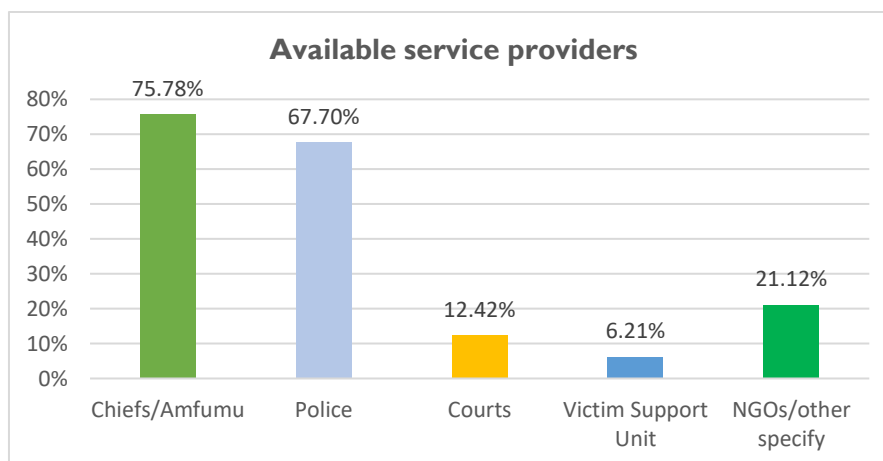


Figure 2: Available Service Providers

Alongside the limited number of service providers available at these locations, additional barriers exist that prevent women from accessing civil justice as discussed below.

## 3. Barriers to Access to Civil Justice

Results revealed several barriers that prevent women in the targeted areas from accessing civil justice:

- **Corruption:** Respondents mentioned corruption as the main barrier to accessing civil justice. Respondents reported corruption mostly involving the police and sometimes chiefs asking for bribes as the main barrier to accessing justice.
- **Favouritism:** Favouritism is very common, especially in the rural areas where access to justice heavily relies on traditional leadership who in most cases, lack objectivity and are easily corruptible.
- **Inadequate resources:** Participants indicated that choosing to pursue justice requires one to have some resources. Respondents at all three locations revealed that complainants are required to pay a fee either to the police or the chief for these service providers to assist them in their case. This is a form of corruption as it is not a requirement by law. The requirement to pay fees was also cited as the reason for favouritism as assistance will usually be provided in favour of those with resources rather than the poorest. At all three locations, individuals require transport to be able to travel to the police or court. Respondents reported that delays in resolving issues both at the police and the court as well as lack of transportation to go back and forth usually results in the withdrawal of cases and is also demotivating for those seeking to pursue justice on an issue.
- **Inequalities of the justice system:** The participants indicated that gender inequalities are prevalent and that this contributes to their dissatisfaction in accessing civil justice services. Respondents indicated that, in most cases, service providers are highly corrupt and biased. According to the respondents, women are disadvantaged due to their lower socioeconomic status compared to men as men usually have the financial muscle and ability to bribe service providers. Respondents recommended the need for civic engagement and education with communities on equal rights and improved reporting systems.
- **Social and cultural norms:** Participants indicated that traditional beliefs also prevent women from pursuing justice and that women (especially in domestic disputes such as GBV) are groomed to believe that one must persevere even in an abusive relationship. We “turn a blind eye, persevere and life goes on,” added one respondent.

Figure 3 below outlines the barriers to civil justice as cited by respondents.

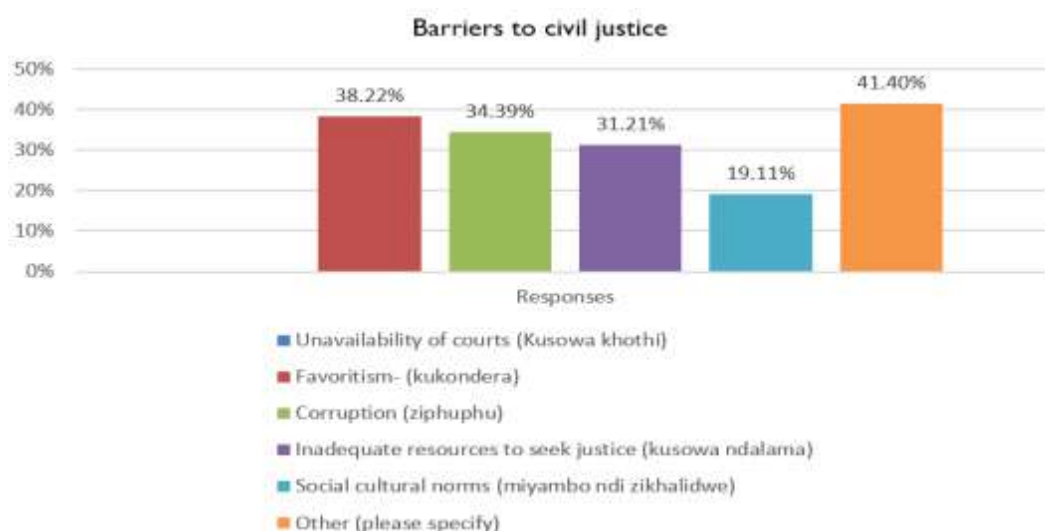


Figure 3: Barriers to Civil Justice

## Identified Problems and Issues

### 1. Knowledge Gaps

The research findings revealed that women have limited knowledge about their rights and where and how to seek justice. The participants attributed this knowledge gap to inadequate sources of information. They indicated radios as the primary source of information but that not everyone owns radio and that such information is not always available on the radio. The respondents also attributed the gap in knowledge to inadequate service providers – both public and private. Through the discussions, the participants highly recommended that Civil Society Organisations (CSOs) and public service providers should improve their programming with a strong emphasis on community awareness campaigns on civil justice and to include men in all programming to ensure their understanding of what women’s needs are.

Lack of knowledge and capacity in service provision by the informal justice sector was also cited as an issue affecting the accessibility of civil justice for women: for example, it was mentioned that most chiefs are operating with minimal or no knowledge about the laws of Malawi that protect women. Other participants mentioned that the service providers are also influenced by their socio-cultural values, which in most cases are driven by gender imbalances and misconceptions.

## 2. Equality in the Legal Judicial System

Participants agreed that government, CSOs, and other stakeholders are not doing enough to protect the rights of women. The participants further explained that, despite the presence of police and local leaders, they felt that civil cases involving women usually do not see completion because the police, as well as chiefs, demand money before resolving the cases. This, participants emphasised, brings in unfairness and inequality because only those with the financial muscle will see justice served. Comparatively, women are usually at a disadvantage economically than men the participants explained. As a result, women in most cases, cannot afford to pay the police or chiefs and consequently end up withdrawing or giving up on pursuing their cases.

## 3. Attitudes of Service Providers

Collectively, participants stated that they are not satisfied with the civil justice services being provided in the area. The first referral points for civil cases at the study locations are the police and traditional leaders (chiefs). Both these parties were reported to be untrustworthy due to corruption. Participants reported that the police do not assist them but rather the police are bribed by perpetrators who in turn never get punished for their crimes but are instead seen roaming freely in the communities even after committing various atrocities including defilement. *“Since men are financially capable, they can afford to bribe service providers who then decide the matter in their favour. Decisions made in women’s favour will, however, still give men lenient punishments. Men, therefore, continue to abuse women,”* noted one participant. Participants also reported meeting negative attitudes by service providers, especially in cases that involve domestic disputes or GBV. One respondent explained, *“they tell us, that is a domestic issue which should be discussed with your husband, we have real cases to deal with.”*

## 4. Matriarchal vs Patriarchal Society

Culture plays a role in access to civil justice in the study areas; all three study sites practice matriarchal systems of culture. The mother and the children are deemed to belong to the maternal side. Therefore, the participants elaborated that when the husband dies, the women and children are at risk of property and land grabbing, which in turn leads to various injustices for the widow and the orphaned children.



## CHAPTER 1: INTRODUCTION

This report presents findings of a baseline study conducted by the GJU under the *Piloting Women's Legal Empowerment Project*. The study was conducted in Lumbadzi, Chitipi, and Chigwirizano.

### Contextual Background

Access to justice is a fundamental principle of the rule of law. In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination, or hold decision-makers accountable. It is *"much more than improving an individual's access to courts or guaranteeing legal representation and defined in terms of ensuring that legal and judicial outcomes are just and equitable."*<sup>1</sup>

"'Justice' is an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. Justice implies regard for the rights of the accused, for the interests of victims, and for the well-being of society at large. It is a concept rooted in all national cultures and traditions and, while its administration usually implies formal judicial mechanisms, traditional dispute resolution mechanisms are equally relevant." UN Secretary General, Kofi Annan, The Danish Institute for Human Rights, 2011.

Access to justice also means access to fair laws, procedures as well as affordable, implementable, and

appropriate remedies in terms of values that conform to constitutional values and directives. The Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee's General Recommendation No. 33 focuses on women's access to justice. In the recommendation, the Committee identifies six essential components of access to justice:

1. justiciability, i.e., the unhindered ability of women to access justice and to claim their rights under CEDAW;
2. availability, which entails the existence of courts and other quasi-judicial bodies throughout the national territory, including rural and remote areas;
3. accessibility, requiring all justice systems to be secure, affordable, physically accessible to women and that they are adapted and appropriate to respond to the needs of women;
4. good quality, which includes elements such as competence, efficiency, independence, impartiality, and timeliness, among other things;
5. the provision of viable and meaningful remedies; and
6. accountability of the justice system(s).

Access to justice is interconnected with legal empowerment – the ability of people to understand and use the law for themselves – and enables even those who are most marginalised to achieve justice, meet their basic needs, hold authorities to account, protect their interests and participate in economic activities in an inclusive manner.<sup>2</sup>

In developing countries, and indeed the world at large, justice is not always easily accessible by all – and especially not by the vulnerable and marginalised populations. Fundamentals and principles of justice are mostly brilliant on paper but not so much in reality. A combination of factors, including existing developmental problems, affect the accessibility of justice for the marginalised populations, especially those in the developing world. These include:

<sup>1</sup> Pamela R. Kovacs, 'Access to Justice and the International Human Rights Framework', available at <http://claihr.ca/2015/05/27/access-to-justice-and-the-international-human-rights-framework/>.

<sup>2</sup> <http://www.oecd.org/gov/delivering-access-to-justice-for-all.pdf> I would include a full citation here

**Low literacy levels** - This entails a lack of information and legal knowledge that allows individuals to be aware of their rights and available dispute resolution mechanisms that are available to them. If individuals are not aware of their rights, and where and how their disputes can be resolved, they remain victims unable to fight or advocate for themselves. Knowledge is therefore crucial because even when fair laws and systems are in place, individuals might be unable to exercise and protect their rights in practice if they lack the knowledge or the resources to access and navigate the justice system. Women are especially at a disadvantage *vis a vis* men, given that their literacy rate, access to information, legal awareness, and access to economic resources are lower, on average than men's.

**Poverty** - In developing countries, especially in rural communities, lack of economic resources hinders access to justice. Official and unofficial costs also represent a disincentive to accessing justice, more so for the poor and disadvantaged – including women – who have limited access to economic resources. Cost of legal representation, court fees, travel, loss of income due to absence from work might be coupled with requests for bribes – further penalising vulnerable groups. Specifically, distance and poor access to means of transportation affect people's ability to access justice – i.e., courts and representation – in many ways. Travelling great distances is both time-consuming and costly. It may cause a loss of income due to the hours or days a person needs to leave work to travel to courts and participate in court proceedings. Poor women are at a disadvantage as they may have limited access to household resources or enjoy limited mobility due to tradition or time poverty, childcare duties, and lack of means of transportation. In most poor economies, the existence of free, affordable, or quality legal aid/advice is usually non-existent. This, therefore, denies justice and fosters inequality for both criminal and civil cases for those who are unable to afford it.

**Corruption** – Corruption is a common phenomenon in the developing world where the resolution of disputes may often depend on whom you know or the size of your pocket. The presence of corruption in judicial systems and fairness of judicial processes and outcomes may create mistrust in the justice system. Lack of trust in the justice system hinders access to justice because citizens lack the confidence that their grievances will be resolved fairly and effectively. Cultural distance, conflicting values, perceptions of corruption, inefficiency, discrimination, and high attrition rates are all elements which might contribute to making citizens wary of the justice system.

**Efficiency of the legal system** - As the World Bank acknowledges, "the concept of access to justice [should] focus on two basic objectives of a legal system: (1) that it is accessible to people from all levels of society; and (2) that it is able to provide fair decisions and rules for people from all levels of society, either individually or collectively."<sup>3</sup> In most developing countries (such as Malawi) this is far from the truth. Most Malawians rely upon traditional justice systems as a means of accessing justice and dispute resolution mechanisms. The efficiency of the legal system at this level is questionable due to factors such as those listed above. Legal systems in these areas end up being incompetent, biased, and inefficient. As such, the systems do not have the capacity or ability to respond to citizens' justice needs. In Malawi, for instance, an absence of or poorly designed procedural laws, i.e., lack of functioning mechanisms to implement rights, are essential reasons for ineffective substantive laws. This may partly explain why constitutional rights, as progressive as they

Access to an unjust legal system does not qualify as access to legal justice, no matter how excellent the laws appear on the statute books.

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<sup>3</sup> Desmond Mudala Kaunda. 2011. *Expanding access to justice for the poor Malawi's search for solutions a comparative analysis with other select informal justice systems*. The Danish Institute for Human Rights.

may appear, remain so on paper only, taxes are not efficiently collected, and public investments in social services stay below 'guaranteed' levels.<sup>4</sup>

The Malawi Constitution also domesticates and entrenches the concept of access to justice under Section 41. Section 41(1) is couched in similar terms as Article 6 of the Universal Declaration of Human Rights (UDHR). Section 41(1) states that "every person shall have a right to recognition as a person before the law." Section 41(2) builds further on this by stating that "every person shall have access to any court of law or any tribunal with jurisdiction for final settlement of legal issues." Further, Section 41(3) provides that "every person shall have the right to an effective remedy by a court of law or tribunal for acts violating the rights and freedoms granted to him by this Constitution or any other law."<sup>5</sup> Unfortunately, not many studies have been done in Malawi to evaluate the status of access to justice in the country or the effectiveness of the legal system. Nonetheless, Malawi as a developing country is not exempted from the access to justice hindrances that exist in most developing countries. A study conducted by Wilfried Schärf et al. titled *Access to justice for the poor of Malawi*, revealed country-specific issues affecting access to justice for the rural poor of Malawi.<sup>6</sup>

Status of Access to Justice for the Rural Poor in Malawi – A DFID Study

1. There is limited access to quality justice for the rural poor, and the range of services that are delivered in remote areas is severely limited.
2. The Malawi legal system leaves many without access to legal advice and representation. Consequently, for many would-be applicants, the initial hurdle on the way to courts is finding appropriate legal advice. This study found that the clerk of the court is the first point of contact between the litigant and the formal legal system. The duties of a clerk include preparing summons, warrants, acting as official interpreter, and keeping records of proceedings. Since most of the litigants are unrepresented, they get legal advice from the court clerks who are ill-trained and under-qualified to perform the role of counsel. The fact that the clerks are ill-trained and lack the requisite qualifications to perform this task leads to severe miscarriages of justice.
3. There is limited access to courts in the rural areas, and the courts which are closest to the poor are poorly resourced, poorly managed and offer a limited range of services.
4. There is a lack of legal awareness on the part of the community so that they do not know which cases to bring to the attention of the court. They do not regard the court as relevant to their needs.
5. There is a lack of support services, for example, paralegal, police, and prosecutors who can generate work for magistrates.
6. There is a lack of trust of the communities in those institutions.
7. Geographical inaccessibility is the most significant major obstacle to access to the 'formal' system through physical inaccessibility. One of the significant findings of this study was that most of the lower-level magistrates close to the people in rural areas are currently not operational. Those that are operational have severely limited jurisdiction because the structure of the court and deployment of magistrates is not pro-poor.
8. The road network in rural areas is inadequate or sometimes non-existent. Consequently, most people in rural areas have no or minimal access to public transport. As a result, they have to walk

<sup>4</sup> Desmond Mudala Kaunda. 2011. *Expanding access to justice for the poor Malawi's search for solutions a comparative analysis with other select informal justice systems*. The Danish Institute for Human Rights.

<sup>5</sup> Desmond Mudala Kaunda. 2011. *Expanding access to justice for the poor Malawi's search for solutions a comparative analysis with other select informal justice systems*. The Danish Institute for Human Rights.

<sup>6</sup> Wilfried Schärf, Chikosa Banda, Ricky Röntsch, Desmond Kaunda and Rosemary Shapiro. 2012. *Access to justice for the poor of Malawi? An appraisal of access to justice provided to the poor of Malawi by the lower Subordinate courts and the customary Justice forums*. DFID.

on average six to eight hours to access the nearest court. The only fortunate people are those who can afford bicycles. Parties also spend much money paying transport costs of their witnesses.

9. Magistrates are, in theory, supposed to make use of circuit sessions in order to alleviate this problem. However, Magistrates hardly go on the circuit because of lack of transport and public funding and accommodation. Those who take their initiative to travel are not financially supported by the system. Magistrates observed that it is not uncommon for parties to stop coming to court in the middle of their cases because of the distances.
10. The Malawi system of justice is failing to surmount one of the significant obstacles to access to justice for the poor, namely the use of the English language in our courts. The use of English also hampers communication between the Magistrate and the litigants. Even though interpreters are made available, the question remains as to whether substantive justice is done. This is because the standards of interpretation are generally abysmal. This is especially so when it comes to interpreting technical words.

Civil justice problems are the most frequent – and often most pressing – legal problems people and communities face, and often have significant and disproportionate impacts on the poor. Around the world, common civil justice issues include consumer rights, access to public benefits, employment and labour issues, land and property, family matters, and debt. Those suffering from civil justice problems include the family facing eviction, the woman seeking child support benefits from an absent husband, the daily labourer not being paid wages he was promised, and the indigenous community fighting for recognition of their traditional land rights. In order to address such challenges, we must better understand their pervasive nature and harmful impact. Legal needs surveys can be an essential tool in that process. It is with this background that the GJU conducted a baseline study to identify specific civil justice needs of rural and peri-urban women in Lilongwe.

### Background of the Organisation

GJU is a newly-established research unit that is committed to using the law as a tool for gender equality and social justice through strategic litigation, legal research, mobilisation through strategic partnerships and strengthening access to justice through pro bono legal representation, research, and advocacy. GJU works to facilitate the provision of clinical legal services and enhance the involvement of legal professionals in public interest issues through legal research, writing, and advocacy. The organisation uses information and communication technologies to increase access to justice, enhance legal literacy, and enable the widespread distribution of socio-legal research. GJU homes in on legal empowerment as one of the most potent catalysts of gender equality and social justice, both of which are cross-cutting and critical to meaningful citizen participation in public life.

### Background to the project

GJU is implementing a project called *Piloting women's legal empowerment as a means of improving access to civil justice and enhancing integrity within the formal and traditional justice mechanisms* with funding from the Open Society Initiative for Southern Africa (OSISA). The project is being piloted across the Lilongwe District Council in Chigwirizano, Chitipi, and Lumbadzi. About the OSISA project. OSISA is supporting GJU to empower economic and social justice groups through legal empowerment. GJU is doing this by targeting rural and peri-urban women and investigating their needs as they pertain to access to civil justice in the Lilongwe. The project goes a step further and will develop a white paper, with mHub, to reflect on how tech innovations can be used to promote and protect women's access to civil justice in Malawi. Lastly, a network on legal empowerment will be established, and the work of this network will be informed by a work plan that will also be developed through this project. GJU has been conducting rigorous evidence-based research into

access to civil justice for rural, peri-urban and urban slum-dwelling women in three areas in Lilongwe, Malawi. The project has been piloted across the Lilongwe District Council in three areas selected for their geographic location and the cross-section of zones since they include urban slum, peri-urban and an area classified as rural. Besides gaining a better theoretical understanding of these issues, however, and together with partners, GJU will work on adapting and prototyping regional legal empowerment (LE) solutions in the Malawian context. The outcomes of the rural women's civil justice needs survey will contribute to the development of localised LE toolkits that focus on civil justice and the justice sector in this instance, but can easily be adapted by other LE actors in their individual sectors.

## CHAPTER 2: METHODOLOGY

### Study Purpose and Scope

GJU believes that we can only realise appropriate solutions to women’s civil justice problems if there is an adequate understanding of the population’s legal needs and experiences in accessing justice. According to modern access to justice literature, the most effective way to understand the problems faced by the public is to ask them directly about their legal experiences through broad surveys.

As such, the purpose of the survey is mainly to:

1. Establish the civil justice needs of rural and peri-urban/urban slum-dwelling women in the areas of Chitipi, Chigwirizano, and Lumbadzi;
2. Provide possible solutions to addressing the needs of the women; and
3. Establish and provide Legal Empowerment (LE) solutions, i.e., the development of localised LE toolkits that focus on civil justice and the justice sector.

#### Phases of the CSC methodology

- Preparatory work and planning
- Community assessment and scoring of service delivery issues
- Service provider assessment and scoring of service provision issues
- Interface meeting between the community, service providers and government officials
- Action plan implementation and ongoing monitoring and evaluation of actions

### Research Questions

- What are the civil justice needs of women of Lumbadzi, Chigwirizano, and Chitipi?
- What are the legal services available in these locations? What is the level of quality of the available services? Are the services equitable?
- What are the experiences of women in accessing civil justice?
- What are the barriers that prevent women from these areas from accessing civil justice?
- How can civil justice be made equitable?

### Study Design and Methodology

The baseline study employed a mixed-methods approach, using both qualitative and quantitative research methodologies. For qualitative data collection, the CSC methodology was used to collect data from groups of targeted women and key justice sector actors. On the other hand, a structured questionnaire was used to collect quantitative data through in-depth interviews with randomly selected women within the study sites.

Finally, national-level civil justice service providers and key stakeholders were engaged through a validation meeting. Invitations were made to identified civil justice providers at the national level as well as critical stakeholders that engage with women and youth. The participants were asked to engage with the same questions that were put to respondents during the baseline survey and respond with their perceptions of the civil justice needs of rural and peri-urban women, as well as giving possible solutions to the challenges identified.

### The CSC Methodology

Community ScoreCard (CSC) is a citizen-driven accountability approach for the assessment, planning, monitoring, and evaluation of service delivery. The approach engages both the service providers and users into FGDs and interface meetings to identify issues and possible solutions to identified challenges. The approach brings together service users to mutually generate solutions and work in collaboration to implement and evaluate the effectiveness of the solutions. The process is done at the local level through which immediate feedback is given for quality improvement.

The information generated enhances informed decision/policy making by power-holders that would respond to citizen's needs. The CSC also enhances the capacity of decision-makers learn about which strategies or programs are effective, directly from the service users (communities).

The CSC process is designed to empower individuals to advocate for their right to access services by holding governments and other actors accountable for the quality and equity of services in their communities. At the same time, the CSC raises awareness among citizens of what they are entitled to and empowers them to speak out. In this study, FGD conversations aimed to bring together service providers and community members to discuss issues of civil justice concerning women in order to establish what the needs are, and the challenges met in attempts to access civil justice and their perceived solutions to the challenges outlined.

The approach has mostly been used to improve health outcomes within Malawi. In this context, the approach was chosen because it is participatory, promotes ownership, can be adapted for varied contexts, and can systematically pinpoint and address the specific challenges women face in accessing civil justice. Unlike in other sectors, the approach enhances the understanding that civil justice is a crosscutting issue whereby various sectors are vital in ensuring that women's' civil justice needs are met. For example, the process engaged health service providers, traditional leaders, and law enforcers to identify issues regarding women civil justice needs. However, it was challenging to include formal decision-makers during the interface meetings hence a validation meeting was held at the national level that aimed at understanding the roles different sectors have in ensuring women's' civil justice needs are met.

The service providers and women who were engaged in this CSC identified similar issues signifying that the findings and the proposed solutions can promote justice outcomes for women if advocacy strategies are put in place with a robust multidisciplinary approach.

### The CSC Process

At each location, a community centre was identified for the CSC process. Community members constituting women of different age groups (18-24, 25-40, and 41 and above) and a group of service providers were convened for three stages of the CSC methodology. The process started with issue generation, then scoring of indicators, and finally interface discussions.

The genesis of the process was introductory meetings with traditional leaders and key decision-makers at the three study sites. Community introductory meetings introduced the project, the objectives as well as the CSC methodology. Following the introductory meetings, community members were then split into categories by age group. Each group had between 20 and 50 participants. The CSC methodology was carried out as follows:

**Preparatory phase** - Several meetings were conducted between the principal investigator and the research supervisor. Data collectors were trained on data collection tools and the CSC process. This phase also included the introduction of the project to the District Executive Committee (DEC).

**Issue generation** - At all the sites, women were split into the age groups 18-24, 25-30, and 41 and above for FGDs. However, due to poor participants' turn-up, some sites had only two women groups and one group of service providers.

For each FGD, the participants were asked to answer three basic questions about the civil justice sector:

- What is working well?
- What is not working well?

- What can be done to improve?

**Indicator Generation** - After issues were generated from FGDs, the research team formulated indicators. This exercise involved analysis of the issues into themes which were eventually translated into perception-based indicators.

Since issues that emerged were the same across the three locations indicators were also the same. Below are the indicators that were developed and used for scoring:

- a. Knowledge/availability of information about women's civil justice issues (access to information, knowledge, media for information and adequacy in information);
- b. Availability of civil justice services for women (physical access);
- c. The commitment of service providers, e.g., chiefs, TAs, courts, police, CSO, Community Victim Support Units (CVSUs);
- d. Community participation in civil justice issues involving women;
- e. Effects of cultural and religious beliefs on women's civil justice issues, i.e., social, cultural norms and religious beliefs; and
- f. Referral systems, any linkages between formal legal systems and traditional or local systems.

**Scoring** - Each social group that participated in the FGD was required to score the developed indicators giving it a score between 0 and 100% based on the group's perception on whether the problem is minor or major. The groups were required to give justification for the score given. Scores on issues varied from group to group.

**Interface** - Finally, the service providers and the participants converged for an interface meeting. At each site, an interface meeting was conducted with community representatives and service providers. Brief findings from each group were shared to facilitate discussions towards desired change. Joint action plans were developed. Some of the issues doable at community level were assigned responsible persons to follow up.

## Quantitative Methodology

A structured questionnaire was used to collect quantitative data through in-depth interviews with randomly selected women within the study sites. At each location, the research team started with one-on-one interviews with the planned 50 respondents before going into focus group discussions. A total of 160 respondents were sampled at the three locations. Details on how this sample was distributed across the three locations can be found in table 1 below.

Initially, the study design was to be purely quantitative with a proposed sample of 1600 participants. However, the nature of the subject (civil justice) and the fact that real voices and experiences of women in accessing civil justice were sought, the study design shifted from quantitative to a mixed-methods approach using the CSC methodology and including qualitative data. The qualitative methodology was incorporated to allow depth and detail in responses and to allow the respondents to expand on their views without being restricted by closed-ended questions.

## Study Sites

The study took place in the communities of Chitipi, Lumbadzi, and Chigwirizano in Lilongwe. The three locations were selected based on their geographic locations and because they possess both peri-urban and rural characteristics. Initially, Mtandire was the location of choice in place of Chigwirizano. However, Mtandire falls under a different jurisdiction (Lilongwe City Council) than the other two locations, Chitipi and Lumbadzi, which both fall under the Lilongwe District Council jurisdiction. Having two different jurisdictions meant that GJU had to present the project and seek



approval to conduct research at both these councils. However, given the limited time for the research study, and indeed the whole project, the team instead worked with the acting District Planning Director of Lilongwe District Council to identify Chigwirizano as a suitable alternative site for the survey since the population is similar to Mtandire and the District Council had already given GJU the go-ahead to conduct the survey within their jurisdiction. GJU presented the project to the District commissioner before presenting it to the DEC who gave the approval for the study to take place.

### Study Team

The study was conducted by a local consultant, Villa Chirambo, in collaboration with a research supervisor/CSC expert, Palikena Kaude, and three research assistants, Livinia Harawa, Grace Mtawali, and Alice Neba. Sarai Chisala-Tempelhoff was the principal investigator overseeing the operationalisation of the study and its findings.

Before collecting data, research assistants were trained on data collection tools, ethical considerations as well as basics on access to civil justice. Most importantly, the research assistants were oriented on the CSC methodology as all of them had not collected qualitative data using the CSC methodology before. During this training, the research team also reviewed the research tools with a focus on the English to Chichewa translation to ensure that translation was done correctly without losing the essence of the questions. Tools were then revised and finalised accordingly.

### Study Population/Sampling

Fifty (50) service providers (15 at Chitipi, 20 at Lumbadzi and 15 at Chigwirizano) were sampled for the CSC/FGD and interface meeting. Service providers included police, paralegals, health personnel, traditional leaders/village tribunals, religious leaders, community policing/CVSU representatives, CBO representatives, Community Action Group (CAG)/Community Activist (CA) and Community Development Assistants (CDA).

- Most of the study population was Chewa by ethnicity.
- A targeted, non-random sampling framework was utilised to identify focus group discussion and in-depth interview representatives from each of the locations.
- A total of 450 women aged 18 and above were sampled for the CSC/FGD from the three locations.
- A total of 160 women aged 18 and above were sampled for in-depth interviews.

### Characteristics of In-Depth Interview Participants

The total sample for the quantitative survey was 160 with 30.43% (n=49) from Lumbadzi, 37.2% (n=60) from Chitipi and 32.30 (n=52) from Chigwirizano.

In terms of age distribution, most of the respondents were in the 25-40 age group at 42.50% (n=68) with the 18-24 age group having the lowest number of respondents, 23.13% (n=55). Most of the respondents (women) were married 65.6% (n=105) and were of the Chewa ethnicity, 91.6% (n=143).

On literacy levels, many of the respondents had primary education at 63.98% (n=103), and in terms of occupation, most of the respondents were farmers at 37.7% (n=60). The table 1 below illustrates further details on the characteristics of the respondents.

Table 1: Survey respondents characteristics N=160		
Location	Survey sample n=160	
	n	%

Lumbadzi/Mchepea Village	49	30.43%
Chitipi/Mwanza Village	60	37.27%
Chigwirizano/Kantukulo	52	32.30%
<b>Age</b>		
18-24	37	23.13%
25-40	68	42.50%
41-above	55	34.38%
<b>Marital status</b>		
Single	10	6.25%
Married	105	65.63%
Divorced	20	12.50%
Widowed	19	11.88%
Separated	6	3.75%
<b>Ethnicity</b>		
Chewa	143	91.67%
Lomwe	6	3.85%
Tumbuka	1	0.64%
Ngoni	4	2.56%
Yao	1	0.64%
Other	1	0.64%
<b>Literacy Level</b>		
Primary School	103	63.98%
Secondary	33	20.50%
Tertiary	0	0.00%
Never attended School	25	15.53%
<b>Occupation</b>		
Civil Servant	0	0.00%
Farming	60	37.74%
Housewife	33	20.75%
Business	50	31.45%
Other	2	1.26%

## Confidentiality

All respondents were guaranteed confidentiality. Names were not recorded anywhere in discussion notes and questionnaires to ensure confidentiality all interviews were saved and stored in a password-protected file. Consent was sought before commencing discussions or interviews.

Considering that the data collection was rigorous and time-consuming, participants were offered refreshments, especially because some meetings were done beyond lunch hour. Service providers who travelled a long distance to participate were also reimbursed for their transport costs.

## Stakeholder engagement and validation meeting

The meeting was called with two objectives: to present the findings of the civil justice needs baseline survey; and, to learn participant perceptions of the civil justice needs of women in Malawi generally. Participants were provided with a draft copy of the research report, and during the half-day session, they were given a presentation of the report which included a screening of the accompanying [mini-documentary](#). The meeting was hosted in the space of GJU partner, mHub and participants were also

introduced to the work of mHub including the strategic partnership between the two organisations – geared at prototyping civil justice solutions using technology. mHub have developed a USSD platform under their UfuluWanga project; this was presented as one of the possible means through which the project can respond to the civil justice needs raised by the women in the three study sites.

### Plenary discussion

The participants had an opportunity to respond to the research methodology, findings and proposed next steps. During the plenary session, participants made comments, contributions and even raised questions including the following:

1. Were women with disabilities deliberately excluded from the study?

It was noted that there were no specifics attached to the participation of the women and girls in the survey. The only requirements that were made were that participants of the survey must be women aged 18 and above and that these women must be from within proximity to the sites where the survey was being conducted to prevent participants from having to walk a long distance. It was additionally noted that focus is often made on physical disability to the exclusion of mental disabilities which would not be visibly apparent from viewing the mini-documentary. Mental disabilities are just as real and equally urgent. GJU also pointed out that the point regarding inclusivity is well made and that the challenges in accessing civil justice faced by women with disabilities are worse than those faced by women who do not have that additional layer of vulnerability. GJU also noted that there had been [research](#) done by the Southern African Litigation Centre (SALC) on the experiences of women and girls with disabilities when accessing criminal justice for sexual assaults.

2. Why were most of the participating service providers men?

It was acknowledged that the majority of the service providers that participated in the study across the three study sites were men, but this was discussed as being a national problem. the challenge of representation and gender inequality is crosscutting, not just at the high level

3. Were women asked about the barriers they experienced when accessing civil justice at the formal court level?

It was pointed out that the women that participated in the survey had never been to the court, or rather, their cases have never reached the formal courts. The only court they mentioned is that which exists at the TA. Furthermore, the formal court space tends to be a violent one for women. The legal process including that of cross-examination and even the language of the court is alienating for all people and women.

4. Does this survey report present new literature, or it is adding on to already existing literature?

The research builds upon existing knowledge and adds to that conversation rather than adding new knowledge. The innovation in the approach of the study lies in the participatory methodology as well as the immediate prototyping of justice solutions pointed out that collaboration with mHub is designed to instantly provide technology-based solutions using their existing USSD platform.

## Participant perceptions of women’s access to civil justice

The stakeholders divided into two breakaway groups within which they discussed their perceptions of the barriers to and enablers of access to civil justice. The two groups listed the barriers and enablers respectively and reconvened in a plenary to jointly discuss potential solutions to the identified challenges. The table below represents the perceptions shared by the groups after regrouping:

Barriers of access to civil justice	Enablers of access to civil justice
<ul style="list-style-type: none"> <li>▪ There is a lack of knowledge of civil justice on the part of the victim as well as the service providers.</li> <li>▪ The language of the law is not user-friendly</li> <li>▪ Availability and accessibility of the laws and legal fraternities is hard. People travel long distances and do not know where they can access the law.</li> <li>▪ Cultural norms and beliefs also play a role. Women fell to express themselves as fear of humiliating the perpetrator. Men are told to be strong thus cannot complain.</li> <li>▪ Lack of economic empowerment on the side of women. Women cannot complain about their spouses because they rely on them economically.</li> <li>▪ The formal court process is time-consuming.</li> <li>▪ Civic education is no longer a part of the school curricula; therefore, there is ignorance of civil justice.</li> <li>▪ There is no coordination of civil laws; therefore, the information is very overwhelming for the receiver.</li> <li>▪ Religious beliefs disadvantage women. Malawian marriages are usually religious, and women tend to stick to the rules set at marriage, rules that require women to remain within a marriage despite any violence or other challenges.</li> <li>▪ The justice system does not accommodate disabled people.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Awareness and civic education to the community</li> <li>▪ Gender inclusion during the capacity building of service providers.</li> <li>▪ Inclusion of women at service centres. It is usually men who hold such positions, and it is difficult for them to understand the needs of women or if at all their civil rights are being abused.</li> <li>▪ Economic empowerment to the women so that they are not dependent.</li> <li>▪ Targeted educative programs to youth in schools and in adult literacy review of the curriculum.</li> <li>▪ Use of technology platforms to disseminate information.</li> <li>▪ Mobilise community/ families towards survivor/ support mechanisms.</li> <li>▪ Strengthen community-based support groups to track service providers actions.</li> </ul>

### mHub Presentation

MHub is a technology company that collaborates with different organisations including GJU to run a Human Rights portal called UFULU WANGA. The portal is the first of its kind in Malawi. This is a portal where people can report abuse of their rights and obtain information on different human rights. The portal uses SMS, webforms and free USSD form. Challenges that the platform has faced since its launch include low levels of understanding of the portal. Some think that by reporting using the portal, the authorities have automatically been alerted. Furthermore, mHub is only a technology company. It collaborates with different justice providers on this portal and, the differing procedures for handling the cases from the different partners can become overwhelming as every partner holds their own way of doing things.

### Data Management and Analyses

All FGDs and in-depth interviews were conducted in Chichewa.

Qualitative (interview and FGD) data was input into Microsoft Word for coding and analysis.

Interview and FGD notes were coded into themes and sub-themes and analysed by the consultant for common themes and patterns. Quantitative data, on the other hand, was entered and analysed with Survey Monkey and Microsoft Excel.

### Limitations

Preparations for the study (i.e., seeking the necessary approvals) was done when Malawi was undergoing the 2019 Presidential elections. During this period, violent riots, as well as disruptions in operations of government offices, resulted in delays.

## CHAPTER 3: OVERALL RESEARCH FINDINGS

### General Findings

This chapter presents findings from FGDs and interviews conducted with women and service providers from Lumbadzi, Chitipi, and Chigwirizano in Lilongwe. The chapter will reveal findings on the civil justice needs of women at the three locations, barriers on access to civil justice, existing gaps, and proposed solutions.

### Prevalence of Legal Problems

In order to establish the civil justice needs of women at the target locations, respondents were asked both through FGDs and one-on-one interviews to outline common legal problems that exist in their areas with an emphasis on civil justice problems.

The most prevalent civil justice issue mentioned at all the three locations was GBV (61.49%). Respondents mentioned rape, defilement, early pregnancies, and early child marriages as the most prevalent forms of GBV cases in their areas. Lack of spousal and child support was two-fold: firstly, involving young women or girls who are made pregnant either by their peers or an older man before turning 18; and secondly, lack of spousal and child support after separation or divorce. The most common in these areas is the former (55.90%) while the latter is 31.68%. Land grabbing (19.88%) and deceased estate issues (18.01%) were also said to happen in these areas. Figure 5 illustrates this further.

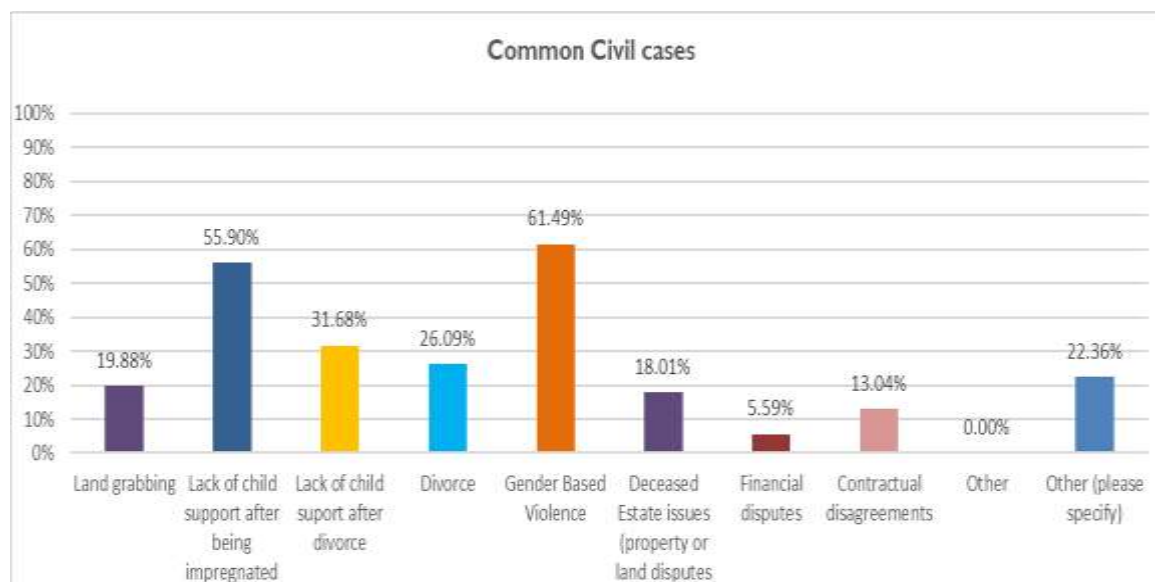


Figure 5: Common Civil Justice Cases

### Lack of Spousal and Child Support

The respondents agreed that women are faced with limited spousal and child support, especially in cases of divorce and pregnancy out of wedlock. Through focus group discussions, the respondents gave various reasons why women rarely get support (especially child support after separation, divorce, or pregnancy out of wedlock in their areas) including:

- Our husbands spend our hard-earned money on alcohol and other women while neglecting their households, (Respondent, Chitipi);
- Some men are not able to take care of their wives and children because they are having extramarital affairs, (Respondent, Chitipi);

- Polygamy is the other cause of lack of child support in this area because once a man marries another wife, his attention shifts to the new wife and stepchildren and he cares less for his first wife and children, (Respondent, Lumbadzi);
- It is also prevalent these days that men migrate to South Africa, remarries, and stops sending any child support, (Respondent, Chitipi).



**AM** is a single mother. Her husband left her with a two-year old child with disabilities in 2011 to go to South Africa. He has never sent her any support. She has done nothing about it since she does not know who can help her with this issue

### Gender-Based Violence (GBV)

The most prevalent challenge faced, as revealed in the results in figure 5 above, was GBV. Different kinds of GBV were cited including polygamy, spousal battery, economic neglect as well as emotional abuse. Criminal cases such as defilement and rape were also mentioned as common cases of GBV at these locations.

Polygamy was mentioned as a type of GBV that contributes to emotional and economic abuse. Women at Lumbadzi explained that polygamy is common in this area. There are cases of polygamy *“where men from other districts or villages leave their wives and come here in search of agricultural work (as tenants), while here they marry another wife. After harvest, they would go back to their original homes and wives leaving behind wives and children here. Men also often marry younger wives when they have money, after harvest. As a family, you work together during the rainy season then once crops are sold and there is a bit of money in the house, you are no longer good enough, he leaves you for another woman.”* (Respondent, Lumbadzi)

Early pregnancies and marriages of girls below 18 are also an issue of concern as per the participants’ revelations. The participants highlighted this is an issue of concern, especially since boys and men usually deny responsibility for impregnating the girls. As a result, the burden of supporting the pregnancy, and the child falls upon the mother’s parents, one participant explained. The participants further said such circumstances also put more pressure on women who mostly bear the sole responsibility of household welfare. A respondent at Chigwirizano explained that *“sometimes chiefs or traditional leaders are to blame for the rise of early marriages in this area.”* She explained that sometimes chiefs authorise such unlawful marriages just because the girls have already fallen pregnant and should, therefore, get married. This further violates the girl’s rights. *“Girls should not marry before the age of 18, and if they fall pregnant, they should have the baby and return to school after that and not get married”*, (respondent, Chigwirizano)

Another respondent added that *“this is common in this area mostly among girls below the age of 18. The responsible boy/man usually denies the pregnancy leaving the parents of the girl to take care of the pregnancy and the child born. Parents are then forced to take on the responsibility of taking care of the pregnancy and the babies after they are born”*, (Respondent, Chigwirizano).

On the other hand, participants also placed blame on parents as they said, *“some parents are also at fault as they do not report cases of early marriages or pregnancies”* to the right authorities. Participants explained that some parents even promote early marriages when their underage child falls pregnant to relieve themselves the burden of taking care of the pregnancy and the upcoming child. An example was drawn from Chitipi, whereby one participant shared a scenario where a 13-year-old girl fell pregnant and was forced to marry an underage boy responsible for the pregnancy.

Participants also explained that the lack of punishment for perpetrators who marry underage girls also contributes to making the issue worse in these locations. One respondent explained that *“the problem is that perpetrators are not punished; they are left to walk free. As parents, there is nothing we can do in that situation; we are powerless”* (Respondent, Chitipi).

The women also stressed the point that even if women participate in economic activities such as farming or Village Saving Loans (VSL)<sup>7</sup>, men still have the final say on how the money from VSL is spent and how household economic activities should flow. The respondents also complained that despite men having control over resources, *“men tend to overlook crucial household priorities and would spend money on alcohol while the family does not have enough food,”* (Respondent, Chitipi)

In addition, participants at Chigwirizano expressed that women are sometimes the perpetrators of GBV or child abuse. The women explained that there are some cases of child neglect and abuse done by women over their stepchildren. The participants also explained that sometimes women choose not to report issues of child molestation or rape when the perpetrator is a breadwinner, spouse, or close family member. Many women choose to stay silent in such cases because most of them are dependent on their accused partners. Other reasons mentioned for non-reporting of such cases included fear of reprimand from family and community members and fear of ridicule.

#### *Disinheritance and Deceased Estate Issues*

Through the FGD, it was also noted that women at these sites are exposed and are vulnerable to property and land grabbing. Participants highlighted that such cases are common among widows and divorced women where land is taken away upon death or divorce. The participants attributed such injustice to the Chewa ethnicity, which follows the matriarchal cultural practice, which they emphasised has an unfavourable impact on women’s well-being. For example, in a Chewa cultural practice called *chitengwa*, a man brings a wife to his home village after marriage and establishes a home with her there. However, once he dies, the wife is sent back to her parent’s village, leaving behind the agricultural land that once belonged to her and her deceased husband. Even worse, when she returns home, she has little to no land because her parents’ land is usually already divided among her brothers who have also brought wives from other villages. *“At the end of the day, the woman is left with her hands over her head (helpless) and children to look after because she belongs nowhere,”* explained a respondent at Lumbadzi.

#### *Access to and Availability of Services*

##### *Existing Service Providers for Civil Justice*

Socio-politically, Malawian society has maintained custom in several ways. Chieftaincy is highly recognised across all cultures and political arenas as it is formally recognised in local governance structures. Similarly, gender norms and roles are also claimed to influence power structures through which men are customarily superior over their women counterparts.

##### ▪ *Traditional Leaders and the Police*

According to the participants at all three locations, most civil cases are reported to traditional leaders and the police. For example, issues of child support, early marriages, and deceased estates are primarily reported to the chiefs. Chiefs then either refer the cases to the police or Group Village Headman (GVH) level.

Survey respondents were asked, *“where are civil cases mentioned as prevalent reported?”* From the results in Figure 6 below, it is evident that people heavily rely on the informal justice sector for civil

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<sup>7</sup> Popularly also known as village banks where people (in this case women) bank their savings or get monetary loans when needed.



cases with traditional leaders (75.78%) being mentioned as the primary service providers followed by the police (67.70%). A respondent at Lumbadzi narrated that: *“Every civil case in this area is first reported to the chief or village headmen, if the chief fails to handle it, the case is referred to the GVH, failing which, it goes to the Senior Group Village headman. If that fails, the case is escalated to the Traditional Authority (TA), then the District Commissioner’s office. Finally, if the case has failed to be resolved at all these places, it goes to court.*

Participants, however, mentioned that they would love to have NGOs or CSOs that handle civil cases because even though the police and chiefs are able to handle some issues, most cases remain unsolved and are subject to bias and corruption. When they take a GBV issue to the police, for example, they sometimes encounter negative attitudes especially if they have gone there repeatedly for the same issue: *“they tell us, that is a domestic issue which should be discussed with your husband, we have real cases to deal with”,* (Respondent, Lumbadzi).

*“Even if one wants to get out of a marriage, when you go to the chief, they will just ask you to resolve it and stay in the marriage. The chief can even blame you, the victim saying the reason your marriage is not working probably means you are not fulfilling your role as a wife”* (Respondent, Chitipi).

- Where are Civil Cases Reported?

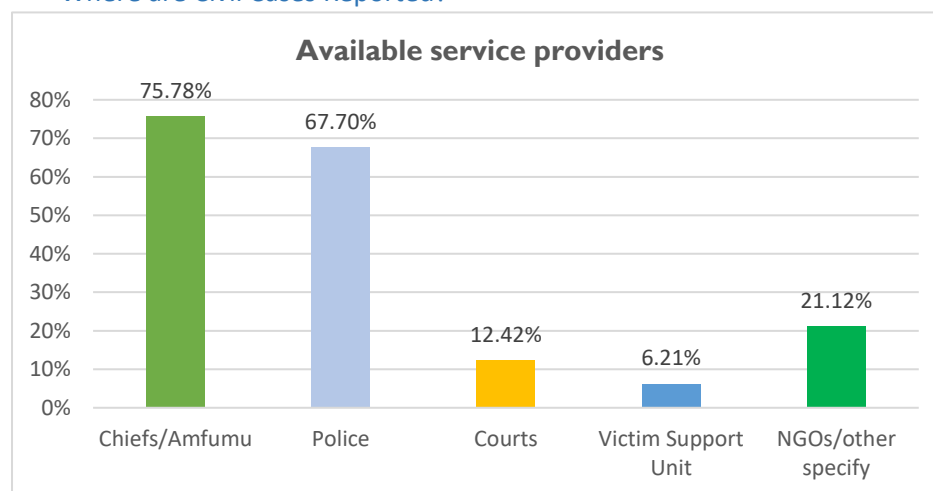


Figure 6: Available Service Providers

Figure 7 below illustrates the referral system for civil justice cases as well as the services that are available at these target locations.

## General Overview of the Civil Justice Services Available in the Research Sites

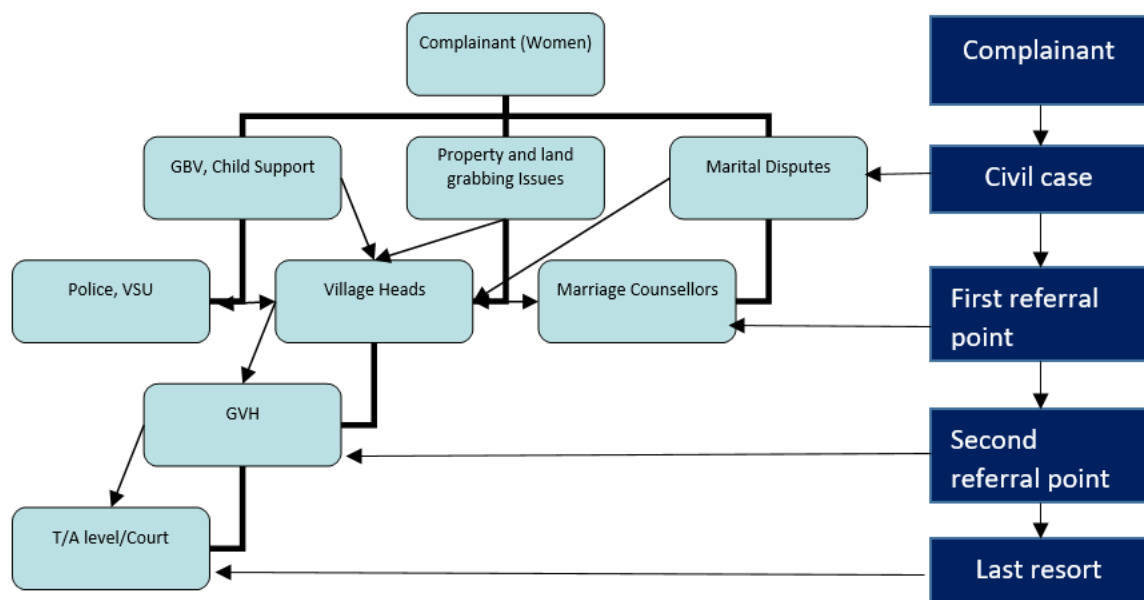


Figure 7: Available Civil Justice Services

### Courts

Participants stated, however, that pursuing cases that have gone to the court of law has a lot of barriers such as lack of transportation and resources for travel and corruption and as such *“most people choose to withdraw or not pursue the cases at that level at all because it takes a long time for one to be helped during which one has to continually travel to the court and even provide transport for witnesses, most people simply cannot afford that”*, explained a respondent at Lumbadzi.

### Marriage Counsellors

Marriage counsellors emerged as an essential service provider for civil justice cases, especially GBV and other marital cases since they are usually the first point of contact for marital disputes. However, participants explained that as marriage counsellors are mostly guided by culture, and as such by tradition, the role of marriage counsellors is *“to unite couples and not break them. So even if you wanted to get out of a marriage, they would usually encourage you to stay and ‘persevere’ because that is what marriage is all about., I think that is impinging on your rights”* (Respondent, Chitipi).

### Community Policing

At all the three locations, community policing was mentioned to be another point of contact for civil cases. In cases of physical GBV cases, for example, community policing members may be called first before the case goes to the village head man. Other cases such as defilement may also be reported first to the community police and then the Malawi Police Service.

### Religious Leaders

Religious leaders were also mentioned as points of contact, especially for domestic or marital disputes. Participants mentioned that religious leaders usually mediate on issues involving their church members.

### Paralegals (nkhalapakati)

Paralegals were also said to act as mediators on various civil cases at community level. However, this group was only noted at Lumbadzi and not the other two areas. Paralegals present in rural communities are often linked to an NGO. The paralegals available in TA Chitukula where Lumbadzi is located are working under the Catholic Commission for Justice and Peace (CCJP)

### Mother Groups

This group emerged as key in pushing for justice and following up on cases of early pregnancies and child marriages. Mother groups assist in re-enrolling girls back into school.

#### Barriers to Accessing Civil Justice

In addition to the fact that there are insufficient services to handle civil cases at the three target locations, further barriers exist that prevent women from accessing civil justice. This section outlines the barriers as revealed by the results in Figure 8 below. Favouritism (38.22%) and corruption (34.39%) were mentioned during the in-depth interviews as the main barriers that prevent women from accessing justice. 'Other' however was scored quite high (41.40%). Under 'other,' respondents gave various responses for barriers to civil justice including;

1. Delay by the police in handling of cases;
2. Not knowing where to report;
3. Threatened by men not to report;
4. Police not willing to assist;
5. Culprits do not fear the police or chiefs;
6. Threats from family members;
7. Police say they are not there to end marriages; and
8. Shame.

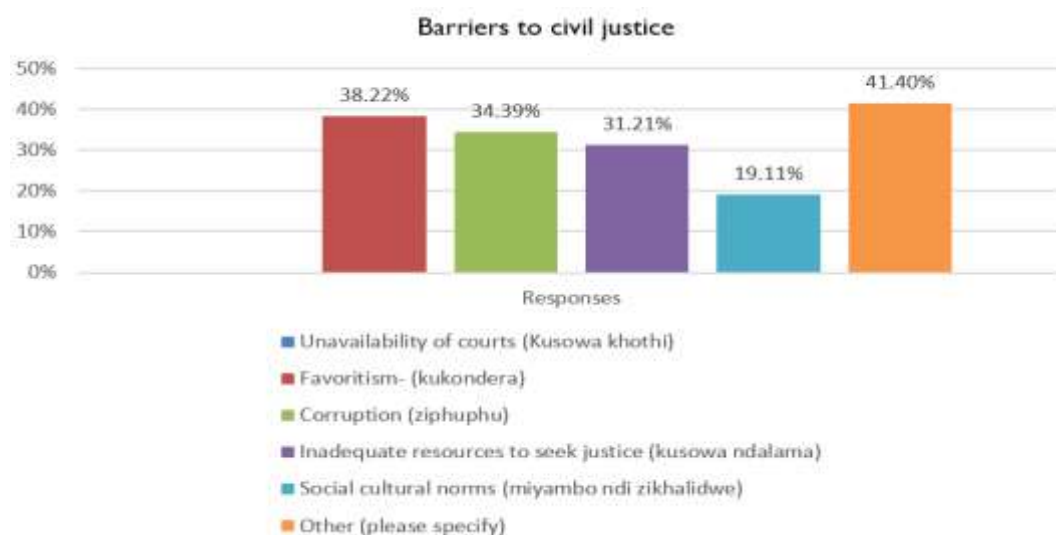


Figure 8: Barriers to Civil Justice

## Inadequate Resources

Choosing to pursue justice, respondents revealed, requires one to have some resources. Among costs incurred by a complainant are transportation to and from police or court for both complainant and witnesses as well as fees that are said to be paid to the village tribunal/chief, the police as well as the court. One would think that traditional justice mechanisms will be the most accessible by the poorest of the poor, but this is not always the case, respondents indicated. Respondents reported costs being attached to the traditional justice system that some are not able to afford. Participants reported the following;

1. **Hearing fees** - Participants expressed being discouraged from pursuing a case through the traditional court services because of the cost attached to it. Women at all three locations explained that village headmen or chiefs do not hear cases for free. Even if the fee charged is small (MK3000 (US\$4)) most cannot afford to pay it. The fee varies per location with some locations paying as much as MK 5000 (US\$7.6). Participants had this to say: *“We are requested to pay a summon fee to the Chief, and if the village chief refers the case either to police or GVH, at this new level of service, we are still requested to pay another fee”* (Respondent, Chitipi).  
Another respondent added: *“during the hearing, one is required to provide food to cater for lunch for all participants at the hearing, usually about 10 or more people. You also don’t just cook vegetables, and you are expected to cook at least chicken or beef with rice”,* (Respondent, Chitipi).
2. **Transport** - When pursuance of justice through the traditional justice mechanisms has failed, the next option is the police and the court as the last option. At the three locations, police stations are not very far for most of the respondents but still require transportation to get there. As such, those that do not have the small amount to cover transport costs may choose to not pursue a case:  
*“The area has a court at Malili which is slightly far and requires a person to use transport in the form of bicycles or motorcycles whose charge is K1, 500 (\$1.30) and K3, 000 (\$4) respectively for a one-way trip. The fares are high, and because most [of] us cannot afford to pay such figures, we are forced to choose to not pursue justice”,* (Respondent, Chitipi).  
*“The police at Chigwirizano was vandalised by the community for being corrupt and not helping us. We, therefore, use the police services at the Natural Resources College, which is a little far and requires a bicycle fair of K1, 500 (\$1.30)”,* (Respondent, Chigwirizano).
3. **Corruption** - Respondents reported corruption mostly involving the police, and sometimes chiefs were asking for bribes as the main barrier to accessing justice. Inability to pay the police due to poverty results into women not pursuing civil justice cases and the perpetrator of the injustice walking free. Respondents explained: *“The police usually demand one to pay before they can assist you and may also just dismiss a case because the perpetrator has paid them something”* (Respondent, Chitipi).
4. **The court system** - Respondents reported that another discouragement in pursuance of civil cases lies in the weaknesses of the court system. In addition to the court being far at all three locations, respondents also claimed that *“the court takes too long to resolve an issue, as a result one gets tired of following up and eventually just gives up”,* (Respondent, Lumbadzi), and *“Due to lack of timeliness of courts in dealing with issues, distance and cost become a problem because one has to constantly travel and follow up with the court on the issue and most people just cannot afford that”,* (Respondent, Lumbadzi).

5. [Knowledge of the law and human rights](#) - The research findings revealed that women have limited knowledge about their rights and where and how to seek justice. The participants attributed this gap to inadequate sources of information. They indicated radios as the primary source of information and that not everyone owns one but also that such information is not always available on the radio. The respondents also attributed the gap in knowledge to inadequate service providers, both public and private. When asked about why sometimes women in this area choose not to pursue cases, one respondent explained; *“Sometimes, it is really just about ignorance. There are some issues that we just consider as normal when they are, in fact, crimes. Early marriage before the age of 18, for example, I didn’t know the older men can get punished for that. We sometimes need that nudging hand to show us the way”* (Respondent, Lumbadzi).  
The participants further said lack of knowledge of the mechanisms to report the abuse of office by police officers and traditional leaders through corrupt acts has resulted in women opting to suffer in silence despite facing various legal and human rights violations. Additionally, participants said police and chiefs sometimes have a conflict on who handles certain cases. For that reason, some women have seen themselves not continuing to seek justice as they said they feel neglected by the people they are supposed to trust. Bias – especially among traditional leaders – is also prevalent. The participants mentioned that the chiefs’ favour those they are related to, and if they are the defendant, there are high chances are that the victimised women will not be served with justice. It was unanimously agreed that men are better assisted in the legal, judicial system in addition to being financially able to pay the legal fees or bribes. The participants said some men even change the facts of the case to suit them due to this illegal advantage. The unequal relationship is also exacerbated by the fact that women are *“not given spaces for dialogues to voice out their concerns”* (Respondent, Chigwirizano). They said this FGD is an opportunity for them to voice out their concerns.
6. [Favouritism](#) - Favouritism was said to be very common, especially in the rural areas where access to justice heavily relies on traditional leadership who in most cases, lack objectivity and are easily corruptible.
7. [Inequalities of the justice system](#) - Furthermore, the participants indicated that gender inequalities are prevalent, which contribute to their dissatisfaction in accessing civil justice services. Respondents indicated that in most cases, service providers are highly corrupt and biased. According to them, women are disadvantaged due to their lower socioeconomic status than men as men usually have the financial muscle and ability to bribe service providers. Respondents recommended the need for civic engagement and education with communities on equal rights and improved reporting systems.
8. [Social and cultural norms](#) - Traditional beliefs, it was revealed, also prevent women from pursuing justice. Respondents revealed that women – especially in domestic disputes such as GBV – are groomed to believe that one must persevere even in an abusive relationship. *“We turn a blind eye, persevere, and life goes on,”* added one respondent.
9. [Community perceptions](#) - These were also mentioned as contributing to women not reporting civil cases. Participants highlighted that embarrassment and fear of ridicule prevents women from reporting some issues. Participants said this poor justice-seeking behaviour is attributed to attitudes of fellow women or family members. They said in most cases victimised women are advised just to accept the circumstances they find themselves in, for instance, where their husband has married another woman and is neglecting his duties towards her and their children. The women advise them that they should be grateful as the presence of the other woman means fewer obligations to the man on their part.

Further, it was also highlighted relatives or friends shun away from assisting an abused or victimised woman for fear of threats from an alleged abuser. For example, they said in cases of GBV, and there have been cases whereby those that take an initiative to rescue a woman end up being victimised as well.

### Identified Gaps

This section outlines the gaps that the research findings unearthed through discussions with the respondents.

#### Gender Responsive Policies and Resources

The participants reported that the public services are limited as the Ministry of Gender Children Disability and Social Welfare (MGCDSW) has a shortage of staff: one child support officer and a CDA officer is available but have a large catchment area making it difficult for them to reach out to all communities. Additionally, the service providers indicated that mobility is also an issue of concern that limits their capacity to reach out to many communities or follow up on civil cases within the communities.

#### Equality in the Legal Judicial System

Participants agreed that government, CSOs, and other stakeholders are not doing enough to protect the rights of women. The participants further said that despite the presence of police and local leaders, they feel the cases never see completion because the police, as well as chiefs, demand money before resolving the cases. The participants emphasised that, since most women are economically disadvantaged, men are favoured as they are economically better off than women and can pay bribes to service providers.

Overall, both service providers and women at all the three locations highlighted weaknesses in the judicial systems and that there is no follow up on issues. For example, they said when men are charged with child support, there are no follow-up mechanisms to ensure the man is paying as charged. Others even mentioned they have been going to the courts to collect what was agreed as child support money, but the office-bearers just make excuses without any tangible solutions. Other participants highlighted that this has also prevented other women from reporting child maintenance issues as they feel it is just a waste of time.

#### Attitudes of Service Providers

Collectively, participants stated that they are not satisfied with the civil justice services being provided in the area. "Corrupt practices" by traditional leaders and police was a common challenge mentioned by participants which continue to oppress women. They said police do not assist them, but rather the police are bribed by the men who are respondents in cases women lodge with the police.

Therefore, the respondents said cases lodged with police usually do not see completion. *"Since men are financially capable, they can afford to bribe service providers who then decide the matter in their favour. Decisions made in women's favour will, however, still give men lenient punishments. Men, therefore,*



**AC** is 15 years old from Chitipi. She got pregnant while still at school in 2016. She has been to the police twice to seek child support from her estranged boyfriend. The police mediated discussions in 2017, the perpetrator gave her MK1, 000 (\$1.30) then disappeared. She went back in 2018, he promised to pay but did not: *"The police never follow up, never hold him accountable, I have now given up"*

*continue to abuse women,”*, one participant quoted. However, the participants stated that the traditional justice system is fairer as compared to the formal justice system in charges.

#### *Socio-Cultural Issues and Civil Justice Issues for Women*

Decision making - There was a collective response that there is a disparity between women and men in decision making at the household level. The participants mentioned that men (husbands) take a lead role in financial decision making as well as social welfare in many households. For that reason, participants highlighted that financial disputes among couples contribute to GBV. This usually happens when women engage in economic activities, which is discouraged by men. Even when women report such cases of GBV, it is very challenging for women to access civil justice as men are mostly engaged in income-generating activities which prompt them to bribe service providers.

It was further stated that women are unable to voice their concerns regarding economic civil justice needs. For instance, women are not involved in decision making where profits are realised from farming or business activities. *“If women ask men how the profits have been used, they are in turn told that it is none of their business,”* one participant was quoted.

#### ▪ Matriarchal vs Patriarchal Society

Culture plays a role in access to civil justice in the study areas. It was widely revealed that the study sites practice matriarchal systems of culture. The mother and the children are deemed to belong to the maternal side. Therefore, the participants elaborated that when the husband dies, the women and children are at risk of property and land grabbing. They said the man’s relatives would want the properties despite having their own property. Additionally, it was highlighted that the husband’s relations would chase away the woman from her property, saying she does not belong there even though she had amassed the property together with her husband. Some women are assisted by the chiefs to regain their properties but most fear that in the event the chief who helped them dies, the man’s relatives will still chase her away. The Deceased Estates (Wills, Inheritance, and Protection) Act is not deemed to work in such circumstances as people do not know it and its application

#### ▪ Sexual and Reproductive Health and Rights

Women’s Sexual and Reproductive Health (SRH) rights were also mentioned. Participants highlighted that the rate of childbearing is high in the sites. They attributed to this due to low access to services. However, it was also established that some men discourage their wives from using family planning. The reason for this discouragement was mentioned to be a myth that men lose sexual interest in women as sex duration is allegedly shorter when a woman is on contraceptives. They said some women opt to use family planning methods, and some men encourage each other to engage in extramarital affairs with multiple women. The women observed that, ironically, the same men who neglect their duties to provide financially for their families discourage the use of family planning methods hence leaving most women to fend for themselves.

Furthermore, the participants in all sites said limited understanding of health information contributes to SRH civil injustices experienced by women. For example, they said when a child is born health personnel advises women not to engage in sexual intercourse for a certain period of, on average, six weeks unlike before when it used to be six months. However, most of the women lamented that men refuse to abide by such advice and engage in extramarital affairs when their wives choose to adhere to the norm. Women are therefore left at a crossroads on how to handle such matters, especially where they lack services to assist them with such issues.

Additionally, women also complained that there is a poor quality of services rendered by health service providers with a shortage of resources such as drugs, especially during labour and delivery.

Participants also mentioned that extramarital relationships had exposed them to HIV. Some participants went further to say that some men even hide their HIV seropositive status to their wives, which they said is a violation of SRH rights.

### Recommendations

This section outlines recommendations that emerged from the findings:

1. The women propose that courts of law should be closer to the people to provide women and girls in the area access to justice. Mobile courts may be one way of reaching out to those who are furthest from the court.
2. Encouraging CSOs that deal specifically with civil justice issues to be established at Lumbadzi, Chitipi, and Chigwirizano will also ease the issue of access. Such CSOs would then be able to provide information on reporting mechanisms and promote the human rights of women and girls such as the right to education through the implementation of the re-admission policy in the area. The respondents also added that such CSOs should be able to assist them with legal aid.
3. Participants recommend that for corruption to end institutions such as the Anti-Corruption Bureau needs to intervene. Laws should also be enforced to ensure service providers provide adequate services to protect the rights of women.
4. Participants recommend that women need to be economically empowered in order to be financially independent and thereby removing their vulnerability. Women should be empowered economically through initiatives such as VSL banks and training on the same.
5. It was further recommended that men should be sensitised regarding human rights, particularly the rights of women and girls.



## CHAPTER 4: FINDINGS FROM SPECIFIC SITES

This chapter presents findings specifically from the three research sites, Chitipi, Lumbadzi, and Chigwirizano.

### Chitipi

#### Knowledge and Information

There were variations in knowledge of constitutional laws that protect women among the respondents. The 18-25 age group indicated limited knowledge of the laws unlike the group of women above 25 who showed that they had knowledge about the marriage age bill, child support, GBV and deceased property belonging to the widow/widower.

#### Access and Availability of Civil Justice Services

The primary service provider for civil cases at Chitipi is the traditional justice mechanism (chiefs). Respondents reported that the police and courts are quite far and, as such, they would prefer to use the traditional mechanisms.

The Malawi Police Service has provided for a unit at Mwera area on Likuni road. However, there is a significant distance between the area and the police unit as the bicycle (*kabaza*) fare is K600 (\$0.83), reported one respondent.

However, respondents expressed discouragement to even use the traditional justice mechanism because of the monetary fees attached to it: chiefs demand the monetary equivalent of a chicken which is MK2,500 (\$3.47) before resolving the case and both parties are to pay such amounts in order for the traditional court to adjudicate a matter. Where the traditional court fails to adjudicate the matter, they refer it to the police who demand a fee of between MK5,000(\$7) and MK10,000(\$14) claiming it is to be used for transport or airtime costs depending on the type of the case. Participants felt these costs demotivate them from reporting some cases.

Additionally, the participants indicated that they are hindered in accessing the services because the claimant is expected to prepare food for all the participants attending the traditional court session. This can be costly and prohibitive to victims. There is usually a minimum of ten people when the court is chaired by the GVH whilst a minimum of thirty people are usually in attendance where the TA chairs the session. Providing food for such large numbers of people was not easy for many, and, as a result, most people would choose not to report a case to avoid such expenses, the participants explained.

#### Socio-Cultural Issues

The participants said the matrilineal culture has its own advantages: for example they mentioned that in the case of *chikamwini* where the husband follows the woman to her home after marriage women are assured of development activities such as building of houses and land ownership unlike in the case of *chitengwa* where it is the woman who follows the husband after marriage. In the latter case, the woman is said to be at a disadvantage because when the husband dies, she stands to lose everything she had worked hard for including land. This, the participants said, is at the discretion of the deceased husband's family. Some families who are "kind-hearted" may choose to allow the woman to continue farming her deceased husband's land.

Being a Chewa ethnicity, the participants revealed that the *Nyau*<sup>8</sup> tradition continues to violate women’s and especially girls’ rights. They said this practice results in underage girls being forced to participate in funeral rites where the person who has died is an elderly person. It was quoted: *“The girls are carried on the shoulders of older women ahead of a funeral procession”* (Respondent, Chitipi). The parents or grandparents of the girls make the decision for the girls to participate in such rituals. Such funeral rituals take place for a whole week, which results in the girls' missing school for that duration. Some girls do not go back to school again as they are mocked for their role in such practices. The women reported that this is a kind of GBV which mostly goes unreported



Figure 9: Nyau

On the other hand, the FGD of women above 25 years revealed that some beliefs and social values are diluted. They cited an example of marriage saying, *“The marriage institution is no longer as strong as it used to be that is why you find a lot of premarital pregnancies and divorces which contributes civil injustice issues.”*

#### Institutional Capacity

The participants highlighted that the community has access to some services by some CSOs. For example, they mentioned an NGO that had begun implementing a project on the school re-admission policy for under-age girls who fall pregnant whilst still in school. When the project terminated efforts by the community to ensure girls went back to school after childbirth dwindled. For them, they felt that the initiative was unsustainable and therefore, an issue in the area.

On the other hand, it was highlighted that many projects fail because of the handout syndrome, emphasising that the service providers are motivated when they know they will receive allowances, but once the funders phase-out, they do not carry on with the initiatives on their own.

Another institutional factor was the presence of many chiefs in this area. This, it was said, usually brings in internal politics, conflicts, and misunderstandings on who does what and where. For example, the CDA in this area reported that when GJU called for the meeting, she mobilised all villages near this GVH but, to her surprise, the closest village did not come, citing such division which divides and affect development activities. *“Even if it’s a sensitisation meeting that means other communities will not be able to have the opportunity to learn,”* she said.

“For instance, police at NRC (Natural Resources College) had a case where a father raped his daughter. When police arrested him, the man bribed them and told them that he had been drunk and had mistakenly slept with his daughter thinking that she was his wife. The police told the girl to drop the case. The man was later released and is now a chief. The wife did leave him after that incident. To date the girl has not seen any justice” Chitipi Respondent.

On referral systems, the participants acknowledged functional linkages between the chiefs and the police. However, the participants highlighted that this could be because these two parties are the most corrupt.

<sup>8</sup> Nyau (also: Nyao meaning mask or initiation) is a secret society of the Chewa, an ethnic group of the Bantu peoples from Central and Southern Africa.

## Chitipi Scoring

Due to the low turnout of participants in Chitipi on the second day, only two groups of service providers and women were involved in the indicator scoring exercise. Despite giving similar reasons in all the indicators, it was observed that the women FGD scored higher than the service providers from the second indicators through to the last indicator. The service providers' scores were lower in all indicators; however, the reasons given were similar in nature. The only difference was the acknowledgement of inadequate service provision as attributed to inadequate funding by governing institutions which was noted by the service providers. Additionally, the service providers, such as chiefs acknowledged the corrupt practices as well as the allowance syndrome by public service providers.

### Chitipi Scoring Template Date: 9<sup>TH</sup> June 2019

Indicator	Score Service Provider	Women	Reasons
1 Knowledge/availability of information about women civil justice issues (access to information, knowledge, media for information, is information adequate)	30%	0%	<ul style="list-style-type: none"> <li>&gt;Women fail to report issues due to a lack of knowledge on where to report such issues. Most women and girls take their issues to the chiefs rather than the police as most do not want to recount their issues to a policeman.</li> <li>&gt;Chiefs, on the other hand, do not know all the laws and therefore their attitude towards victims is sometimes not right, which puts off some women from ever taking their complaints to the chiefs.</li> <li>&gt;There is a power imbalance when it comes to women speaking out on issues concerning their rights. Sometimes culture dictates that if a woman speaks out on issues concerning the rights of women, she is seen as having authority over men.</li> <li>&gt;Some women are not aware of their rights being violated.</li> <li>&gt;Some women are threatened when they speak out or want to speak out concerning issues affecting their rights. Some think that if they report their husbands or boyfriends they might be seen as betraying them whilst others think if they do report them, then the police might arrest the husbands who are mostly breadwinners and as such women who are not independent economically would avoid having a breadwinner arrested.</li> <li>&gt;Stakeholders do not go to remote areas to educate communities on the rights of women and children. If there are any CSOs in remote areas, then there are too few, and they frequent the same places rather than widen their geographical scope.</li> <li>&gt;The police VSU is in Malili which is far, and as a result, a lot of people take their matters to the chiefs. Due to this, police and chiefs sometimes have a conflict on who handles certain cases.</li> <li>&gt;The claimant is expected to prepare food for all the participants attending the traditional court session. This can be costly and prohibitive to victims. There is usually a minimum of ten people when the court is chaired by the GVH whilst a minimum of thirty people is usually in attendance where the TA chairs the session.</li> <li>&gt;CSOs usually introduce projects in the area to protect the rights of women and girls, but they never complete the projects; hence, the community does not benefit from such initiatives. For instance, an organisation had begun implementing a project on the re-admission policy. When the project terminated efforts by the community to ensure girls went back to school after childbirth dwindled. Sustainability of projects is, therefore, an issue in the area.</li> <li>&gt;Literacy levels are low, which can be seen through legal knowledge gaps the community has.</li> </ul>

2	Availability of civil justice services for women (access, distance, who are the service providers)	10%	50%	<p>&gt;Corruption is rampant where respondents bribe chiefs and the police to decide in their favour. There have been instances where police have asked claimants to provide them with transport for them to attend a court session. Non-payment means the police will not attend the court session.</p> <p>&gt;There are allegations of conflicts of interest where police and chiefs have been known to favour a party they know. This has resulted in some women not reporting issues to the police and chiefs.</p> <p>&gt;There are no government bodies, CSOs, and other stakeholders present in the community to assist the community access civil justice. The Ministry responsible for Gender only has one gender officer at the district level who cannot manage to reach out to all communities within the Lilongwe district. However, when community officers carry out some duties of the gender officer in both rural and urban Lilongwe, a conflict arises between the officers.</p> <p>&gt;Culture plays a role in access to civil justice in the area. For instance, if the area practices matrilineal systems of culture, the children are deemed to belong to the woman.</p>
3	The commitment of service providers, e.g., chiefs, TAs, courts, police, CSO, CVSU	10%	50%	<p>&gt;There is understaffing in the Ministry responsible for Children as there is only one child protection officer working in two TAs. The shortage of staff means they fail to provide adequate services.</p> <p>&gt;Mobility is an issue due to the vastness of the geographical area. Service providers, therefore, work in areas they can reach, resulting in only a few communities benefitting from such services. Some of the service providers must use their own money to travel to different places.</p> <p>&gt;CSOs do not follow up or monitor projects they began implementing in the communities. On the other hand, it shows that there is also a lack of ownership of the initiative by the community itself.</p> <p>&gt;There is a handout syndrome as people expect to receive assistance in various forms, including monetary assistance without putting in the effort and ensure the sustainability of the project or the activities. This has seen several projects fail to reach completion as service providers choose not to work in the area as it becomes costly.</p> <p>&gt;There are too many chiefs in the area, some of whom are not recognised at the Ministry of Local Government and Rural Development. They create their own boundaries, which result in confusion for the service providers on which traditional leader in the area they can engage in the implementation of a project. Service providers are blamed if they choose one traditional leader over another. It, therefore, affects the provision of civil justice services by CSOs in the area as they choose not to work in the area. It was, therefore, suggested that events should be held at a neutral place. The responsibility of the mobilisation of communities should also not be given to traditional leaders but rather to the gender officer or community development officer.</p> <p>&gt;There is a lot of corruption by service providers which hinders access to civil justice.</p> <p>&gt;There is a lack of training or capacity building for service providers to ensure civil justice needs are met. A good example would be the inadequate knowledge of laws by service providers in order to provide necessary and relevant assistance.</p>
4	Community participation in issues of women civil justice issue (if issues are reported, if they	20%	30%	<p>&gt;Some do not know where to report their issues so they do not know how they would be able to voice issues, let alone help others facing injustices.</p> <p>&gt;Traditional leaders do assist primarily in cases of early pregnancies where the man or boy refuses responsibility or</p>

<p>acknowledge wrongdoing and support others)</p>		<p>refuses to provide child maintenance. However, in some instances they do not help for instance, a case of a 13-year-old girl who was impregnated by a 14-year-old boy where the two eventually got married despite the traditional leaders and parents being told it was against the law. Some traditional leaders advise such young people to get married to avoid the parents taking responsibility for the baby.</p> <p>&gt;Service providers do assist in removing girls from early marriages. Some girls have been re-admitted into schools after childbirth. However, some parents do not believe that a pregnant girl or a young mother should go back to school.</p> <p>&gt;Some cultures believe that girls with children cannot go back to school as it is believed that such girls should get married. Likewise, others believe beating a child is a form of discipline.</p> <p>&gt;Some social and cultural practices believe women should be beaten under the guise that <i>banja ndikupiriria</i> (loosely translated to mean marriage is perseverance).</p> <p>&gt;Defilement cases do occur, but they are not reported as people fear that the defiler shall be arrested as most defilers are relatives of the victim, for instance, a stepfather, father or uncle. The victim, therefore, remains without any recourse to any remedies or means to access to justice as the mothers to such victims will choose to not listen to the victim so long as she keeps her marriage to the defiler.</p> <p>&gt;Rape cases are mostly hidden, especially when the children are abused by stepfathers. The mothers of molested children are mostly in denial or threatened by the defendant</p> <p>&gt;Parents are also to blame as they do not act in cases of early pregnancies or marriage: there was a case of a 13-year-old girl who got married with no action by parents.</p>
<p>5 Effects of cultural and religious beliefs on women's civil justice issues, social, cultural norms, religious beliefs</p>	<p>20% 75%</p>	<p>&gt;Most women usually suffer when their husbands die as any property is grabbed by the man's relatives due to cultural practices. Elderly women are not spared from such injustices as they are deemed to practice witchcraft.</p> <p>&gt;Some women are told not to go to the hospital due to religious beliefs resulting in their health rights being violated.</p> <p>&gt;Churches do encourage children to go to school, which reduces injustices against children.</p> <p>&gt;Churches also assist in the reconciliation of spouses going through marital disputes using mediation.</p> <p>&gt;Chewa traditional practices such as the practice of <i>Nyau</i> results in underage girls being forced to participate in funeral rites where the person who has died is an elderly person. The girls are carried on the shoulders of older women ahead of a funeral procession. The parents or grandparents of the girls make the decision for the girls to participate in such rituals. Such funeral rituals take place for a whole week, which results in the girls' missing school for that duration. Some girls do not go back to school again as they are mocked for their role in such practices.</p> <p>&gt;Other social practices include parents forbidding children of school-going age from attending school since they believe the children shall not benefit anything from attending school, especially where those who have gone to school are not doing well.</p> <p>&gt;Due to increased unemployment rates, young people are discouraged from attending school.</p>
<p>6 Referral systems (any linkages between formal legal systems and traditional or local systems)</p>	<p>20% 100%</p>	<p>&gt;There is a linkage between informal and formal service providers; however, provision of services is low as Malili Magistrate Court has a visiting magistrate who has only been there once or twice. Therefore, many cases are not adjudicated.</p>

>Traditional leaders work well amongst themselves as they refer cases to each other according to their leadership hierarchy.

>Police and CSOs have a problematic relationship as police complain that they are usually not engaged in the design and implementation of activities but are only engaged when there are cases to resolve.

>Chiefs and the police work well together as corrupt acts occur a lot between the two offices. For instance, police at Natural Resources College (NRC) had a case where a father raped his daughter. When police arrested him, the man bribed them and told them that he had been drunk and had mistakenly slept with his daughter thinking that she was his wife. The police told the girl to drop the case. The man was later released and is now a traditional leader. The wife did leave him after that incident. To date, the girl has not seen any justice.

>Hospitals assist rape victims but they (the hospital staff) typically refuse to attend court sessions in order to provide evidence as expert witnesses which results in some cases not being resolved or causes delays in the adjudication of such cases.

### Chitipi Interface Meeting

During the interface meeting, the main issue that was discussed was the costs attached to the fee women have to pay. For example, it was revealed that complainants are supposed to pay or cater for lunch of the providers sitting to discuss issues. The lunch is costly as they are supposed to provide lunch, which should be meat or chicken with soft drinks which women considered to be costly. However, the chiefs responded that that is their practice as they do not have a source of funds.

Additionally, the participants also requested that the culture of engaging girls in parading during funerals of *Nyau* gurus be struck out as it violates young girls' rights. Additionally, it was highlighted that girls' education is also affected by this practice especially as after the funeral ceremony, girls are laughed at by their friends at school, and they opt out of or drop out of school. The chiefs responded to this need by saying it is a cultural issue that needs proper consultations and suggested the CSOs should be involved in advocating for the rights of women.

### Chitipi Action Plan

Issues	Action Item	Responsible
<b>Limited information.</b>	Awareness campaigns/civic education on civil justice issues and education on corrupt practices.	Government
<b>Influence of culture on decision making.</b>	Capacity building for service providers on civil justice issues.	CSOs
<b>The limited capacity of service providers.</b>	Collaborate with media houses or institutions and initiate listening clubs where there would be dialogues on issues affecting women, e.g., Zodiak radio.	CSOs, public institutions
<b>Early pregnancies and marriages.</b>	Introduction of youth corners where there should be a space for young people after school to learn life skills (vocational such as tailoring or cooking). Initiate toll-free lines to report GBV.	CDAs, CSOs, Chiefs, and CBOs
<b>GBV.</b>	Initiate toll-free lines. Promote linkages with existing structures or programs implementing such initiatives.	CSOs

## Lumbadzi

### Knowledge and Information

Participants from Lumbadzi mentioned that they get information on various topics, including civil justice provision from the police and religious gatherings. Participants expressed that there is limited access to information from public service providers such as the judiciary, health sector, and other government arms.

The participants recommended that gender programming should include orientations that include men so that they understand the civil injustices that women go through.

### Accessibility and Availability of Services

The participants indicated that there is a formal court that caters for people from this area – Mkukula Court. However, distance is the main barrier that prevents people from accessing services at that court. In addition to the transport costs, the women cited that they need to pay about MK5000 (\$7) at the court, which is too much for most of them to afford. The respondents, therefore, reported that people in the area mostly report civil cases to the chiefs because there is no transport cost attached to that.

Additionally, they reported fees attached to the provision of the services: for instance, chiefs require the claimant to provide food for all the participants attending the court session in addition to a summon fee of K3000 instead of a chicken.

The participants further highlighted that despite the existence of police, traditional and religious leaders, they feel their issues are not handled fairly. They said that the police and traditional leaders do not usually assist victims but instead delay justice. They cited an example of a marital dispute: they said: “*The police will give victims verses to read and a room to resolve their issues by themselves, sometimes insinuating the resolution be resolved sexually,*” (Respondent, Lumbadzi). They further said the chiefs opt for marital disputes to be handed by marriage counsellors.

Furthermore, the women also highlighted that sometimes they do not get justice because some service providers like the police sexually harass women by asking for sexual favours from victimised women who have reported a case. They said this hinders the provision of civil justice as victims decide to stop pursuing justice.

### Socio-Cultural Issues

Socially, women also revealed that men oppress their SRH rights by discouraging their wives to use family planning methods. However, the women stated that, ironically, the same men would leave them for other women when they have too many children. They said other men even opt for polygamy (*Mitala*) which they said usually results in child neglect and domestic abuse of the wives, and especially the first wife.

Furthermore, women’s dependency on a husband’s finances was revealed to exacerbate child abuse. For example, they said some stepfathers abuse stepchildren by “*pinching their genitals using pegs.*” They said the reason behind this abuse is for the children to go back to their biological fathers. However, they indicated that most women in such circumstances do not report this as they are afraid of losing their marriages.

Additionally, the participants reported that the issue of early marriages in this area is attributed to poverty. The participants indicated that most girls and even parents believe that marriages will solve all their financial woes, which is not the case. The participants acknowledged that such marriages heighten the problems as the more children they bear, the more finances they need to take care of

themselves and their children. *Most girls, who get married early, usually at the age of 12 years, end up dropping out of school,* (Respondent, Lumbadzi)

### Institutional Capacity

Government organs have been of assistance in matters of compensation for reclaimed government land but not in all cases. Participants complained that the government took back some land near the airport for which they have not received compensation. Government has also not been able to assist women in family land disputes. Participants said this has also affected the community, especially among women who are divorced or widowed.

The limited capacity of services was also highlighted as a challenge in Lumbadzi as the participants highlighted that most service providers do not hold issues reported to them confidentially. For example, they said some service providers would share some cases with their partners or friends who later would gossip to other people and for that reason women feel they are not fairly treated by the people they are to trust.

### Lumbadzi Scoring

#### Lumbadzi Scoring Template

Date: 11<sup>TH</sup> June 2019

Indicator	Score Service Provider	Women >25	Women <25	Reasons
1 Knowledge/availability of information about women civil justice issues (access to information, knowledge, media for information, is information adequate)	40%	10%	20%	<ul style="list-style-type: none"> <li>&gt;Police once taught them about marital rights and GBV.</li> <li>&gt;Religious institutions teach about behaviours and respect for rights in homes.</li> <li>&gt;Some women stated that they listen to radio programs which talk about human rights, but some said they do not have radios, so they do not have such opportunities. However, some women find it hard to listen to information on human rights as they themselves cheat against their husbands in order to find money to provide for their children.</li> <li>&gt;The participants stated that Health Surveillance Assistants (HSAs) do not teach them about their health rights but usually engage them when they are collecting data.</li> <li>&gt;Government officials do not usually visit the community to provide for the community's civil justice needs.</li> </ul>
2 Availability of civil justice services for women (access, distance, who are the service providers)	60%	30%	30%	<ul style="list-style-type: none"> <li>&gt;The Court nearest to the area is far and court fees are also high, which means the court is not accessible to most women who cannot afford to pay such fees. They are also therefore not able to reach the court, especially where the court frequently adjourns their cases.</li> <li>&gt;The police and traditional leaders do not usually assist victims but instead delay justice.</li> <li>&gt;Religious institutions provide advice through verses but do not admonish men for their behaviours, which results in men repeating their abusive acts.</li> </ul>



					<p>&gt;Matrimonial properties are not distributed fairly where marriages are dissolved. Men will usually take everything.</p> <p>&gt;Most men do not provide spousal and child maintenance after divorce.</p> <p>&gt;Government does not adequately provide for civil justice needs in the area. Its presence is not felt.</p>
<b>3</b>	The commitment of service providers, e.g. chiefs, TAS, courts, police, CSO, CVSU	50%	50%	10%	<p>&gt;There is favouritism in the way service providers assist victims in accessing civil justice. Some show favouritism because they have been bribed by one of the parties.</p> <p>&gt;Corruption is rampant by service providers.</p> <p>&gt;Sexual harassment in the form of asking for sexual favours by service providers hinders the provision of civil justice as victims decide to stop pursuing justice.</p> <p>&gt;There is a lack of confidentiality by the police and chiefs, especially when they are drunk and tell the people they are drinking with about the cases they have resolved or have received to resolve. Some marriage advocates also have this behaviour.</p> <p>&gt;Marriage advocates sometimes agree to conduct mediation where there are marital disputes, but they also fail to do so without reason.</p> <p>&gt;Chiefs refuse to resolve marital disputes saying such disputes can be resolved at the family level.</p>
<b>4</b>	Community participation in issues of women civil justice issues (if issues are reported, if they acknowledge wrongdoing and support others)	10%	30%	25%	<p>&gt;Women generally do not have a voice regarding their concerns. Whilst some community members will aid victims of injustices; others will laugh and not offer any assistance.</p> <p>&gt;When those who abuse children are rebuked, they state that the child is theirs to do with as they please. This has seen many women take a step back in assisting children who are abused by their parents.</p> <p>&gt;There is a tendency not to assist or voice issues affecting women and girls so that everyone has a taste of some injustice, similar in nature or not. For instance, early pregnancies and the resultant lack of child support is due to women not wanting to provide advice to each other's children as a preventive measure especially when they know the girl is engaged in sexual activities.</p> <p>&gt;Some stepfathers are known to physically abuse their stepchildren just so they return to their biological fathers. They would, therefore, pinch their genitals using pegs. Most women in such circumstances do not report such abuses as they do not want to lose their marriages. Stepmothers are also known to abuse their stepchildren.</p> <p>&gt;There is a lack of confidentiality when people report issues to their friends, and so people choose to suffer in silence.</p>

				<p>&gt;Women who are entrusted to care for their friends' children due to their inability procure the services of a nanny are also known to abuse, such children.</p> <p>&gt;Intervening in domestic violence cases has resulted in some men beating those intervening. Therefore, a lot of women just observe violent acts and do not act or report them. Furthermore, some of the abused women will rebuke women who tried to assist them during the assault alleging that such women want to snatch their husbands from them.</p> <p>&gt;Some parents are known to use their own children in their witchcraft practices in order to get rich. When such cases are reported, the police inform the women that the law does not recognise witchcraft as a crime.</p> <p>&gt;Some men who impregnate young girls bribe the girls to place the responsibility of the pregnancy on innocent men. Some girls have been known to be infected with sexually transmitted infections (STIs) from such sexual relations.</p> <p>&gt;Defilement cases are usually reported to traditional leaders who refer them back to their families to handle as family matters. Therefore, victims of such acts do not access justice.</p>
<p>5 Effects of cultural and religious beliefs on women's civil justice issues, social, cultural norms and religious beliefs</p>	<p>80%</p>	<p>70%</p>	<p>60%</p>	<p>&gt;Some cultural and religious beliefs do enhance injustices against women and girls. Democracy has some people believing they have no responsibilities. For instance, some girls believe that once they reach 18 years of age, then they are free to engage in sexual activities. However, if they fall pregnant and the man or boy responsible refuses to take responsibility, they are left with the task of pursuing them to provide child support.</p> <p>&gt;Patrilineal and matrilineal systems are not good to a certain extent. Where a man dies without leaving a will, his relatives will grab all or most of the property. The woman is also usually told to leave that community and go back to her home village without any property. At her home village, she also suffers injustices as her family will not provide her with any land as a married woman is expected to stay at her husband's village.</p> <p>&gt;There is no gender equality. Men are still favoured in decision-making positions, including gender roles within homes.</p> <p>&gt;Some parents will force their pregnant girl child to get married to the father of the baby despite the law prohibiting early marriages. The cycle is vicious for such girls as they end up bearing more children whom they fail to take care of.</p> <p>&gt;The <i>Nyau</i> culture sees some girls being forced to participate in certain rituals. Some girls have dropped out of school as a result of</p>

					the stigma associated with their participation in such rituals.
6	Referral systems (any linkages between formal legal systems and traditional or local systems)	80%	20%	50%	<ul style="list-style-type: none"> <li>&gt;Chiefs will give referral letters to victims where they fail or are unable to assist them.</li> <li>&gt;The police refer victims to hospitals where there is a need for hospital intervention.</li> <li>&gt;The police also refer victims to the courts of law.</li> </ul>

### Lumbadzi Interface Meeting

The interface meeting at Lumbadzi included various stakeholders sharing what services their departments offer. This was upon request from the traditional leader in this area with a concern that most community members are not aware of some institutions that offer services in relation to protecting women’s rights and as such do not know where to report or seek assistance for civil cases.

A representative from paralegal explained that their office is there to protect women and child rights, and they are open to community members if any issues, including civil justice cases, arise. Additionally, a representative from Social Welfare highlighted that their office deals with child rights, and they support vulnerable children in safeguarding their rights to minimise any form of abuse. The health sector representative from HSA highlighted that they offer reproductive health services such as family planning services that aim to promote women’s rights.

The main issues discussed during the interface meeting was that women are vulnerable to GBV because they are financially dependent on their spouses. The discussion went further to highlight that even if women are being involved in small scale businesses, men are threatened and are bound to discourage women from continuing with that. To avert the situation, the participants recommended capacity building, which should include men. The reason behind engaging men, they said, was that it would make the men understand and acknowledge the rights of women and would even promote communication among partners at the household level.

Additionally, it was agreed that the corrupt and favouritism practices by service providers continue to violate women’s rights. The traditional leaders acknowledged this concern and responded that they would investigate this and improve. However, the police department was not available to respond to some of the issues highlighted by the participants. On the other hand, participants were also geared to take roles in safeguarding their rights and support one another.

### Lumbadzi Action Plan

Issues	Action Item	Responsible person
<b>Limited Information.</b> <b>The limited capacity of Service Providers.</b>	Conduct Awareness Campaigns/Civic education on civil justice. Capacity Building for Service Providers on legal justice issues.	CSOs, CBOS, faith-based organisations, Traditional Leaders Judiciary Government departments Legal aid
<b>Limited economic access among women.</b> <b>Unequal power relations.</b>	Capacity building on financial services such as VSL. Initiate micro-finance banks such as VSL in the villages to promote economic freedom for women. Engage men in training.	CDAs, Traditional Leaders CDAs, CSOs

<b>GBV.</b> <b>Corrupt leaders and favouritism.</b>	Reinforce the laws that will hold perpetrators accountable and ensure that they are punished Reinforce the by-laws, such as the marriage age. Strengthen the linkages between governance and legal structures.	Traditional leaders, community members as gatekeepers as well Traditional leaders, parents Traditional leaders, CSOs
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## Chigwirizano

### Knowledge and Information

Like at the other sites, the participants highlighted the gap in knowledge attributed to limited access and availability of information.

### Accessibility and Availability of Services

The area has a traditional court at Malili (which also engages a formal court magistrate) which is slightly far and requires a person to use transport in the form of bicycles or motorcycles which costs K1, 500 (\$2) and K3, 000 (\$4) respectively for a one-way trip. The fares are high and, because most women cannot afford to pay such figures, they do not access the court and instead go to the police or chiefs for assistance.

The participants revealed that police services are not easily accessed. It was established that the nearest police at Chigwirizano was vandalised by the community for being corrupt and not helping them. The community, therefore, engages the police at the NRC which requires a bicycle fair of K1,500(\$2) or Chinsapo police which requires a bicycle fare of K1000 (\$0.50).

Money is required to access civil justice services, which most women cannot afford. Chiefs require payment from a party who loses a case. For instance, for any verbal dispute, a party is required to pay K2,500 (\$3.40), whilst theft will require payment of K25,000 (\$34.70), and murder requires a payment of K100,000 (\$139) even where criminal sanctions have taken place. The complainant is also required to pay a sum of K15,000 (\$20) to cater for food for all persons attending the court session. Such monetary payments are a barrier to access to justice for people who mostly live below a dollar a day. However, the chiefs disputed this saying the complainants are requested to pay a summon fee of MK2,000 (\$3) at GVH level which contradicted what the women said.

### Institutional Capacity

The service providers highlighted that the factors contributing to women issues are the weak laws that exist in the country, and the notion is that there are no mechanisms installed to reinforce the laws hence increased corrupt practices. The traditional leaders also attributed the poor governance at a lower level to malpractice at a higher level.

### Chigwirizano Scoring

#### *Chigwirizano Scoring Template*

Chigwirizano, 14<sup>th</sup> June 2019

Indicator	Score Service Provider	Women >25	Women <25	Reasons
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<b>Knowledge/availability of information about women civil justice issues (access to information, knowledge, media for information, is information adequate)</b>	20%	0%	10%	<p>&gt;Chiefs assist girls who have been impregnated to get civil justice in the form of provision of child maintenance.</p> <p>&gt;Churches assist women in resolving marital disputes through mediation as long as they report such cases to the church.</p> <p>&gt;Police do not assist women in accessing civil justice. They will only assist where they are bribed.</p> <p>&gt;Some women are not aware of their rights being violated.</p> <p>&gt;There are no organisations which provide information about civil justice.</p>
<b>Availability of civil justice services for women (access, distance, who are the service providers)</b>	20%	5%	10%	<p>&gt;Money is required to access civil justice, which most women cannot afford. Chiefs require payment from a party who loses a case. For instance, for any verbal dispute, a party is required to pay K2,500, while theft will require payment of K25,000 and murder requires a payment of K100,000 even where criminal sanctions have taken place. The complainant is also required to pay a sum of K15,000 to cater for food for all persons attending the court session. Such monetary payments are prohibitive.</p> <p>&gt;Lack of financial empowerment sees women use what little money they have for their families, thus leaving them unable to afford legal fees. Women suffer more where their husbands are not paid.</p> <p>&gt;Vulnerable groups do not get assistance, including healthcare. Most vulnerable groups are not registered as beneficiaries under social protection programmes. Instead, women and girls who are not vulnerable are registered as beneficiaries under such programmes. Traditional leaders are chief perpetrators in such cases as they are the ones engaged by the government to assist in the implementation of such programmes. Vulnerable groups fail to report such cases as they are not sure where to report them.</p> <p>&gt;Churches resolve marital disputes through mediation.</p> <p>&gt;Favouritism by service providers is prohibitive in the reporting of cases.</p>
<b>The commitment of service providers, e.g. chiefs, TAs, courts, police, CSO, CVSU</b>	20%	10%	10%	<p>&gt;Police provide forms to victims to get assistance from government hospitals where examination and treatment are needed. However, police do not give out information to people on what progress they have made regarding cases they are handling. They request money in order to provide services, which is prohibitive to the community.</p> <p>&gt;The attrition rate for personal injury cases reported to the police is high. Victims never get compensation for their injuries, and some have debilitating injuries, and as a result, they are unable to ever work again.</p> <p>&gt;Some police and court officials do not hand over money received from respondents for</p>

				<p>child and spousal maintenance to the complainants.</p> <p>&gt;Hospital staff do provide SRH information to women and girls, and they do not discriminate against persons living with HIV. However, most of the women complained that they do not receive adequate care during labour from nurses, as some have even given birth outside the birthing room.</p> <p>&gt;There are also usually no drugs in the hospitals, so people are forced to go and buy them, but due to lack of finances, they end up not buying any save for Panadol.</p>
<p><b>Community participation in issues of women civil justice issues (if issues are reported, if they acknowledge wrongdoing and support others)</b></p>	10%	50%	5%	<p>&gt;Most women admitted they do not participate in issues of civil justice. They only take part if it affects them. If they see an injustice, they will usually not do anything for fear of being arrested by police and accused of being the perpetrators.</p> <p>&gt;They also fear to participate in issues of women civil justice issues, for instance, in domestic violence cases, for fear of being accused of stealing from the claimants under the guise of assisting. Some people have been accused of doing such. Some fear being physically assaulted during the acts of violence whilst others fear being deemed as people who break up marriages, especially where the couple reconciles.</p> <p>&gt;Women do voice their concerns at work if their pay is not enough.</p> <p>&gt;Most of the women stated that they have not registered their businesses and do not want to register them as it will mean paying taxes or having to pay registration fees which will reduce their capital and profits. They also face challenges when some men buy beer from them but refuse to pay or dilute their beer with water after stealing. Some women have failed to sustain their businesses due to such actions. They fail to know where to report such cases.</p>
<p><b>Effects of cultural and religious beliefs on women's civil justice issues, social, cultural norms and religious beliefs</b></p>	15%	10%	20%	<p>&gt;Some girls have been known to have been abducted by the <i>Nyau</i> practitioners. Sometimes they are abducted during school weeks, which means they end up not attending school during the time which the <i>Nyau</i> ceremonies take place. Being a practice which is male-dominated and a secret society, there are rumours that most of the girls are raped during the ceremonies and that some have contracted STIs in the process. Since it is a secret society where members are sworn to secrecy, most of the victims do not reveal their experiences. It is therefore difficult for people to assist them.</p> <p>&gt;Some girls get married early to escape abusive parents, whilst others want to experiment sexually, and others get married due to poverty. However, about two to three girls in the community have gone back to school after giving birth to their babies. They acknowledged that their mothers played a considerable role in</p>

				<p>their going back to school. Almost all the girls who married early stated they would like to go back to school but lack financial capacity.</p> <p>&gt;Churches also assist in the reconciliation of spouses going through marital disputes using mediation.</p>
<b>Referral systems (any linkages between formal legal systems and traditional or local systems)</b>	50%	50%	20%	<p>&gt;The police, courts, and chiefs do refer cases to each other.</p> <p>&gt;There are delays in case handling which results in a lot of stagnant cases. Some cases are never referred to relevant service providers.</p> <p>&gt;There is currently no CSO operating in the area.</p>

### Chigwirizano Interface Meeting

During the interface meeting, the main issue that the women wanted to be discussed was the corrupt practices by traditional leaders. The GVH in this area was able to acknowledge his weakness and vouch for responding to women's needs in a fair manner. For example, he encouraged the women to seek other means as well if they are not satisfied in the handling of their cases. The participants agreed to form a civil justice committee that will follow up on cases, especially those where justice was not served.

The community also discussed the issue of early pregnancies and marriages. The GVH assured the group that his office would ensure reinforcement of the laws, and he continued to say his community would revamp the community youth group which would promote youth spaces to discuss issues affecting them.

### Chigwirizano Action Plan

Issues	Action Item	Responsible person
<b>Limited access to Information.</b>	Awareness campaigns.	GJU
<b>Corrupt leaders</b>	Civic education.	CDA
<b>The limited capacity of service providers.</b>	Capacity building on service providers.	CSO, Government
<b>Corruption.</b>	Initiate a committee to follow up on issues affecting women.	
<b>Favouritism</b>		
<b>Low socioeconomic status among women.</b>	Women's economic empowerment programs such as VSL.	CDA
	Women spaces for dialogues.	CSO
	Male engagement into programming.	
	Initiate gender justice committees (men and women).	
<b>Poor coordination among various structures</b>	Coordinate with police and chiefs.	
<b>Early pregnancies</b>	Involve CBOs and older counsellor to reach out to youths.	CBOS
	Revamp the youth club in the area.	HSAs
	Link youth club with Youth Friendly Health Services (YFHS).	

## CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

Through this study, it is openly established that there is a knowledge gap on legal issues such as civil justice. The inadequate knowledge is mostly due to low literacy levels, and poor access to information further contributes to women being unaware of their rights and therefore of holding the right authorities responsible for failing to meet their needs.

The study has revealed that civil justice needs for women at Chitipi, Chigwirizano, and Lumbadzi are many (such as child support issues and land disputes) yet very few service providers exist to meet these needs.

The results have shown that traditional justice mechanisms are the primary source of civil justice services; however, these are not capacitated enough to handle the issues.

The results have also illustrated cultural and institutional barriers that prevent women from accessing civil justice. Institutional barriers include corruption of service providers (especially the police and chiefs) and inadequacies and inequalities in the judicial system. Cultural barriers include social and gender norms that have positioned women in a situation where they have to accept injustices because the society expects them to, and the law will not help them fight.

### Recommendations

It is therefore essential for GJU to lobby on behalf of the women of Lilongwe for increased service provision for civil justice cases. This will also entail improving the capacity of informal justice mechanisms to respect human rights and honesty in the handling of civil cases. Capacity building for community members in order to build their knowledge on rights and creation of dialogue spaces through which women would feel empowered to address their own and the community's needs would also ensure that justice is served. An example can be drawn from Chigwirizano, where it was suggested that women initiate a forum (dialogue space) which would serve a purpose of learning from each other and voicing out of issues pertaining to civil justice.

Civil justice is a multispectral concern; therefore, it implies that different stakeholders implementing programmes from various sectors should be targeted in finding solutions to the outlined gaps.

### Gender

On a larger scale, this study deep-rooted the already existing knowledge that women remain the most marginalised group in most societies. That marginalisation roots from limited decision-making power both at household and community level. That further goes to their limitation in engaging in economic activities, which contributes to their financial dependency on men. The study highlighted this finding as a contributor to GBV against women at all the sites.

To avert such situations, there is a strong need for sound strategies to engage men in all civil justice-related activities. In such a way, men will have their own space in understanding the needs of women and possibly enhance their capacity to support women economic initiatives. An example can be drawn where participants suggested the initiation of VSL. However, if men do not understand the benefits of such groups, then they can further perpetuate the violation of women rights.

### Legal Justice Systems

The current legal systems have been established to be incapacitated to meet the civil justice challenges women are facing. Already it was established that there is limited knowledge among women, which implies limited utilisation of services available. However, the only challenge, in this



case, is not utilisation but inadequate service options for women. This translates to the fact that women's rights are further violated due to weak structural systems.

Furthermore, the costs attached to service provision has also been established to bar women from accessing the needed civil justice. In considering that the offices providing such services need operational resources, there should be a fair mechanism to introduce summons fees. And those summon fees – if it is deemed necessary – should be a justified fee and be incorporated in all government legal documents that guide the local legal systems. This would minimise issues of overcharging women and all people in general

Establishment of community formal courts or deployment of community legal structures from the Justice Department would also ease access to both traditional and formal legal services. Additionally, such presence of legal structures at the community level would also narrow the knowledge gap among community members and service providers.

### Literacy and Education

It was established that most participants only have primary school qualifications, while others never attended school. Low literacy levels are a contributing factor to women's lack of knowledge about their rights.

Establishment of youth corners or youth programs at the community level as suggested by a participant at Chitipi can provide a platform where young women and girls can learn about various topics on their rights. Young girls would benefit a lot. These centres were suggested as an after-school programme to provide space for young people in learning new vocational and life skills as well. The skills would either promote their positive behavioural change or economically empower them. Additionally, it would keep them occupied after school, preventing them from indulging in risky behaviours.

### Sexual and Reproductive Health Needs

The findings highlighted the unmet need for SRH services such as family planning. It was revealed that there are high rates of childbirth: in some instances, it was mentioned that women are discouraged in using family planning methods by their husband as there are myths of loss of libido in women who are on contraceptives.

Such beliefs could be attributed to the knowledge gap in SRH services which could be translated to GBV. In this case, understanding the root cause of such is prime in designing gender-responsive programs. Thus, there is a call for all stakeholders to assess and evaluate the services provided in the communities, how they are provided, and how to address the barriers. In this case, it is highly suggestive of male inclusion in future programming.

### Socio-Cultural and Political Context

The findings suggest the socio-cultural, religious, and political context in Malawi has historically shaped the civil justice policies, socio norms, and reproductive moral standards and laws in Malawi which are grounded in patriarchal colonial systems. Thus, these factors also influence gender relations, societal sexual preferences/culture, and decisions. However, there is a gap in understanding the adverse effects and their meanings to women, as women's voices are missing in the practices or services being provided. There is a need for advocacy and lobbying in this area as well.

## ANNEXES: DATA COLLECTION INSTRUMENTS

### Survey Questionnaire

#### SURVEY QUESTIONNAIRE

Date of Interview	
Site	
Village	
Name of the data collector	
<p><b>Introductions</b></p> <p>Thank you for taking part in this survey. My name is _____, and I am representing Gender and Justice Unit. I am one of the research team which is aiming at exploring and understanding the civil justice needs of women. The research aims at identifying the needs and how the socio-political systems affect the civil justice needs of women. The findings of this research intend to influence institutions both public and private as well as CSOs in formulating gender-sensitive services to address the needs. Your participation is voluntary, and you can opt out anytime you feel the need to. We will only proceed if you give full consent of your participation</p> <p>Takuthokozani potenga nawo mbali pa zokambilanazi. Ine dzina langa ndi.....ndipo ndachokera ku bungwe lowona za ufulu wa amai ndi abambo komanso anyamata ndi atsikana lotchedwa Gender and Justice Unit (GJU). Ine ndine mmodzi mwa anzanga omwe tikuchita kafukufuku wokhudza nkhani za ufulu wa amai, nkhani za chilungamo cha makhothi ndi magamulidwe a milandu makamaka milandu yokhudza amai ndi atsikana. Kudzera mu zokombiranazi, GJU ikupanga kafukufukuyu ndi cholinga chofuna kudziwa mmene Malamulo ndi ufulu okhudza amayi ukuyenendera.</p> <p>Zotsatila za zokambirana zathuzi zitithandiza kupanga akalozera komanso kudziwa momwe ma ufulu okhudza amayi angapititsidwile patsogolo kudera kwanu kuno komanso mmalawi monse muno.</p>	
<b>Biography</b>	
Age	18-24 25-40 41 and above
Marital status	Single Married Divorced Widowed Other _____
Ethnicity	Chewa Lomwe Tumbuka Other _____
Literacy level	Primary School Secondary Tertiary Never attended school
Occupation	Civil servant Farming Housewife Business Other _____
<b>QUESTIONNAIRE</b>	
<p><b>1</b> What civil case/ problems exist in your area, especially concerning women and girls? <i>Kodi ndimilandu yanji, makamaka milandu yokhudza amai ndi atsikana yomwe imachitika kwambiri mudara lanu lino?</i></p> <p>Land grabbing Lack of child support after being impregnated Lack of child support after divorce Divorce</p>	

<p>Gender based violence  Deceased estate issues (kulimbilana malo munthu akamwalira)  Milandu/mikangano yakhudza ndalama  Contractual disagreements (mwina pa ntchito kapena ganyu)  Other _____</p>
<p><b>2</b> Where are civil cases mentioned above reported? (<i>Look at the issue selected above and record where each issue is reported</i>)  Kodi milandu yomwe yatchulidwa ija imakasumidwa kuti kudera lino  Traditional Leader/Amfumu  Police  Court  Victim Support Unit  CSOs, specify _____  Other(specify) _____</p>
<p><b>3</b> Which are the main barriers that may hinder or stop you from safeguarding your legal or civil rights in civil cases like the ones we mentioned?  <i>Kodi pali mavuto anji amene amalepheletsa anthu akudera kuno kepeza chithandizo akakhala ndi milandu ngati tatchula ija?</i>  Unavailability of courts (Kusowa kotho)  Favouritism (kukondera)  Corruption (ziphuphu)  Inadequate resources to seek justice (kusowa ndalama)  Social, cultural norms (miyambo ndi zikhaliidwe)  Other</p>
<p><b>4</b> Are there services available to handle civil cases like the ones just mentioned in your area?  <i>Kodi zithandizo zilipo zothandiza milandu yamwe yatchulidwa ija?</i>  Yes  No  Name the available services _____  _____</p>
<p><b>5</b> Are you satisfied with the services that you referred to?  Yes  No</p>
<p><b>6</b> What needs to be done in order to improve the services</p>
<p><b>7</b> Have you ever had a civil issue like the ones we have been discussing?  Yes  No</p>
<p><b>8</b> If yes above, what was the issue?  Land grabbing  Lack of child support after being impregnated  Lack of child support after divorce  Divorce  Marital dispute  Gender based violence  Deceased estate issues (kulimbilana malo munthu akamwalira)  Milandu/mikangano yakhudza ndalama  Contractual disagreements (mwina pa ntchito kapena ganyu)  Other _____</p> <p>Where was the issue reported  Traditional Leader/Amfumu</p>

Police  
Court  
Victim Support Unit  
CSO, specify \_\_\_\_\_  
Other(specify) \_\_\_\_\_

Were you satisfied with how it was handled/resolved

Yes

No

Explain your reasons for your response-

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9 Do you know any programs or organisations which disseminate information and services regarding your rights or legal issues?

Mukudziwako mabungwe omwe amaphunzitsa anthu uphungu wokhudza ufulu wathu komanso momwe tingapezere chithandizo tikakumana ndi milandu yosiyanasiyana

Yes

No

If yes, please the organisation \_\_\_\_\_

\_\_\_\_\_

## Community Score Card FGD Guide

### Community Scorecard Focus Group Discussion Guide for Women and Key Stakeholders

#### Basic Information about the Focus Group Discussion (FGD) Participants

Site: \_\_\_\_\_

Date of FGD: \_\_\_\_\_

Name of FGD Facilitator: \_\_\_\_\_

Name of FGD Note taker: \_\_\_\_\_

Community Ethnicity: \_\_\_\_\_

Number of Participants: \_\_\_\_\_

Male

Female

#### *Ethical Considerations*

*Please ensure the environment is conducive whereby participants are free to participate and share their views. Please ensure they understand the relevance of this research which will influence policy making*

*Please use the language that is commonly understood by the participants.*

Please keep in mind there is enough explanation and elaboration as the FGD questions are open ended. Write down any comments or recommendations that the participants give.  
Interviewers are encouraged to probe in the case of open-ended questions.

### Introduction

Please read aloud or modify as necessary

**Takuthokozani potenga nawo mbali pa zokambilanazi. Ine dzina langa ndi.....ndipo ndachokera ku bungwe lowona za ufulu wa amai ndi abambo komanso anyamata ndi atsikana lotchedwa Gender and Justice Unit (GJU). Ine ndine mmodzi mwa anzanga omwe tikuchita kafukufuku wokhudza nkhani za ufulu wa amai, nkhani za chilungamo cha makhothi ndi magamulidwe a milandu makamaka milandu yokhudza amai ndi atsikana. Kudzera mu zokombiranazi, GJU likupanga kafukufukuyu ndi cholinga chofuna kudziwa mmene Malamulo ndi ufulu okhudza amayi ukuyenendera.**

**Zotsatila za zokambirana zathuzi zitithandiza kupanga akalozera komanso kudziwa momwe ma ufulu okhudza amayi angapititsidwile patsogolo kudera kwanu kuno komanso mmalawi monse muno.**

### Consent

Tisanayambe, ndikutsimikiza kuti zonse zimene titi tikambirane pano ndi za chisinsi. Pambuyo pa ntchito imeneyi, m'tsogolo muno, mudzafotokozeredwa za zotsatira.

Kutenga nawo mbali pa zokambiranazi ndi kodzipereka mwakufuna kwanu ndipo ife tikhala okondwa mutakhala nafe.

Kodi mukuvomera kutenga nawo mbali pa zokambiranazi?

\_\_\_ Yes (#)

\_\_\_ No (#)

\_\_\_\_\_ Facilitator's Initials

## QUESTIONS

### A. prevalence of legal problems

What legal problems exist in your area, especially concerning women and girls?

Kodi ndimilandu yanji, makamaka milandu yokhudza amai ndi atsikana yomwe imachitika kwambiri mudera lanu lino?

Where are the legal problems mentioned reported in this area?

Kodi milandu yomwe yatchulidwayi imakapangidwa report kuti kapena imaweruzidwa ndi ndani kawirikawiri?

What is the relationship between formal law and traditional justice mechanisms here?

Kodi pali kugwilizana kulikonse pakati pa malamulo aboma ndi malamulo a mmudzi?

Do customary and traditional law and practices mitigate or impede the delivery of civil justice?

Kodi malamulo komanso kugamula milandu kubwalo la lamilandu la m'mudzi zimathandiza kapena kuwononga ufulu ndi chilungamo pa milandu?

When it comes to civil justice in your area (*ask the following*);

Kumbali ya chilungamo pa milandu, makamaka milandu monga kutha kwa banja, kusamala ana banja likatha, umwini wa malo, za chuma ndi zina zotero; (*Funsani mafunso otsatirawa*)

What is working well? Chikuyenda bwino ndichani?

What is not working well? Nanga chomwe chisakuyenda bwino ndichani?

And what can be done to improve? Chomwe chingakonze zolakwika ndichani?

### B. Accessibility

What services are available to handle both criminal and civil cases in your area?

Tchulani malo/mabungwe/adindo onse omwe amathandizira kukachitika milandu ngati mwatchula ija kudera lino

Kodi kunoko Khothi ilipo?

Khothi ili pafupi?

Nanga polisi ili pafupi?

Milandu yambiri imaweruzidwa ku bwalo la milandu lam'dera lino kapena ku court?

What factors do you think are barring/hindering women from accessing civil justice services?

Kodi ndi chani kapena zinthu ziti zomwe zimalepheretsa kuti anthu makamaka azimayi athandizidwe pa milandu yawo kudera lino?

Kodi mukuganiza kuti ndi zifukwa ziti zomwe zimapangitsa kuti azimai asamakhale ndi mwai opeza thandizo loyenerera lokhudza ufulu wao?

Maganizo anu ndi otani opititsa patsogolo ufulu wa amai komanso malamulo oteteza azimai?

<p>Kodi chikufunika ndi chani kuti azimayi nawonso azipeza mwayi wothandizidwa pa milandu yawo?</p> <p>Are you satisfied with the availability and the way civil justice services are rendered to women in this area?(think of traditional courts/ village heads, area magistrates)</p> <p>Kodi ndinu okhutira ndi adindo/mabungwe/boma kapena zithandizo zothandizira kapena kugamula milandu komanso zoteteza ufulu wa amai zomwe zilipo kudera kwanu kuno komanso monwe milandu imagamulidwira kudera kwanu kuno</p> <p>Kodi zikuyenda bwino ndi ziti? Nanga zisakuyenda bwino ndi ziti? Inu munakakonda zimenezi zitamayenda bwanji</p>
<p><b>C. Institutional</b></p> <p>How does the legal system in your area deal with issues that affect women such as domestic disputes, divorce, land ownership, child custody and support as well as gender based violence</p> <p>Tafotokozani ndondomeko za momwe nkhani kapena milandu yokhudza amai monga nkhanza za m’banja, kutha kwa banja, umwini wa malo komanso chothandizo cha ana banja likatha imayendera kwanu kuno?</p> <p>Pa zomwe zatchulidwazi komanso zina zomwe sitinatchule, zikuyenda bwino ndi ziti? Nanga zisakuyenda bwino ndi ziti? Inu munakakonda zimenezi zitamayenda bwanji?</p>
<p>Do you think the legal justice system in your area or country is equal?</p> <p>Kodi mukuganiza kuti kayendetsedwe kapena kapezedwe ka chithandizo chokhudza milandu kapena malamulo ndi ufulu komanso kagamulidwe kamilandu kamakhala kofanana pakati pa amai ndi abambo?</p> <p>Kodi ndi ziti zomwe zimapezeka mofanana? Nanga thandizo lomwe limasiyana ndi liti? Maganizo anu ndi otani kuti thandizo lidzipezeka mofanana?</p>
<p>Are there special mechanism and assistance services to ensure that the poorest and vulnerable women get access to civil justice? (i.e. exemption from fees, the appointment of a pro-bono lawyer, free local courts etc.)</p> <p>Kodi pali kuthekera kulikonse mdera lino kuti amai ovutikitsitsa athandizike kupeza thandizo lomenyeraera ufulu wao kaya ndi wa chuma, malo kapena banja ndi ana? Kodi mukanakonda kuti amai ovutikitsitsa azithandizidwa motani akakhala ndi vuto loti ufulu wao waswedwa</p>
<p>Do women in this area have the power to voice out their concerns regarding civil justice issues and services?</p> <p>Kodi inu amai mdera lino ali ndi mwayi opereka maganizo anu okhudza momwe ntchito zo teteza ufulu wa amai zikuendera? Tafotokozani zimayenda bwanji?</p>
<p>Do you think the government, CSOs and other stakeholders are doing enough to protect the rights of women? What are the areas you think are doing well? What are the arears that needs improvement What do you can be done to improve the capacity of the government legal system to support women?</p>
<p>Kodi mukuganiza kuti ndime ya boma loyang’ana za malamulo komanso ma bungwe akugwira bwino ntchito yoteteza ma ufulu a amai?</p> <p>Ndi ziti zomwe zikuyenda bwino Ndi mbali ziti kapena bungwe liti lomwe lisakuenda bwino Maganizo anu ndi otani omwe angapangitse kuti boma kapena mabungwe alimbikitse kuthekera kwao kopititsa patsogolo ntchito zoteteza ufulu wa amai?</p>
<p>How do social cultural issues affect civil justice issues for women in this area? (think of matriarchal/patriarchal culture, inheritance of financial resources when spouse dies; child custody)</p> <p>Kodi miyambo yathu ya chikhalidwe chamakolo, kaya zikhulupiliro zosiyana siyana malingana ndi mitundu ya anthu kumudzi kuno imakhudzana bwanji ndi ntchito zopititsa pa tsogolo kapena kubwezera m’mbuyo ntchito za kuteteza ufulu wa amai? Kodi zikuyenda bwino ndi ziti? Nanga zisakuyenda bwino ndi ziti? Inu munakakonda zimenezi zitamayenda bwanji?</p>

## Scoring Template

SITE: .....

DATE/TSIKU.....

FACILITATOR/OPANGITSA: .....

**INSTRUCTIONS/MALANGIZO:** Please ensure participants understand the process, each indicator to be scored out of 100% with clear justifications. Recommendations to be recorded.

Chonde onetsetsani kuti anthu akumvetsa ntchito yimene mufuna mupange nawo; Pelekani malikisi pa 100; Zifukwa zopelekera malikisi zimveke bwino poonjeza zitsanzo; Maganizo opititsa ntchito patsogolo apelekedwe

Indicator/ KALAZERA	SCORE/MALIKISI (PA 100)	REASONS/ ZIFUKWA

## List of Participants: GJU Stakeholder Engagement and Validation Meeting

No.	Name	Organisation
1.	Amon Lukhele	Outreach Scout Foundation
2.	Angela Tamanda Kaunda	Ministry of Justice
3.	Austin Kaliu	MAPA
4.	Chancy Nthowela	Outreach Scout Foundation
5.	David Chapita	Zodiak
6.	Dorothy Chingape	Police
7.	Edgar Kasiyafumbi	Lilongwe District Social Welfare Office
8.	Elizabeth Chambakata	Police
9.	Elizabeth Kadwala	MALGA
10.	Evance Keyala	YONECO
11.	Faith Chavula	mHub
12.	Florence Msekandiana	Judiciary
13.	Francis Machonga	Police
14.	Jessie Ching'oma	MCTU
15.	Lizzie Nyoni	NACLAE
16.	Lois Kalukuska	LLDC
17.	Lynda Jere	USADF
18.	Madalitso Mvula	Zodiak
19.	McDonald Nyoni	British Council
20.	Monica Madulira	mHub
21.	Mphatso Nyirenda	mHub
22.	Nelson Zakeyu	DFM
23.	Patricia Mawi	Police
24.	Paul Neely	mHub
25.	Rebecca Chinyeka	Times TV
26.	Steria Chasukwa	CCJP
27.	Taonga Kachilonda Phiri	GENET
28.	Thomson M Stock	YAI
29.	Uchizi Chihana	British Council
30.	Vincent Kumwadi	mHub
31.	Wakisa Kondowe	mHub
32.	Wilison Chivhanga	EGISA
33.	Yvonne Chasukwa	CCJP
34.	Zaithwa Milanzi	YFN