

# MALAWI HUMAN RIGHTS COMMISSION



## **Cultural Practices and their Impact on the Enjoyment of Human Rights, Particularly the Rights of Women and Children in Malawi**

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## 0.1 ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
FGD	Focus Group Discussion
FGM	Female Genital Mutilation
HIV	Human Immuno-deficiency Virus
MHRC	Malawi Human Rights Commission
MHRRC	Malawi Human Rights Rehabilitation Centre
NORAD	Norwegian Agency for Development
NGO	Non-Governmental Organisation
SPSS	Statistical Package for Social Scientists
STI	Sexually Transmitted Infection
T.A	Traditional Authority
UN	United Nations
UNDP	United Nations development Programme
UNFPA	United Nations Food Programme
UNICEF	United Nations Children's Fund
WHO	World Health Organisation

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## 1.0 INTRODUCTION

### 1.1 General Background

Like any other society in the world, Malawi is governed by a culture whose beliefs, values, customs, and a host of social practices have a powerful influence on community life. Culture is very important for national identity. Each nation has some ways of life that are unique to it. Culture is also important for national development. As it is rightly argued, people without a culture are like a tree without roots. Culture is at the root of national development, and for that development to be sustainable that culture must be vibrant. At the same time it is worth noting that, some elements of culture can be obstacles to development.

It is in recognition of the important role that culture plays at all levels of society, including the personal level, that Section 26 of the Malawi Republican Constitution regards culture as a human rights issue. It says:

*Every person shall have the right to use the language and to participate in the cultural life of his or her choice.*

While people often talk of a Malawian culture, it is important to bear in mind that there are many ethnic groups in the country. Hickey (1999) quotes Mkandawire and Mataya (1985) as indicating that there are approximately fifteen (15) major ethnic groups in Malawi. Most observers, however, agree that currently, the major ethnic groups and the regions where most of them are found are as follows: the Tumbuka and the Tonga in the Northern Region, the Ngoni in the Northern and Central Regions, the Chewa in the Central Region, and the Yao, the Lomwe, the Sena, and the Mang'anja in the Southern Region.

It has been observed that since the African population of Malawi comprises Bantus, almost all of them share similar customs and traditions (Thomson, 1956). That Malawian ethnic groups share a commonality in cultural practices is widely acknowledged. However, while some cultural practices are diffusing among the ethnic groups and some differences are diminishing as a result of intermarriages and migration, some cultural differences among the ethnic groups remain significant. Apart from language, which each ethnic group strives to maintain as an indicator of origin and identity, there are certain cultural practices that are unique to certain groups. Some of these practices impact negatively on the enjoyment of human rights in general and the rights of women and children in particular. In its work carried out in Karonga and Chitipa for instance, the Malawi Human Rights Commission (2003) observed that a lot is done in the name of culture in these areas that is not done elsewhere, which has the net effect of grossly impairing the enjoyment of human rights by the girl child. The Commission found that the practice of *kupimbila* in Karonga and its equivalent known as *kupawila* in Chitipa by which young girls are given in marriage to wealthy old men as payment for their parents' debts or for other purposes abrogates the rights of the girls such as the right to education and the right not to be forced into marriage.

In other areas of Malawi other similar and different cultural practices infringe on the human rights of individuals and groups of people. For example, studies by UNICEF (2001) and Society for the Advancement of Women (2001) have shown that the practice



of *fisi* (a male adult who has sexual intercourse with newly initiated girls) is uniquely practiced in societies such as among the Chewa and among the Yao in which their form of initiation for girls (called *chinamwali* and *chindakula* respectively) encourages sexual intercourse for initiates. This practice infringes on a number of rights of the girls, such as the right to choose a sexual partner.

Differences such as these cannot be ignored nor wished away, and unless a thorough investigation of the various cultural practices is undertaken, many such practices with a strong negative impact on the enjoyment of human rights can easily be concealed in generalizations about commonality. On the other hand, even if cultural practices were similar among the various ethnic groups in the country, the MHRC realizes that culture is dynamic and a study on the state of culture in the country is imperative because these common cultural practices too might be negatively affecting the enjoyment of human rights by certain sections of society such as girls, boys and women. In addition, because culture is dynamic, there is need to carry out such studies periodically. What may be true about the impact of a cultural practice on human rights today may not be true years, decades or centuries later. So far no comprehensive and systematic study has been carried out on how cultural practices in Malawi impact on human rights, particularly the rights of women and children.

The MHRC therefore found it necessary to undertake this study, which focuses on the various cultural practices in Malawi, with a view to ascertaining their prevalence, assessing their impact on the enjoyment of human rights, and, where negative traits are uncovered, recommending initiatives for change or modification to such practices.

## **1.2 Problem Statement**

Malawi has many ethnic groups with various customs, values and traditions some of which are common among various ethnic groups and others which are unique to particular ethnic groups. Many cultural practices in Malawi have been documented. However, most of the cultural practices have not been investigated thoroughly. In fact some of the cultural practices are not well known if known at all, and they have not been documented. More importantly, some of the various cultural practices impact differently and negatively on the enjoyment of human rights, particularly the rights of women and children. The magnitude and the nature of the impact of these practices on the enjoyment of human rights are yet to be determined.

Without a thorough understanding of how the cultural practices impact on the enjoyment of human rights, it is difficult to design strategies for intervention where the impact is negative. Consequently, more and more people, especially women and children, will continue not to enjoy some of their rights because of the impact of cultural practices.

## **1.3 Objectives**

The main objective of this survey was to assess the impact of various cultural practices prevalent in Malawi on the enjoyment of human rights in general and the rights of women and children in particular. In order to achieve this objective and to enhance the usefulness of the findings, the survey pursued six specific objectives:

- To catalogue cultural practices in Malawi;

- To isolate the elements of the different cultural practices that impinge on the enjoyment of human rights in general and women and children's rights in particular;
- To analyse and assess the strengths and weaknesses of the prevailing initiatives that aim at curbing human rights violations brought about by cultural practices;
- To generate information on cultural practices and their impact on human rights for Human Rights Education and advocacy programs; and
- To make recommendations for change or modification to cultural practices that impinge on human rights; and
- To influence policy formulation on culture.

#### **1.4 Rationale**

Culture is a very important element of any nation as it determines, to a large extent, the way people behave and go about their day-to-day lives. It is also one of the major factors influencing the pace of development and the direction that the process of development takes. Without a systematic analysis of culture, it is difficult to gain a meaningful understanding of why some individuals, communities, and societies operate the way they do. In any culture, there are some practices that infringe upon human rights and others that are in line with the principles of human rights. Therefore, it is important that a careful and systematic analysis of the major cultural practices prevalent in Malawi is undertaken to see how they impact on the rights of women, children, and men. In particular the various cultural practices ought to be interrogated against the backdrop of international standards such as those spelt out in human rights instruments such as CEDAW and CRC. Such an analysis will form the basis upon which action can be taken to encourage or discourage some of the cultural practices to ensure that all Malawians enjoy their rights to the maximum.

#### **2.0 LITERATURE REVIEW**

Hersh (1998) rightly observes that important practices exist which celebrate lifecycle transitions and perpetuate community cohesion or important traditional values to subsequent generations. Thus Hersh quotes a joint WHO/UNICEF/UNFPA statement of 1996 as stating that:

*Human behaviours and cultural values however senseless or destructive they may appear from the personal and cultural stand point of others, have meaning and fulfil a function for those who practice them.*

That various cultural practices have a role to play in the sustenance of the fabric of societies is not in dispute. However, studies have shown that a lot is done in the name of preserving culture, which erodes the physical and psychological health, dignity and integrity of certain individuals in society. According to Hersh, FGM practised in some 28 African countries as well as in some Arab and Asian countries, and in immigrant communities in Europe, Australia and the United States, is a good case in point. What is

passed on from one generation to another often includes constructive and destructive cultural elements such as FGM.

In Malawi some studies have been carried out which show that there are many cultural practices some of which have elements that are destructive to society in various ways. Most of these studies, however, have not directly linked cultural practices with issues of human rights. This should be expected because open discussion of human rights is a recent development which dates back only to the mid-1990s when Malawi adopted the multiparty dispensation. Some of the few studies that have tackled the issues of cultural practices in the context of human rights are reviewed here.

The MHRC (2005) instituted an investigative research into the existence of cultural practices that are harmful to the girl child in Kasungu District. The research found that the initiation of girls aged 12 to 15 years who have attained puberty, takes place in the areas of T.A Lukwa and T.A Kaomba. Over a period that may be as long as 2 weeks, the girls are counselled by *anamkungwi* on the developments taking place in their bodies and how they should take care of themselves. The research established that during the counselling sessions the girls are taught how to dance *chisamba* before they are presented to the community as young women. The MHRC found that the girls are taught this dance as a way of preparing them for their role of satisfying their husbands in bed. The girls dance bare-breasted in a very explicit manner as they are being presented to the whole community.

The MHRC observed that the initiation practice and *chisamba* impinge on a number of rights of the girl child such as the right to education, the right to health, and the right to personal liberty and dignity. It makes a number of recommendations including the need for sensitisation programmes targeting *anamkungwi* and chiefs on the disadvantaged situation of girls in the communities and the effects of harmful cultural practices on the lives of young girls.

Ntata and Sinoya (1999) examined customary law and the UN Conventions on Women and Children's rights and found that there were more cultural practices that contradicted or were in conflict with CEDAW and CRC than those which complemented the Conventions.

Women's Voice (2000) investigated traditional practices and their effects on women and children's rights and found that a number of cultural practices account for gender disparities in Malawi. It found that gender discrimination starts right from birth. It quotes women of T.A. Chindi, in Mzimba as having said that:

*When a boy is born there is nthugururu (ululation) in the room where the child is born. The attendants are too happy because he is the owner of the land (King). When a girl is born there is only information. A girl's birth does not go with nthugururu ...and they only say that "mwanakazi munyithu wababika" (our fellow woman is born).*

Women's Voice also looked at how traditional practices impact on women and children. Among other practices, it cites some practices which make women occupy subordinate positions in society. They include initiation ceremonies such as *jando*, *kuchotsa fumbi*, *msondo*, and *chindakula*, funeral rites like *kulowa chokolo* and *kulowa kufa*, and practices

related to marriage such as *kusunga mwana* among the Yao by which when a wife leaves home for some protracted period, elders choose a girl (usually the younger sister of the wife) to have sex with the man.

While the study identified some cultural practices that make women to be subordinated, its scope did not allow an in-depth analysis of how the practices infringe upon the enjoyment of human rights by women and girls, and people in general.

Society for the Advancement of Women (2001) looked at the practice of *fisi* as it impacts on girls' rights. This study found that the practice of *fisi* was becoming less common but that where it is still being practiced it is used to serve two purposes. Firstly, it serves the purpose of making girls sexually prepared for married life. Secondly, it serves the purpose of helping a woman in a childless union to conceive by engaging another man when it is suspected that the husband is impotent. The study proposed that further research was necessary considering that the practice is shrouded in secrecy.

In Malawi, many children do not enjoy their rights. In addition to cultural practices such as some of those highlighted by Women's Voice above, poverty at the household level is a major factor explaining the plight of the children. Studies in Malawi have shown that the primary school drop out rate is high. Other studies such as Munthali (2003), have found that hunger on the one hand and school drop out rate and child labour on the other hand are positively correlated. UNICEF (2000) points out that children who begin work at an early age and do not attend school are likely to remain trapped in the cycle of poverty. UNICEF sees education as a preventive strategy against child labour.

Another study by UNICEF (2001) of a village in Lilongwe made a number of findings related to cultural practices involving the coming of age of girls, and death of a husband. For example, it found that *kudika mwana*, a practice by which a pregnant woman is prohibited from having sexual relationships from the eighth month of pregnancy until the baby is three months old was common in the village. However, the study does not show whether the man is also prohibited from having sex elsewhere. On initiation, it observed that sometimes preparations of girls' transition into womanhood includes practical experience. Older men (*afisi*) have sex with the young girls through a ritual called *kuchotsa mafuta* (removing oil). On funeral rites, the study found that in *kuchotsa ziwanda* (exorcism), a woman is made to have sex with another man a week after the death of a husband, so as to put the husband's spirit at rest. Further *chokolo* (wife inheritance) was also being practiced by some people in the village. The study concludes that traditional practices, which have a negative impact on the lives of girls and women, are more widespread than was previously thought and that further research covering more communities would be helpful.

This study did not undertake a detailed examination of how such practices impinge on the rights of girls, women, men and boys. Moreover, it was carried out in one village only, which critically affected the credibility of its findings.

On harmful health practices, Reproductive Health Outlook (2002) points out that Malawi is one of the countries where "dry sex" is practiced. This is a practice in which herbs and other substances are used to dry and tighten the vagina for sexual intercourse. It points out that women engage in these practices for many reasons but "the common theme

among practicing cultures is that dry sex practices create a vagina that is dry, tight, and heated—all desirable qualities for men in many countries.”

As can be noted from the above studies although the emphasis has been on women and children’s rights most of these, with the probable exception of the study by the Women’s Voice (2000), were narrow in terms of geographical coverage. In fact, some only looked at a single community [UNICEF (2001)] or a single ethnic group [Society for the Advancement of Women (2001)]. Many of these studies concede that the subject of cultural practices is very sensitive and as such not much has been uncovered. It was against this backdrop that the present study was conceived. Indeed, this study intended not only to give culture a Malawi Human Rights Commission perspective, but also, using various sampling and data collecting techniques, to delve into the intricacies of culture and how it affects the enjoyment of human rights by many members of the society including women and girls in many parts of the country. This is not to suggest that this study intended to be exhaustive on this complex phenomenon of culture, but to suggest that the study would emphasise the human rights approach to investigating the subject matter with a view to determining the impact cultural practices have on the enjoyment of human rights by looking at the major ethnic groups in the country.

### **3.0 METHODOLOGY**

This study started with a mapping exercise of cultural practices through literature review. Data on previous studies were gathered from various institutions. Such data helped in building a broad picture of prevailing cultural practices in the country, which in turn, helped in the formulation of the tools for collecting data for this study.

It became apparent from the literature review that this survey had to use both the quantitative and qualitative methodologies to come up with an in-depth picture of the situation of cultural practices and their impact on the enjoyment of human rights in the country. The quantitative methodology was used largely to collect data from key informants and randomly chosen individuals in order to establish the spatial distribution of cultural practices in the target communities. The qualitative approach was used to gather more in-depth information on perceptions of people on the sensitive subject matter of culture.

This study utilised a three-pronged approach in its data collection exercise. It carried out literature review, focus group discussions, and face-to-face interviews in order to capture more complete, valid and reliable data. Before data collection began, the focus group guide and the questionnaire were pre-tested and revised by part of the research team. From July 12 to July 15, 2005, the whole research team, including Research Assistants, underwent an orientation exercise. The team was thoroughly trained on how to conduct FGDs using the FGD guide, how to administer the face-to-face interviews using the interview schedule, and on the sampling method to be utilised. The Research Assistants and the rest of the team pre-tested the tools again and refined them before using them in the field.

The fieldwork was done in two phases. The first phase commenced on 18<sup>th</sup> July and ended on 29<sup>th</sup> July while the second phase started on 8<sup>th</sup> of August and finished on 19<sup>th</sup>

August. During the break, the data that had been collected during the first phase using the questionnaire were entered into the computer.

### **3.1 Sampling**

The study had intended to cover ten districts, namely Chitipa, Mzimba and Nkhata Bay in the Northern Region, Dowa, Lilongwe (only 6 questionnaires were administered in this district and the reason for this is given in bullet number 5 in Section 3.5), Mchinji and Ntcheu in the Central Region, and Mangochi, Mulanje and Nsanje in the Southern Region. In essence, therefore, nine districts were covered. These districts were purposively sampled on the basis of the distribution of the major ethnic groups in the country except for Chitipa, which was chosen because of the presence in that district of many ethnic groups with mutually intelligible languages. Therefore, the choice of the other districts helped the study to capture practices for most of the major ethnic groups in the country.

The interviewees in the sampled areas indicated that their original homes were as follows: Chitipa (13.4%), Mulanje (11.5%), Nkhata Bay (11.1%), Nsanje (10.7%), Mzimba (10.3%), Mangochi (9.2%), Ntcheu (7.7%), Dowa (6.5%), and Mchinji (5.7%), making a total of 86.1% of the total number of interviewees. This indicates that most of the interviewees were interviewed in their district of origin and, therefore, were talking about cultural practices they most likely knew very much about.

Out of the 28 districts in Malawi, only five were not mentioned as original home districts for interviewees. The districts that were not represented among the interviewees were Likoma, Dedza, Balaka, Phalombe, and Mwanza. Their lack of representation in the sample, however, was compensated for by the presence of other districts with which they share similar cultural characteristics.

In each of the sampled district the MHRC purposively selected at least two Traditional Authority's area (T.As) where it was known that the majority of the residents were of the main ethnic group in the district. The T.A assisted the team to mobilise FGD participants and individuals to be interviewed. Men, women, and the youth (boys and girls) were included in the sample.

### **3.2 Literature Review as part of Data Collection Method**

Throughout the study, the team reviewed relevant studies that were carried out in Malawi on the cultural practices prevalent in the country and also on human rights. As section 2.0 above shows, these earlier studies provided some useful information. Reviewing them also uncovered some gaps particularly those relating to cultural practices and their impact on human rights. This study attempts to narrow if not bridge the gaps identified.

### **3.3 Focus Group Discussions**

As table 1 shows, the research team carried out 99 FGDs, 42 of them with men, 38 with women, and 19 with the youth (boys and girls) in the three regions of Malawi. The number of FGD participants among women ranged from 7-20 in the North, 10-15 in the Centre, and 8-18 in the South. For men the range was 6-17 in the North, 10-15 in the Centre, and 9-16 in the South, while for the youth the range was 7-10 in the North, 10-15 in the Centre, and 11-18 in the South.

**Table 1: Number of FGDs by region and target group**

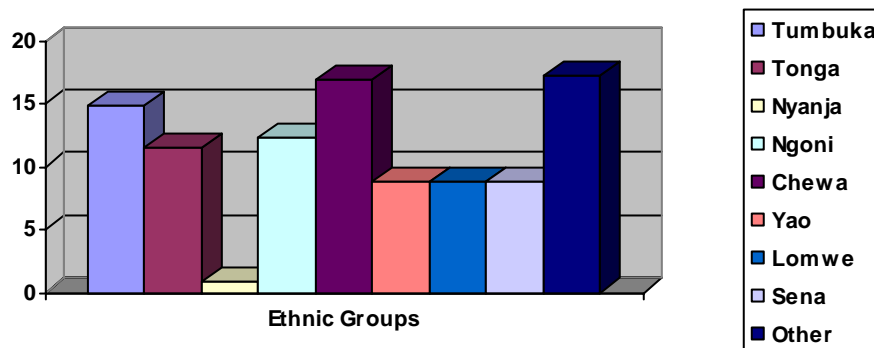
Region	Women	Men	Youth	Total
Northern	9	9	5	<b>23</b>
Central	15	15	6	<b>36</b>
Southern	14	18	8	<b>40</b>
<b>Total</b>	<b>38</b>	<b>42</b>	<b>19</b>	<b>99</b>

The FGDs were the major source of data since much of the data was qualitative. At times a tape recorder was used with the consent of the participants. The discussions, which were conducted in the vernacular the participants chose, were later transcribed and translated into English by the facilitators. On average, each FGD took about 3.5 hours. Appendix 1 is the focus group discussion guide.

### 3.4 Face to Face Interviews

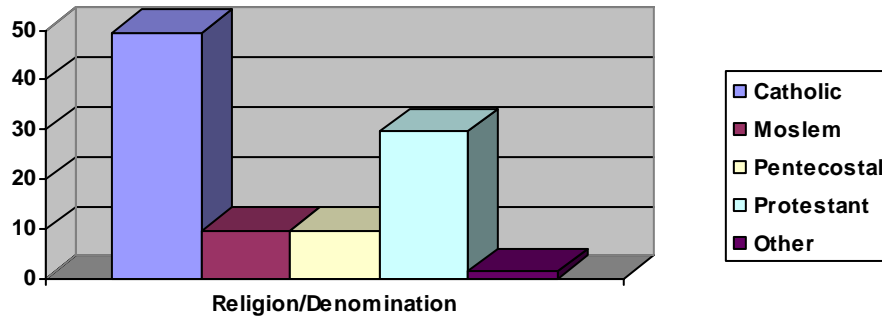
A structured questionnaire with mostly close-ended questions was utilised as the interview schedule to carry out face-to-face interviews with 262 individual adults and youths drawn from a wide socio-economic spectrum of the Malawian society. Some of these respondents were key informants such as traditional and religious leaders. Since the respondents were selected randomly, the sample had respondents from different ethnic groups, religions or denominations, age-groups, marital statuses, and education levels, as shown in Figures 1, 2 and 3 and Tables 2 and 3. In addition the survey covered people with different occupations such as smallholder farmers, salaried employees, and businesspersons. Most (69%) of the respondents were living in rural areas while the rest (31%) were living in urban areas at the time of the interview.<sup>1</sup> Of the people to whom the questionnaire was administered, 57.6% were males and 42.4% were females. These were randomly identified.

**Figure 1: The ethnic groups of the interviewees**



<sup>1</sup> In this study, an urban area is broadly defined to include cities, municipalities, towns, peri-urban areas, district headquarters, and trading areas. All other areas are defined as rural.

**Figure 2: Interviewees' religion/denomination**



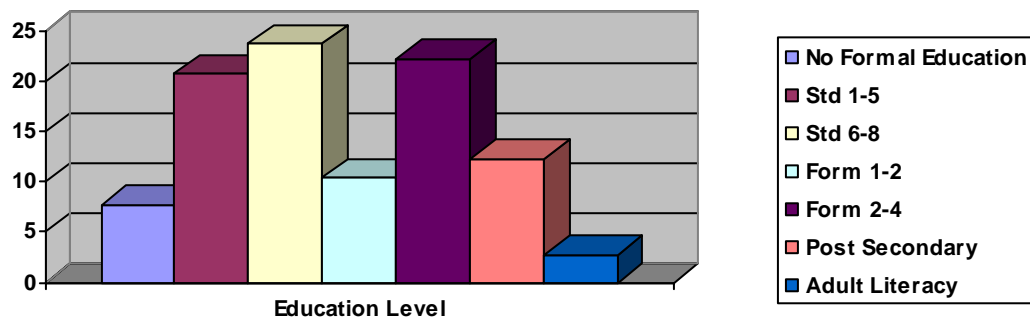
**Table 2: Age-groups of the interviewees**

Age Group (years)	%
10-15	1.9
16-20	6.9
21-35	40.6
36-50	28.0
51+	22.6

**Table 3: Marital status of the interviewees**

Marital Status	%
Never married	18.4
Married	70.9
Separated	1.5
Divorced	3.1
Widowed	6.1

**Figure 3: Education status of the interviewees**





The respondents were sampled randomly with the help of the local traditional leaders such as TAs and village heads. The interviews were undertaken in the respondents' vernacular, and on average, an interview took 3 hours. The interviews generated mostly quantitative data which was analysed using SPSS. Appendix II is the questionnaire.

### 3.5 Challenges Faced in the Field

The research teams faced a number of challenges during the data collection exercise. The most important ones are the following:

- In some cases, people were inhibitive. Some of them, for example, said that a particular cultural practice was not prevalent in their community but elsewhere or that it was no longer practiced in their community but interviews with key informants indicated that such claims were not true.
- In a few instances where the questionnaire was administered or the FGD was conducted before interviewing key informants such as village headmen, some respondents and participants were a bit reluctant to discuss details of some cultural practices. In fact, at Edingeni in Mzimba, the interviews and FGDs could not be conducted because the *Inkosi ya Makosi* was not around and the people the team found intimidated **“if you went ahead to talk to anyone the *Inkosi* on his return would want to know who gave the authority to grant you the audience”**.
- In the areas where *gule wa mkulu* is common, sometimes FGD participants who were initiated in this “cult” were reluctant to discuss some practices related to *gule wa mkulu* in the presence of those who were not initiated.
- The number of research assistants was relatively small given the length of the questionnaire, the length of fieldwork, and the geographical size of the sites.
- The survey administered only 6 questionnaires in Lilongwe, which had to be replaced with Dowa, because Lilongwe was largely used for pre-testing the data collection instruments. While all cities and major towns in Malawi were not covered, district headquarters (*bomas*) and trading centres were included. Therefore, it can be said that the study covered both rural and urban areas to some extent.
- In a few cases, some people felt that other people, for example women, men or particular individuals were better placed than themselves to discuss particular cultural practices.
- The team that was in the North lost some time due to the occurrence of three funerals. The team had to suspend data collection or move to a different site thereby wasting a lot of valuable time.

- In some areas such as Mchinji and Dowa, the team arrived in the areas after some other researchers/NGOs had made their visit on a similar data collection mission during which the earlier researchers gave the people some money. It was the expectation of some people that the MHRC team would do likewise which made it very hard for the MHRC to easily gather data.
- The interviews and the FGDs were long. As pointed out above, each FGD lasted about 3.5 hours. A few participants left before the end of the FGD.

#### **4.0 CULTURAL PRACTICES**

This study showed that Malawi is indeed replete with cultural practices. Some of them are confined to specific areas of the country while others are found almost throughout the country though with some slight variations. In the paragraphs that follow, these practices are discussed in detail while the impact these practices have on the enjoyment of human rights particularly the rights of women and children is subject for discussion under Section 5 and its various subsections. Based on the face-to-face interviews with the people that the teams found in the areas they visited, the following are some of the practices identified and their prevalence is calculated as percentage of the frequency of the interviewees mentioning them against the entire sample. The list below does not include some of the practices that might have been mentioned in the focus group discussions but did not come out in the face-to-face interviews.

**Table 4: Some cultural practices in the sites visited that emerged out of the Face-to-Face interviews and listed according to their thematic areas.**

<b>PRACTICE</b>	<b>%</b>
<b>1.0 CULTURAL PRACTICES RELATED TO MARRIAGE</b>	
Polygyny	98.1
<i>Chokolo</i>	52.7
<i>Chimeta masisi</i>	39.5
Bonus wife	44.9
Bonus husband	2.9
Bride price	62.0
<i>Chitengwa</i>	87.1
<i>Chikamwini</i>	56.7
<i>Fisi</i> for procreation	49.4
<i>Fisi</i> for initiation	10.3
<i>Kupimbira/ Kupawira</i>	15.4
<i>Kutomera</i>	48.2
<i>Chithyola imvi</i>	16.8
<b>2.0 CULTURAL PRACTICES RELATED TO RITES OF PASSAGE</b>	
<i>Chinamwali including makuna</i>	79.8
<i>Jando</i>	16.5
<i>Nyau/ Gule wa mkulu</i>	17.1
Female Genital Mutilation (FGM)	5.4
<i>Gwamula</i>	38.1
<i>Kuchotsa mafuta</i>	33.5
<b>3.0 CULTURAL PRACTICES RELATED TO PREGNANCY</b>	
Preference for a boy as first born child	40.1
Preference for a girl as first born child	23.0
No preference for sex of first born child	37.0
<b>4.0 CULTURAL PRACTICES RELATED TO FUNERALS AND OTHER MATTERS</b>	
<i>Kulowa kufa</i>	12.9
<i>Kulowa kufa</i>	12.0
<i>Kuchotsa/ Kugoneka mizimu</i> (no sexual intercourse taking place)	57.0
<i>Kuchotsa/ Kugoneka mizimu</i> (sexual intercourse taking place)	19.4
<i>Kugona msiwa</i> (women only sleep in the funeral vigil room)	73.6
<i>Kugona msiwa</i> (men only sleep in the funeral vigil room)	16.5
<i>Kugona msiwa</i> (both men and women sleep in the funeral vigil room)	9.9
<i>Kusudzula</i>	96.2

## 4.1 Practices Related to Marriage

In all areas visited, all marriages are entered into after traditional and/or religious procedures have been followed and fulfilled. Where these have not been done, certain measures are taken in order to have the union formalized as a marriage.

### 4.1.1 Polygyny (*mitala, mita, impali, chipali*)

This is a practice by which a man marries more than one wife with or without the consent of the first wife. This was a common practice in all the areas covered by this study. About 98% of the respondents interviewed, said that it took place in their areas. It was known as *chipali* among the Sena, *impali* among the several ethnic groups in the northern parts of Chitipa and as *mitala* among most other ethnic groups in Malawi. The most common form of *mitala* in the sampled areas was having two or three wives although in some areas in the Northern Region some men could have as many as eight wives. The wives may or may not stay in the same compound but they almost always lived in different houses. It was indicated that some wives in *mitala* fend for themselves while others contribute their labour for growing a cash crop, the proceeds of which are usually controlled by the husband.

The study established that people opt for *mitala* or are found in such unions because of a host of reasons including the following:

- The first wife might fail to bear children yet the husband desperately wants children.
- The husband wants to have many children as a status symbol, and he marries several women to produce those children for him.
- Having many wives is a sign of wealth and the envy of the society. The man finds it prestigious to marry more than one wife. For chiefs, having many wives creates an aura of respect around their chieftaincy.
- For men who are wealthy and philanthropic, it may be a genuine need to share their wealth with many women.
- The husband marries another woman or other women as a form of punishment to the first wife for her unruly behaviour. In other words, marital problems such as miscommunication, and problems due to the husband feeling that the wife no longer looks beautiful, and/or is cunning, nagging or lazy, may force the man to marry other wives so that he has 'peace of mind'.
- The tendency by some men to produce children out of wedlock forces them to marry the mothers of such children to save face.
- Some men look at women and children as a source of cheap labour and marrying many wives creates such a pool of cheap labour.
- Culture dictates that men should have many wives, that is, some men are merely following what has been the norm since time immemorial.
- Some men take up the responsibility of looking after the wives of deceased brothers and their children. Bereaved women might accept such marriages because they need someone to assist them in looking after their children.

- Some men fail to sexually restrain themselves for one year or so as might be required of them after a woman has delivered.
- Some men are merely looking for women who are more sexually satisfying such as those with *makuna* (see 4.2.1.4) or *odziwa kunyekulira*(see 4.2.1.3)
- Women enter such marriage to look for wealth. The common practice is that parents encourage their children to enter into marriage with rich men so that the parents can access the husband's wealth. It was indicated in Nkhata Bay, for instance, that some parents go to the extent of taking their daughters away from poor monogamous marriages into polygamous marriages so long as the man is considered wealthy.
- Women are more respected when married so much so that it does not matter if it's a polygamous union or not. Many in fact do it to avoid being lonely and in the process avoid the stigma that goes with being single.
- Some women enter into polygamous marriages because their parents consider them too old (*wakufungwa* in Mzimba) to be single. Some girls have indeed entered into polygamous marriages because they are under pressure to get married after their young sisters, for instance, have married earlier.
- Women who are barren are found in *mitala* as a way of maintaining their marriages by going to the extent of wooing another lady to join them in the polygamous union. This second wife helps them in bearing children hence sustaining their marriages.
- The study also found that some religions such as Islam and some Christian denominations permit polygyny while others do not. In fact it became apparent that religion has had a very strong influence on the way participants viewed polygyny.

Some adult male respondents indicated that the practice of *mitala* needed to be retained because of the following reasons, among others:

- There are more women than men hence some form of *mitala* is necessary to make good the shortage of men in society needed for marriages.
- Men are well cared for and respected by the wives.
- A man is still able to exercise his conjugal rights when the other lady is either menstruating or has just given birth, or when she cannot have sex for some other culturally accepted reasons.
- It is part of culture and therefore no need to abolish it.

Many women interviewees and some men were of the view that this practice should be abolished because the wives (especially the first one), and children from the first wife end up being neglected by the husband. The first wife finds herself in a situation where she has to look after herself as well as fending for her children. At times the children too begin to fend for themselves and their parents at a tender age.

Some women lamented that many husbands in such unions rarely communicate with their first wives except on a few occasions at night when they want to claim their conjugal rights. As such, it was learnt, conflicts between the wives and between husbands and wives, which spill over to the children from the different mothers, abound. Some wives go as far as seeking assistance from *sing'anga* (medicine men) to incapacitate or even kill

the other woman or the man and/or the other wife's children because of the restrained relationships.

Other reasons participants advanced for the abolition of the practice were:

- *Mitala* perpetuates poverty because the many wives and their children are an economic burden many men fail to contend with in these days of economic hardships.
- Due to the AIDS pandemic, husbands and their wives die leaving large numbers of children to fend for themselves. They actually contended that the practice contributes significantly to the spread of the pandemic as many enter into such unions without knowing the sero-status of their would-be spouses. Youth respondents were particularly strong on this argument.

#### **4.1.2 Polyandry**

The study also attempted to find out whether the practice of polyandry does exist in the societies of Malawi. This is a practice by which a woman marries more than one man or gets married to more than one man. According to interviewees, culturally women do not marry but get married. Culture thus does not permit women to get married to more than one man. Although mentioned by 4% of the respondents interviewed, what takes place cannot be regarded as marriage but as a type of behaviour bordering on prostitution by which women secretly engage in extra-marital affairs. Such women, it was established, are those that secretly find male acquaintances with whom they may engage in regular sexual intercourse in exchange for financial or material assistance. Some of these women might have children, in some cases as many as five, each one with a different man. It was further found that some women engage men outside a marriage union to act as *fisi* when the husband is suspected to be impotent.

#### **4.1.3 Wife inheritance (Levirate, Chokolo, Kuhara, Impyana, Anjala akupita kufa panyumba, Kulowa kufa)**

In this practice, when a husband dies, his brother, cousin, or nephew inherits the surviving wife. Of the people interviewed, 53% said that wife inheritance takes place in their community. Respondents among the Yao in Mangochi, among the Chewa of the central region and Lomwe and Amang'anja in Mulanje indicated that wife inheritance was generally a thing of the past while amongst the Sena, indications were that marriages of *kulowa kufa* are fewer now than in the past. Most youthful respondents indicated that they had not witnessed any *chokolo* in their life time. The practice, although in general decline, was said to have been quite widespread in all the three districts covered by this study in the north.

Among the Sena, the man chosen to inherit the wife does so after performing *kupita kufa*, which is discussed under death rituals below. Among the Yao, the Lomwe, and the various ethnic groups in the North, the contract is usually entered into after *kusudzula* (formal dissolution of marriage after a husband's death) discussed under death rituals below.

If there is more than one man interested in inheriting the surviving wife, in most areas the men are requested to present their *luphatho* (Sena term for gifts) or any symbolic gift before the lady. The lady then chooses the *luphatho* or any such gift presented by the man that impresses her most who thereafter becomes her husband.

In the northern part of Chitipa, it was established that at times a man and his wife would agree in advance on who would inherit her when he died. This arrangement is called *chilongo*. In the event that the husband dies leaving behind a pregnant wife, the chosen brother is expected to take the pregnant sister-in-law as his wife. However many men run away from such arrangements because their primary interest is to have sex with the inherited wife and the pregnancy does not offer that immediate opportunity. In such cases, the wife can lodge a complaint before the chiefs.

The study found that some women entered into such marriages because the husband's family forced them. Threats to the effect that the woman would lose her property and children or suffer from certain illnesses that could lead to her death if she refuses such a union were cited in a number of sites as the most common mode of coercion. Sometimes, it was learnt, chiefs and elders take part in forcing the women into *chokolo*.

The study further established that in areas where ordinarily women live in their husband's home, when a bereaved woman refuses to be inherited, she can be allowed to stay in her matrimonial home so long as she does not associate with men outside her husband's family. If she is found to associate with any relative of her husband, she is forced to marry that relative.

In Mzimba, should the bereaved woman get pregnant before any *chokolo* formalities are finalized even with a relative of the deceased husband, her family pays *kudengere* (damages for trespassing on a sacred place) in the form of a goat. She can then be forgiven and allowed to stay on in the matrimonial home. If the woman wants to marry someone outside the husband's family, she has to leave the village and oftentimes lobola and children have to be returned to the husband's family. In a situation in which the children are very young, she can be allowed to take them with her for a while and later return them to the husband's family.

Some of the main reasons why wife inheritance is practiced are:

- According to women interviewees at some sites, that some women enter into *chokolo* because they fancy the brother to their deceased husband. This was said to be common when the husband's brother is wealthy or when the brother was ever used as *fisi* in the family.
- To make it possible for the deceased relative(s) to inherit the property left behind by the deceased, if he is believed to have amassed property.
- To offer security to the surviving wife. Some interviewees, especially men, argued that *chokolo* offered women some security as the late husband's relatives can easily assist her and her children in a family union. It was indicated that the arrangement affords the children the opportunity to continue growing up in a family setting with a father figure, which was considered desirable for proper upbringing of the children.

However, in most of the sites people were advocating for the abolition of wife inheritance. They contended, among others, that the practice contributed significantly to the spread of HIV/AIDS as many go into it without ascertaining the cause of death of their relatives. As one female respondent in T/A Mbenje in Nsanje recalled with bitterness:

*Two brothers died one after the other in a period of less than three years after they each inherited a certain woman. The society in general thought that the brothers died because of witchcraft, but I have no doubt in my mind that it was because of the HIV/AIDS scourge*

Other interviewees were for the abolition of the practice because they considered it a means by which many greedy relatives of the deceased husband grab property from the wife and children. Many women indicated that on being inherited, some inheritors become so abusive that they force the woman to leave on her own accord without any property. Such levirate husbands' primary interest, they argued, revolves around the deceased's estate and not the marriage.

It was also observed by yet others that the practice at times contributed to the suffering of the women the *chokolo* finds already living with the levirate husband. The man who inherits the bereaved woman might be found in a situation in which he is forced to maintain the expensive life style the woman might have enjoyed with her late husband at the expense of the other wives. The result of this is conflict between the women and oftentimes children from the other wives suffer undue neglect.

#### **4.1.4 Replacement of a deceased wife (*Chimeta masisi, Chidzutsa nyumba, Chiusya nyumba, Impyana, Mbirika, Nthena*)**

This is a practice by which a bereaved husband marries a younger sister or niece of the deceased wife. The young girl is usually encouraged by her parents to marry the brother-in-law. The MHRC was told that there have been cases of girls who have tried to run away but always end up being taken back. Some parents in areas where lobola is paid, it was found, do this because they are afraid that the husband will ask for his *lobola* back. Others, it was established, do it because they think that the death of the daughter will prevent them from accessing the wealth of the son-in-law if he is well to do. Yet other parents are said to do it because they would want to keep the son-in-law in their family because he is of good character. Nearly 40% of the respondents reported that replacement of a deceased wife takes place in their areas but was found to be particularly common in the Northern Region. The purpose for this practice, it was reported, is to find a mother figure in the family for children left behind by the deceased woman although some of the children might be older than the *chimeta masisi* herself.

The study found that the *chimeta masisi* could be as young as 15 years old against a man who might be as old as 50 years or more. Since the girls are young this type of marriage is tantamount to subjecting the girls to the misery of tolerating a man she did not choose for a husband. Many interviewees indicated that on countless occasions many girls in such type of union are found in extra marital relationships with men/boys of their own age not only because they would like to run away from a loveless union but also because oftentimes they do not get sexual satisfaction from such a union because of the big age



gap. In the face of the HIV/AIDS pandemic such behaviour was found to be risky. Thus, many interviewees were for the abolition of the practice of *chimeta masisi*.

Many interviewees were also of the view that *chimeta masisi* was a form of early marriage on the part of the girl. They argued that it is a practice that deprives the girl children of the opportunity to build a bright future for themselves through education.

In some cases, the respondents indicated that this practice was a source of conflict between the girls and the children they found in the family, some of whom might be older than the girls. In particular the practice impacts negatively on the welfare of children who end up fighting for attention as men find it difficult to adequately provide for them in the face of scarce resources. As a result many interviewees advocated for its abolition.

#### **4.1.5 Bonus wife (*Hlazi, Mbirigha, Isakulwa, Nthena*)**

In this practice, the husband is given a younger sister or niece of his wife to take as his second wife. The girl is sometimes enticed by the sister to join her in her marriage or encouraged by aunts and parents to enter the union. Almost 45% of the interviewees said that 'bonus wife' is a practice that takes place in their area.

Sometimes the husband initiates the process himself. He may encourage his wife to entice her younger sister or niece if he lusts after her. At least in some areas in the south, the man prepares *luphatho* in the form of a basket of maize flour and one chicken which is taken by the wife herself to her parents to ask for the sister's hand in marriage. If the parents accept the *luphatho* then the formal processes of paying for the bride price is instituted, and finally the young sister joins her sister as a second wife.

According to the participants in FGDs, the purposes of *nthena* or *mbirigha* include the following:

- Sometimes parents offer a *mbirigha* as a sign of gratitude to the son-in-law who is regarded to be very generous or takes proper care of their daughter and the parents themselves.
- To bear children for the husband if the elder sister is barren or has stopped bearing children because of advanced age.
- If the husband is rich, the wife may want to protect the wealth by letting her younger sister join her so that the man does not marry elsewhere. At times the older sister can invite her young sister in order to have someone with whom to live in the event that the husband dies.

This practice, although said to be in general decline, was found to have been common in many of the areas covered by this study. The *mbirigha*, like the *chimeta masisi* cited above, can be as young as 15 if not younger depending on the age at which she attained puberty.

Many interviewees advocated for the abolition of this practice for the same reasons they advanced against *chimeta masisi*. In particular they held the view that the young wife sometimes brings conflict between the man (husband) and his children by the earlier marriage that might be of the same age if not older than the young wife. Indeed, in some

cases, it was reported, the young wife might be found having affairs with the boys from the earlier marriage or with boys of her age from outside the family.

#### **4.1.6 Kupimbila/ Kupawila**

The most common form of *kupawila* in the northern parts of Chitipa is where the girl's parents get into debt and as payment for the debt they offer the daughter in marriage to the creditor. The girl can be as young as 9 years old and the man could be as old as 40 years or older. The girl in this situation ends up attaining puberty while staying with the husband. The girls, it was established, stick with this arrangement because they are threatened that some curse would befall them if they tried to run away. 15.4% of the respondents in this survey said that *kupimbila/kupawila* takes place in their communities.

A variation of *kupawila* in Mzimba takes place when parents eye a male tenant on an estate who is hard working and shows high prospects for doing well financially. The parents can ask the tenant to do some piecework for them at their house. At the end of the service, some parents claim that they cannot pay for the services rendered but can instead give the tenant their daughter. In such cases, the tenant is not asked to pay lobola.

Another form of *kupawila* the study came across is when parents send girls as young as 9 years old to stay with a rich man. The parents and the rich man would already have agreed and money or cattle would already have changed hands. The child would be oblivious of the arrangement that her stay with the rich man is going to graduate into a marriage.

It was also cited in both Chitipa and Mzimba that a variation to the practice of *kupawila*, involves an arrangement by which parents of a boy and those of a girl become very close and in an attempt to strengthen their relationship arrange that their children should grow to marry each other. In the end they force their children into marriage. This is similar to a practice found in some areas in Chitipa where people seek assistance of birth attendants to determine the sex of the unborn child. The girl child born in such circumstances is then pledged to another family before it is born (*kutomera*).

*Kutomera* may also involve an old man offering to marry a girl when she is still at a tender age. This offer is made through the parents of the young girl. Generally the man/boy periodically provides gifts for the young girl. This kind of *kutomera* cuts across all the ethnic groups in the southern region as revealed by the focus group discussions. In fact 48.2% of the interviewees said that this practice is common in their communities.

It was found that in both Chitipa and Mzimba guardians are marrying off girls especially orphans to relieve themselves of the burden of looking after them. In the end the guardians benefit by getting lobola.

In all the FGDs in both Chitipa and Mzimba, *kupawila* and its various derivatives were condemned. In the Southern Region too *kutomera* was thoroughly condemned. Among the reasons for their rejection, the following were advanced:

- The girls involved are invariably very young and therefore not capable of making independent decisions in matters of marriage. In other words such girls are not given an opportunity to choose their marriage partners.
- In *Kupawila* the girls are forced to suffer in silence for a debt they did not have a part in incurring.
- Other members of the family in which the girls are married, especially the older wife and sons take advantage of the naivety of the young wives to subject them to abuse. The research established that these girls are molested frequently. A member of a male FGD at Tutulane in Chitipa gave as an example from his own experience with this practice when his father took as a wife, a girl who was younger than him.
- In the era of HIV/AIDS, the girls are not protected from the disease since they marry older men who might already be infected. The practices, it was learnt, encourage young wives to seek sexual satisfaction elsewhere in the event that the aging husbands are unable to satisfy them, which behaviour is likely to expose them to the scourge.
- The girls are deprived of the opportunity to obtain some education which would help them live an economically rewarding life in future.

#### **4.1.7 *Chithyola Imvi/ Chithyola msana***

The study found that in all the districts visited by the MHRC there have been isolated cases of fathers or grandfathers who have had sexual intercourse with their daughters or granddaughters respectively. 16.8% of the interviewees said that this occurred in their community. Such occurrences are a form of incest and are often linked to rituals associated with witchcraft or charms to boost one's business venture (*kukhwima*).

Generally the interviewees were aghast with this practice and strongly recommended its eradication.

#### **4.1.8 Marriage by proxy**

In some parts of Mzimba it was found that many young men leave for South Africa a few months after entering into marriage. In their absence, the husbands' brothers are asked by elders to look after their sisters-in-law including having conjugal relations with them. It was also established that sometimes it is the fathers-in-law that take on the responsibility of proxy husbands. These relatives end up producing children with the wives and the children are forced upon the husband when he returns. The girls are not given a chance to refuse since they are in a new environment and usually young and naïve.

The interviewees indicated that such marriages should be discouraged because they help in the spread of HIV/AIDS and create room for the young women to be sexually abused by the husbands' relatives.

#### **4.1.9 *Chimwanamayi (Wife-Swapping)***

This is a practice in which very close friends make temporary arrangements for the men to exchange their wives for a short period of time. What happens is that men discuss their intent to swap wives and on reaching some common understanding each undertakes to

convince their respective wives. The study found that after the wives have subscribed to the arrangement, the men, usually under the cover of darkness and at a specifically agreed time, go to make love with their friend's wife. The reason men engage in this practice is to afford couples a different sex experience. This practice was mentioned particularly in Mulanje district.

Many respondents indicated that this practice ought to be discouraged because of HIV/AIDS on the one hand and being a cause for divorce on the other hand in that some men, it was learnt, find themselves divorcing their wives on finding their friends' wives more sexually satisfying.

#### **4.1.10 *Kulowana/ Ukwati wa chinkhoswe/ Ukwati wachibudu/ Kusemya/ Kupinjirira/ Ubwinga/ Chiwezga/ Chipereka/ukathyali***

In all the districts covered by the study it was established that it is quite common to find a boy and girl agreeing to live together as husband and wife before any traditional or religious formalities, such as informing relatives, making some form of payment such as *lobola* or *chiwongo* are conducted. Others begin to live together soon after the traditional formalities have been done and the couple forgoes church formalities or registering with the Registrar General. This marriage is believed to save money. Some couples formalize the marriage at a church during the course of the marriage.

According to most interviewees, this practice should be retained because not all people with good intentions can afford the formal ceremony of a church wedding or registration at the Registrar General's office. It was also said that this way of contracting marriages respects traditional procedures since both church ceremonies and registration with the Registrar General are alien practices.

#### **4.1.11 *Kutsomphola, Kusomphora, Ukwati wa fisi, Kusemya, Chikumu, Kulowa***

This is a practice by which a boy/man marries a girl/woman by way of abduction or elopement. The two begin to live together without following proper procedures of contracting a marriage, such as *chiwongo* or *chinkhoswe*. In most cases, though, the boy's or man's family would later undertake to inform the girl's family about their daughter's whereabouts through a go-between. Elopement is done for one or more of the following reasons:

- Defying parents of either side who object to the -would- be marriage.
- To avoid payments that are associated with certain marriages such as bride price or other payments associated with marriage rites.
- Intending couples find procedures for contracting marriages too involving or too demanding to follow
- Sometimes it is done out of sheer childishness.

In the areas where this practice is common, the go-between makes some form of payment. In some areas in the north the go-between pays MK1, 000 called *mpenyere kuno*, while in some areas in the centre, the man or his relatives are supposed to pay a fine known as *chifulika mbumba, chimasula mlomo, chamlomo* or *chivula mlomo*. Once the fine has been paid, marriage discussions can then begin in order to formalize it.

In the northern region if the girl's family decides that the marriage should be formalized it demands from the man/ boy's family the payment of damages (*chibadara, chibudiru, maposo*). *Chibadara* is non-returnable on dissolution of marriage and families in Nkhata Bay can charge between MK30, 000 and MK 100,000. It was found that some parents actually encourage their daughters to entice boys into elopement so that they get *chibadara* which is several times higher than *lobola* (at only K6, 000) that is refundable. Thus, this type of marriage is considered big business by parents. In fact it was indicated that marriages in some parts of the district are increasingly becoming unstable as parents encourage their daughters to elope with many men from whom they can demand *chibadara*.

In Mzimba *chibadara* can be as much as MK15, 000. If the girl was taken away from school, the payment for damages can be over MK24, 000. In Chitipa the charges are comparable to those in Mzimba although lower charges are common.

In Dowra, *kulowana* or *chipati* at times involves older men and women who were previously married but have lost their respective spouses either through death or divorce. According to the people of Khosi Village, T/A Chakhaza, the man usually would leave his home to join the woman without following marriage formalities and the two begin to live as man and wife in an arrangement which the community eventually accepts. People enter into such unions purportedly to assist each other take care of children each might have from their previous marriages.

According to many interviewees, *Kusomphola* should be stopped because it makes light the important institution of marriage. It also promotes the spread of STIs including HIV/AIDS especially where, like in Nkhata Bay, parents encourage their daughters to elope with as many men as their appetite for *chibadara* dictates. This type of marriage also creates some socio-economic problems for both men and women. For instance, women in such relationships usually lose property and links with their children when the husband dies. The relatives of the husband oftentimes refuse to acknowledge such marriages upon the death of their relative. As for men, when the wife dies her family can refuse to bury their daughter until *chibadara* including *lobola* or *mtupa* are paid.

Some women interviewees however were of the view that *kusomphora* should be retained because the process of contracting marriage in this way is fun and the risk taken by the boy/man is a true reflection of his love for the woman/girl he elopes with.

#### **4.1.12 *Ukwati wotulira, Chipati, Ukwati wakubudisyana, Kutwala***

This is a practice where a girl found pregnant is taken by her relatives to the boy's family to force them into a marriage. In the north the boy is asked to pay *zinthulo*(things a pregnant woman would need like pieces of cloth). In Nkhata-Bay he then pays *ya nyole/nkhuku* (money equivalent to buying a hen) before he is asked to pay for damages. The fine is referred to as *chibadara/chibudiru/chapansana/chiposora* which, in Nkhata-Bay in the north, can be quite high (See 4.1.10) while in the centre it is called *chithyola khola* and is normally in the form of a goat. In the centre the fine is meant to show the boy's parents that what he and the girl have done is *kunyazitsa mudzi*(bringing shame to the village).

Where *ukwati wotulira* is common, if the boy/man wants to marry the girl/woman, he can proceed to pay lobola or whatever charges are usually demanded in formalizing marriages. If he is not interested, he can pledge to only maintain and support the child and end his relationship with the girl. The study found that at times some men who refuse to accept responsibility for a pregnancy have been known to come later in life to claim their child. Such men are asked to pay damages to compensate for the resources spent by the mother in providing for her child.

*Ukwati wotulira* was found to take place in all the areas covered by this study. In Chitipa young people merely caught in a sexual act can be forced into a marriage to avoid embarrassing the parents. The boy is forced to pay *chuposora or kupoka*, which can be MK2, 000.

Most respondents said that forcing young ones to marry after a boy has impregnated a girl should be maintained because it helps expose men who often refuse to marry girls whose pregnancy they are responsible for. They argued that it helps bring social order in marriage procedures.

#### **4.1.13 Major Marriage Procedures**

The study has established that in all the areas visited by the MHRC, marriages are formalized by some form of payment or transfer of gifts from the man/boy's family to the woman/girl's family or side. These payments vary from a nominal token of as low as K50 in some matrilineal societies of the Southern Region to as high as seven or more heads of cattle or their cash equivalents in some patrilineal societies of the Northern Region. The study further found that marriage formalities invariably involve the use of a go-between or marriage advocate variously called *thenga or mfusya or nkhoswe* whose principal role is to link the families from which members intending to marry come. Payment in whatever form or amount is made through the go-between and is of the following two broad types depending on whether the society is patrilineal or matrilineal:

- **Bride price (*Lobola/ Malowolo/ Kwimala Ivyuma*) for Patrilineal Societies**
- ***Chiwongo/Chimalo* for Matrilineal Societies**

About 62% of the respondents reported that *lobola*<sup>2</sup> is “paid” in their community to seal the marriage contract.

Some of the factors that may influence the amount of *lobola* charged include the following:

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<sup>2</sup> *Lobola* is a sum total of various payments in the process of effecting a marriage contract. The payments vary from place to place and include such preliminary payments as Chikole (token) and fuko (a head of cattle and a snuff container) in Mzimba and Jembe (hoe) and blankets in Chitipa ; mamotcho (a package comprising soft drinks, soap, cigarettes and other assorted items) in Nsanje. In Mzimba the preliminary payments also include chiwiza (a head of cattle given to bring families from the two sides together) and mukhuzi (a piece of cloth given to the mother of the girl as a token of appreciation for raising the girl). In all the areas these preliminary payments are followed by malowolo in form heads of cattle or cash equivalents. In Mzimba, when bringing the girl to the boy's home her family carries a fuko (snuff container) as pay back to the one the boy's side gave earlier and is given during Mqando (ceremony performed in a cattle kraal where the girl points at the animal to be slaughtered for the wedding festivities).

- The behaviour of the girl – the better the behaviour the higher the bride price.
- The education status of the girl proposed for marriage in that in some areas parents indicated that they would send their girl children to school so as to demand higher *lobola* for them.
- The affluence of the girl's family. In most cases, the *lobola* demanded by well to do families is on the higher side than that demanded by poor families.
- Whether the girl is a virgin or not. A virgin or a girl who has neither given birth nor married before attracts a high *lobola*.

According to the respondents the purposes of *lobola* include the following:

- It is an outward expression of appreciation for the role that the parents of the girl played in bringing her up.
- It is a seal that the children of the couple will belong to the man's side.
- It demonstrates that the man will be a capable breadwinner.
- It accords dignity to marriage and helps cement the relationship. Some interviewees held the view that marriages where *lobola* is not paid, do not last long.

After paying *lobola*, the intending couple might elect to begin living together as husband and wife straight away or arrange for a religious wedding where they exchange vows or may have a traditional wedding known as *ukathyali* in Nsanje (discussed in 4.1.10 above) where they have the general celebrations devoid of religious vows. Whatever the form the union takes, the couple is counseled on various issues such as how to handle relatives from both sides; marital sexual life and other related matters.

The MHRC found that although many interviewees talked favourably about *lobola* there were others, especially women, who argued that *lobola* is a form of buying. The woman, according to them, is nothing more than a breeding machine for the husband's family. This is so because upon the dissolution of marriage, for instance, *lobola* can be returned but the amount returned depends on the number of children borne out of the union. Additionally, in the north, the wives can at times be referred to as *ng'ombe za kwa adada* (my father's cattle).

Some women saw *lobola* as a form of a bonded relationship because some women have remained in an abusive relationship while others have been returned to an abusive husband because their parents found it difficult to pay back the *lobola*.

Generally, however, most interviewees were of the view that *lobola* should be retained because it helps ensure that marriages are properly contracted and proffers onto the institution of marriage the dignity it deserves. Modifications, like reducing the number of cattle or their cash equivalent, were deemed necessary so as to make it affordable to many thereby reducing incidents of elopement. It was also being suggested that the society at large should seriously look at the mentality of looking at *lobola* as a process of buying the women and the ensuing children with a view to changing it.

In the other areas visited by the MHRC marriages are contracted by effecting various forms of payments which are invariably lower than those associated with *lobola*.

*Chiwongo*<sup>3</sup> has similar significance to *lobola* and among reasons cited by respondents as to why it is practiced the following were common:

- The two sides must know each other and formalize the relationship between their children and the two sides.
- The marriage should be known and accepted by the whole community.
- The marriage is blessed so that the couple should have a happy married life.
- To make the couple realize how serious marriage is.
- To use the procedure as a channel for counseling the couple on marriage matters.

The respondents argued that this practice must be maintained because it is an acceptable way of formalizing a union.

#### 4.1.14 Residence in Marriage

The study established that ordinarily the residence for a couple is determined by the manner the marriage was contracted. In societies where *lobola* is used to formalize marriages women are supposed to live in their husbands' homes while in matrilineal societies men are supposed to leave their home to live in their wives' homes. The two systems of residence are called:

- *Chikamwini/ Kusendwa and;*
- *Chitengwa (Uoloka, Kuyilwa ku nthengwa, Insendwa, Ubweghi, Ukesenda)*

*Chikamwini* refers to a practice by which a man marries and settles in his wife's home village. About 57% of the respondents said that it is prevalent in their area. The MHRC found that *chikamwini* was quite common in the communities in the Southern and Central Region (except for the Chewa of Mchinji and Dowa) but very rare in the Northern Region.

This study established that, in the areas where *chikamwini* is not practiced, such men who go into *chikamwini* are made fun of by fellow men and the community at large. Those few men who practice it are not regarded as real men – they are not yet married in the eyes of the society. They are actually regarded *opepela* (useless men). *Chikamwini* is regarded very unusual and oftentimes couples in this type of residence are advised to settle on a piece of land that is away from the core village.

In areas where *chikamwini* is the norm participants said that it is practiced for the following reasons:

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<sup>3</sup> *Chiwongo* is a term used in many of the matrilineal societies to refer to a sum total of the payments made by a man/boy's family to the woman/girl's family. Like in *lobola*, *chiwongo* payments include initial gifts variously called *chizula minga/chikupa mame/chitsekula pakamwa* which the go-between brings to the bride's family as an expression of intent. In some areas, such as Ntcheu these payments are followed by demands from the bride's side that the man should bring chickens to be shared among the girl's uncle, parents and village chief apart from bringing farming implement to show that the man can till the land to produce food for the family. In other areas final payment could be in various forms of gifts (called *chitseka pakamwa* in parts of the Southern Region) or some money which in T/A Jalasi and Makanjira's areas could be between K500 and K5000



- The custody of children in marriage vests in the woman's family hence children have to grow up in the woman's home.
- The son-in-law has to help his parents-in-law (especially if they are old or incapacitated). This help can be easily provided if the man stays close to these parents. The man may want to show that he is capable of supporting his wife and her extended family.
- Women are usually given land by their parents in the matrilineal setting, so the couple takes advantage of the readily available land.

In the areas in which *chikamwini* is not the norm it might be practiced because of one of the following reasons:

- When children in the family keep dying at the husband's village, there rises the need to live away from that village, and the woman's village is one alternative.
- When the wife does not get along with the husband's relatives, she might encourage her husband to move to her home area.
- When the husband is not getting along with his parents and relatives or he is failing to pay *lobola*, he can escape all this by living at the wife's village.
- Lack of adequate arable land in the man's village.

Opinion was divided on whether *chikamwini* should be maintained or abandoned. A boy in T/A Jalasi in Mangochi highly spoke in favour of *chikamwini* when he said:

*Chikamwini chimathandiza kuti makolo a mnyamata kapena alongo ake asamasokoneze banja lake makamaka akamamusamalira bwino mkazi wake* (meaning the practice makes it difficult for the man's parents or sisters to directly interfere in the affairs of the family, particularly when one is properly looking after his wife). Most female respondents shared this view because they argued that husbands try to take good care of them and are better able to care for their own parents. Further, they argued that *chikamwini* provides some security in times of divorce or death of a husband because the husband's side finds it hard to grab property.

Most male respondents, on the other hand indicated that *chikamwini* should be modified so as to give the man some control over his wife, children and land. A few male respondents said that it should be abandoned altogether in order to give the man full independence from the influence of parents-in-laws.

In this study the term ***Chitengwa*** is used liberally to refer to a practice by which, upon marriage, the woman leaves her village to live in her husband's home village. This marriage system is contracted after following the required processes of asking for a hand in marriage and making some kind of "payment," in the form of cash and/or livestock, by the man's family to the woman's before the man can take the woman to his village. No payment for *chitengwa* was reported in Mangochi and Mulanje where albeit *chitengwa* was becoming popular among the youth. *Chikamwini* was more predominant. Of the people interviewed, 87% said that *chitengwa* is practiced in their area.

In the north, this payment is called *lobola*, which has already been discussed above. Once this has been paid, children born in this marriage belong to the husband's family. Among the Sena, the payment of the bride price (*chuma cha maloolo*) is known as *kusemba* or

*kuloola* while among the Ngoni of Ntcheu it is called *chiwongola nsana* which can be two goats and five chickens. Among the Ngoni of Mchinji, more especially those of T.A. Mloniyeni, it is referred to as *nthakula* while among the Ngoni of Dowa (T/A Msakambewa) it is known as *chiwongo*. In some areas of Mchinji such as T.A. Mkanda, it is referred to as *chimalo*.

In patrilineal societies where *Chitengwa* is the norm there are several reasons for practicing it. These include:

- To confirm the fact that the woman, after getting married, belongs to the man's side.
- To enable the man to exercise his full independence of his parents-in-law.
- To signify that the man is in full control of the woman.
- To ensure that children born to them will also belong to the man's side.

In areas where ordinarily *chitengwa* is not the norm such as among the Chewa and the Ngoni of Ntcheu, Mchinji and Dowa, the reasons advanced for practicing *chitengwa* include:

- Women must assist parents and relatives of the husband.
- The Chewa of Mchinji observed that men born in that village/clan are the owners of that village and the ownership cannot be given to a stranger (*mkamwini*).
- To keep wealth such as land and livestock in the clan.
- The practice gives the man authority as the head of the family.

The study established that in the Central Region when a woman who was taken to *chitengwa* without following proper marriage procedures dies at the man's place, relatives of the man will go and announce the woman's death at her home village at night. Once the announcement has been made, the messengers will run back to their village as fast as possible to avoid being captured and killed by her relatives. Relatives of the dead woman's husband are requested to pay a goat as a fine for having taken the woman away without proper marriage procedures. This fine is called *mtupa*. It is only after the fine has been paid that arrangements for the funeral of the dead woman can begin.

Most participants in areas where *chitengwa* is practiced contended that the practice should be retained because of the above cited reasons. In addition, they argued that it would be unfair for the man to pay *lobola*, *chuma cha maloolo*, *chiwongo*, *chiwongola nsana*, or *nthakula* for the woman and yet let her live in her home village.

#### **4.1.15 Attitude towards early marriages**

In the areas visited in the north, many girls married as soon as they reached puberty, whose onset was as early as at the age of 12 while boys usually got married at about 17 years of age.

Similar age ranges were cited for the other areas the MHRC visited although early marriages among girls were more pronounced among the Yao. Two focus group

discussions revealed that in Mangochi it was quite common to find some girls marrying even before attaining puberty if they grew fast.

These early marriages led to high school drop out rates. One headmaster at a primary school in Mangochi lamented:

*Most pupils drop out of school here in Mangochi. For example only about thirty pupils out of 140 pupils would finish the entire calendar year in standard one each year. And if you carefully follow pupil's progress in the education cycle, you find that only about four or so reach standard 8, and none of them would do secondary education.*

Many respondents cited the following as factors that contributed to early marriages amongst girls:

- Lack of discipline. Parents are of the view that children do not respect parents' advice. In the north, it would appear that parents tolerate such marriages because parents would want to avoid paying *chibadara* in case their boys impregnated girls in these days when most parents think that loose morals are widespread. In other words parents hold the view that early marriages help boys to avoid promiscuity.
- The sex education offered at *chinamwali* that encourages premarital sex, particularly among the Yao and the Lomwe.
- Desire by parents, particularly women, to have grandchildren.
- The practice of *kutomera* by which children get into pre-arranged marriages.
- Peer pressure or pressure from society. While some parents wish the children would remain single until they are over 18 years society might force them into early marriage. It was indicated, for instance, that girls who are over 20 years and not going to school and not married are scorned or made fun of by their peers and the community in general. Such girls are called '*mahure*' (whores) and are not respected. Boys too are treated in a similar manner. Boys who have married regardless of their age are immediately called adults and treated with a lot of reverence. Many young ones therefore, it was established, are found in early marriages because of such societal expectations.

The study however found that although early marriages are tolerated, there are a lot of problems associated with them. Some of the major ones are the following:

- Many girls who marry at a tender age experience maternal complications because their bodies are not ready for birth. One of the women in Nkhata- Bay indicated that she lost her daughter who died a few months after giving birth. The girl *amataya madzi* (had continuous vaginal discharge or fistula or incontinence) since she gave birth. Many women in other sites in all the districts including their male counterparts indicated that they had come across similar incidents.

- The parents dread such marriages because they are a burden on the parents who have to care for the young couple. Because of immaturity, cases abound of young couples that have been found narrating the secrets of a married life to their friends.
- Early marriages disrupt children's education making the young couples continue to be a burden on their parents because without sound education they lack requisite skills for an economically productive life.

Most focus group discussions therefore indicated that there is need to revise upwards the age at first marriage from about 18 to 20 for girls and from 18 to 24 years for boys.

#### **4.1.16 Wedding Dances**

It was indicated that during celebrations of marriages various dances took place. In Mzimba when a marriage was about to take place, people from the girl's family brewed both beer and sweet beer. Women and girls then carry the beer to the boy's home.village. During this time, people on both sides of the family drank and danced. This is called *mtungo*. At night people including boys and girls pair up and some end up indulging in sexual activities. Women interviewees in T.A. Mpherembe's area indicated that some girls and women conceived through this practice. It was however indicated that many people tolerated this practice because they wanted their weddings to be well attended too.

It was also indicated in the same district that dances like *magolowazi* (corruption of the English term growers used in tobacco farming) or *pwepera* (take care) took place during the week of *majure or zowala* (gift giving ceremony during a traditional wedding). People danced to music played to the accompaniment of an accordion, banging of metal against metal (such as remnants of hoes) and drums. During the evenings boys and girls or young adults who during *magolowazi* time danced in pairs away from the main arena into the dark dominated such dancing. It was learnt that sexual intercourse easily took place during such times.

Many respondents were of the view that dances such as *mtungo* and *magolowazi* should be abolished because they promoted promiscuity and promoted the spread of STIs including HIV/ AIDS. They also led to unwanted pregnancies even incest since people were at times under the influence of alcohol.

Some interviewees were of the view that the dances should be modified. They should be restricted to the afternoon only. This way the purpose of using the dances to solicit funds and to promote interaction between families from which couple come would be maintained.

#### **4.2 Practices Related to Rites of Passage**

These are rites that children are made to undergo as they grow up. The practices may differ from one locality to another, but their main purpose is the same, that is, to teach the children about values or norms which are highly regarded in those localities. Most FGDs conducted in all sites the MHRC visited revealed that most of the practices that pertain to rites of passage revolve around grooming the girl child for a married adult life. It was also established that less elaborate practices in respect of rites of passage took place for

boys. The old saying “*mwamuna sauzidwa*” (a man needs not be told what to do) was cited at a number of sites as the main reason boys tended to have less elaborate rites of passage. The following are some of the practices identified in the sites.

#### 4.2.1 *Chinamwali cha atsikana (Girls’ Initiation)*

All FGDs conducted in the north mentioned *chinamwali* as a practice that all girls underwent to mark the transition between childhood and adulthood. Known as *Amasundo*, *Ugeza umwali* or *Usungu* among the various ethnic groups in the northern parts of Chitipa district, and *Umwali* among the Tumbuka of Southern Chitipa and Mzimba, and the Tonga of Nkhatabay and Ngoni of Mzimba districts, *chinamwali* is a practice whose principal purpose is instruction or counseling for girls.

*Chinamwali* begins with attainment of puberty, that is, it begins when a girl experiences first menses. In Mzimba, on attaining puberty, the girl usually informs an aunt or grandmother about her new experience. The girl is then taken for confinement for the entire period of her menses (usually a week). Elderly women counsel the girl in many matters including how she should take care of herself every time she menstruates, for example, she is advised not to put salt into food; to regularly wash herself and her underclothes, and on the proper way of sitting in the presence of other people.

The girl is counseled on good manners especially when interacting with adults. She is expected to show respect for elders. She is told to avoid sexual relationships with men and boys before marriage or risk pregnancy out of wedlock. She is also told to stop playing with girls that have not yet attained puberty to show that she is now grown up and must therefore begin behaving like an adult by associating with fellow grown ups.

The girl is taken back for confinement on commencement of second menses. The elderly women continue with the instructions. She leaves the house of isolation after a week and after being shaven of all hair, including pubic hair.

In Chitipa and Nkhata Bay similar practices were mentioned. The only major variation to the practice in Mzimba was in regard to the period of isolation in that shorter periods were mentioned as the norm there (except for Kabunduli area which is close to Mzimba).

In the areas of the Southern Region which the MHRC visited, the local name for girls’ initiation varied from place to place, depending on the age of the girls in some cases. In Mulanje for example, it may be known as *chidototo*, *zoma* or *masosoto*. In Mangochi, the girls’ initiation takes different names such as *msondo*, *thimbwidza* or *chindakula*, while in Nsanje, it is generally known as *maseseto*. In the Central Region it is commonly referred to as *chinamwali*, and the terms *kukula chinamwali*, *kutha msinkhu*, *kugwa mdothi*, or *kuyamba kusamba* are commonly used.

Like in the Northern Region, in the Central Region, when a girl has attained puberty she informs her friends, mother or grandmother. An elderly woman known as *phungu* in turn approaches *nankungwi* (the girls’ counsellor) who verifies that indeed the girl has attained puberty, after which the village headman is notified about the development.

The *nankungwi* then takes the girl into confinement where the girl is advised and counselled for seven days. A girl who has good manners is applauded and encouraged to

maintain her good behaviour before and after getting married. A girl with bad manners is strongly rebuked, and in extreme cases can be beaten by the *nankungwi*.

During this period of retreat, the girl is not allowed to see boys and men. She is not allowed to perform the daily household chores such as drawing water or collecting firewood. After the advice, the girl's parents are required to give 'nkhuku' (chickens) to the *nankungwi* as a mark of appreciation. Among some ethnic groups such as the Ngoni of Ntcheu, the girl is shaven to show the community/village that she is now an adult.

The girls are advised to avoid the following:

- Having sexual intercourse with men before marriage because they can get pregnant; or can die as a result of maternal complications.
- Associating with girls who have not yet undergone this rite.
- Eating eggs for fear of becoming barren.
- Entering their parents' bedroom.

In addition, the initiates are taught how to carry out household chores such as cooking, washing, gardening, maize pounding, fetching firewood, *kuzira ndi kukulungiza nyumba* (Smearing and smoothening the floor of a house). They are also taught about etiquette and good behaviour towards their husbands once they are married, and to dress respectfully by wearing clothing that covers their bodies, particularly from the knees up.

Ngonis and Chewas of Ntcheu, Mchinji and Dowa were of the view that this is an acceptable cultural practice which should be maintained because "*ndi chikhalidwe cha makolo*"(it is our culture).

#### **4.2.1.1 Msondo, Zoma or Chidototo**

This is the first type of initiation that girls in some areas of the Southern Region that were visited, undergo in their lives. Girls from 6 years of age are taken to an isolated place, which is usually a house within the village, for confinement for a period of two to four weeks, for purposes of counseling them. In the case of the initiation organized by Christian/Islamic beliefs, the place of confinement is a church or a mosque.

During the evening of the day before the girls are taken to this isolated place, which in Mulanje is called *thedzo* and *tsimba* in Mangochi, the *namkungwis*, accompanied by the *kholodzolo* (women/girls who already underwent through this initiation), perform a dance through which a number of pieces of advice are given to the girls. This includes teaching the girls how to offer the best sex to their male counterparts. These women perform this dance while naked (they actually just cover the vaginal area with a leaf) and, while lying on their back, they wriggle their waists in simulation of the process of having sex. As they do this people from the community are free to watch, and where they are amused, they ululate and give the particular woman money (*kufupa*) by placing money directly on the vaginal area. During this time the songs, usually in obscene language, are sung. Each song has a particular message to convey to the girls. They say the songs are a channel

through which *malangizo* (advice) to the girls is conveyed. At the *thedzo*, the girls are taught similar things as the girls in the Central and Northern Regions are taught.

After the four weeks or so at the *thedzo*, the girls first converge at the Chief's house where, just as what happens in some of the Central Region areas, a ceremony is organized for the girls. The purpose of this ceremony is to demonstrate what the girls learnt at the *thedzo*. The demonstrations include dancing on a wooden door, which men carry on their shoulders on a voluntary basis. The girls perform this dance while naked and every one is allowed to watch the dance. There is ululation for the best dancers, and any person is free to touch the breasts of any initiate during this dance upon giving her a gift, which may be in the form of money. At the end the girls are advised to identify any boy to have sex with to avoid *kutuwa* (getting pale) and they call this practice *kusasa fumbi* or *kuchotsa fumbi* (removing dust).

#### **4.2.1.2 Chindakula/ Maseseto/ Masosoto**

*Chindakula* (in Mangochi) or *Maseseto* (in Nsanje) or *Masosoto* (in Mulanje) is the initiation that the girls undergo when they start experiencing menstruation and the emphasis of the advice at this time is for the girls to avoid having sex so that they do not get pregnant.

Once the girl is through with her monthly periods, the *phungu/namkungwi* and other elderly women perform the dance of *maseseto* or *chindakula* or *masosoto* in any chosen house during which the girl is advised about her personal hygiene especially when experiencing her periods and not to be rude to elders. She is further advised never to accept sex with her husband when in periods when she gets married. She is also taught about the following taboos and beliefs:

- Never to add salt to relish during her periods for fear of causing an illness called *tsempho* to those who eat it.
- Never to jump over the feet of a man/boy or hit him at the back because this may make the man/boy fall sick.
- Not to deny their husbands sex when they get married except when in periods.

Girls are also taught *kudekesera* or *kunyekulira* or *kudikulira* (swinging or wriggling around the waist) to assist men during intercourse. As some respondents noted, “*Mkazi weniweni amayenera kumuthandizira mwamuna wake kuti chigololo chikomele onse* (A real woman helps her husband/man during intercourse for both of them to enjoy sex).”

Among the Sena in Nsanje, parents of the girl perform sexual intercourse after the *maseseto* whose purpose is to cleanse the girl from any misfortunes or bad omen. They call this sexual intercourse *kusasa fumbi*. When performing the sexual intercourse, the father pronounces the words “*tikupita or tikulowa fumbi la mwana wanga -----*” meaning “we are performing this for my daughter (name mentioned)”. They rest on the following day. On the third day they have sexual intercourse again. And on the fourth day the *namkungwi* of the girl also has sex with her husband, which they repeat on the sixth day. During all these sexual performances the couples have to pronounce the name of the girl,

“*tikulowa fumbi la mwana* (name mentioned)”. All this is to ensure that the girl doesn’t catch a form of sickness that makes her appear emaciated (*kunyentchela*).

After *kupita fumbi* people in the village are free to resume sex. If any one in the village disregards the instruction not to have sex and happens to have had sex during the forbidden period, he/she voluntarily comes to confess. When this happens they say ‘*anaba fumbi la mwanayo*’ (the person stole the dust meant for the girl). The MHRC learnt that people in the area strongly believe that when one chooses not to confess that he/she had sex before completing the rite of *kupita fumbi* there would be a series of outbreaks of diseases in the village and the girl may consequently die.

#### **4.2.1.3 Thimbwidza**

This is the type of initiation practiced in the Southern Region for a girl who becomes pregnant before going through *chindakula*. This type of girls’ initiation is prevalent in the districts of Mulanje and Mangochi. They kill a dog whose intestines they take out to put over the girl as a sign of the shame the girl has brought on herself and on her parents. They also take her to a river for a bath very early in the morning where during the process of counseling the women go to the extent of beating the girl in order to impress on her the desirability of heeding advice from elders.

#### **4.2.1.4 Kukuna/ Zokoka/ Kuthuna/ Makuna**

During *chinamwali*, the *nankungwi* can also check the girls physically to see if they have pulled their labia. This is known as *kukuna* or *zokoka* in the Central and Northern Regions, and *kuthuna*, *kukoka*, *kuwotcha nsatsi* or *futa* in the Southern Region. Girls as young as 7 or 8 years of age are taught how to pull their labia so that with the passage of time the labia elongate into something like fingers attached to the vagina. The practice involves pairing the girls. Each girl gently pulls the labia of the other for minutes or hours as instructed by the elders. This is done up to the time when they attain puberty or when the labia have been pulled to the right size. In some areas of the Southern Region a girl who has a boyfriend is free to invite him to help her pull the labia (*kuthuna*).

The main purpose of *kukuna* is to give the girls’ sexual partners maximum pleasure during sexual intercourse. It was intimated that a woman whose genital parts are not pulled does not arouse a man during sexual intercourse because the man has nothing to caress during foreplay. As one FGD participant in the Central Region put it, “*njinga yopanda zogwilira siikweredwa*”, (a bicycle without handles cannot be mounted properly). Participants in an FGD organized for one of the youth groups at Mzimba Boma intimated; “*Pala basanga kuti ulije makuna bakukutimba, kukusina, na kukutukamo.*” (If they discover that your labia are not pulled out they beat you, pinch you and strongly rebuke you). The girl without *makuna* is advised to do all she can including using herbal concoctions to develop them because it was said that men prefer women with *makuna* for marriage or even for casual sex.

In fact in most of the sites in all the three regions, participants indicated that lack of *makuna* has been a cause of temporary if not permanent break-up of marriages as women are sent back to their homes usually on the pretext that they were not properly counseled. Some men go into polygamous unions on account of lack of *makuna* on the women they have married.



*Makuna* are said to serve the following purposes:

- Stimulating both the man and the woman during foreplay as the man caresses them. It was in fact contended that even if a man happens to be impotent, upon seeing or touching the long labia the man gets so excited that his penis obtains an erection right away.
- Holding the man's member in place during intercourse.
- Making it easy for the penis to penetrate thereby avoid hurting the woman during intercourse.
- Reducing problems on delivery as the birth canal is properly opened.
- Making the labia cover the inner female private parts, especially for women who have given birth. The length of the labia however has to be controlled. Too long labia produce too much vaginal fluid, and they also give women problems when walking due to friction.

In most of the areas covered by this study therefore *makuna* were held in very high regard and most respondents were of the view that this practice should be maintained because, among other reasons, it helps strengthen marriages.

#### **4.2.1.5 Female Genital Mutilation (FGM)**

Only 5% of the respondents said that FGM is practiced in their area, and 89% of them reported that the girls have their first experience of FGM when they are 10-15 years while 11% said that it was for 16-20 year olds.

FGM was said to take place in T.A. Mthiramanja's area in Mulanje, which involves the cutting off of the tips of the girls' clitoris by the *namkungwi* who use finger nails. In this area either an egg or a wooden penis is forced into the girl's vagina to widen it so that it can accommodate any size of penis. The respondents likened the size of the wooden penis to the size of a fanta bottle.

It was learnt that some communities stopped practicing genital mutilation after they had witnessed deaths of some girls due to this practice. Many respondents in the area were for its total abolition because of the risk to the life of the girls that the practice poses.

#### **4.2.2 *Chinamwali cha Anyamata (Initiation for Boys)***

As already observed above, boys tend to have less elaborate rites of passage. In the North, for instance, instructions for boys who had attained puberty tended to be unstructured except for areas of Mzimba and parts of Nkhata-Bay bordering on Mzimba. Here, the MHRC found that some structured mode of instruction for boys was done at the onset of puberty. Puberty was said to be marked by a disease called *sila* (a high fever accompanied by general body weakness and onset of wet dreams). Boys going through such an experience are given a chicken (usually white in colour) cooked with a bitter

herbal mixture. Instructions in connection with people's expectations of an adult, including what the boy should expect when he gets married, are delivered on the single day when he is supposed to eat the chicken prepared with the bitter mixture.

In the Central and Southern Regions, on the other hand, more elaborate initiation ceremonies for boys take place than in the North. The initiation ceremonies here are known by different names like *Chinamwali cha anyamata*, *kvinidwa kwa anyamata* or *jando*.

#### 4.2.2.1 Jando

*Jando* refers to circumcision for boys. About 17% of the respondents said that *Jando* was a practice that was prevalent in their area.

In some of the areas, focus group participants observed that sometimes boys as young as 6 years of age underwent this initiation rite. They were confined at a place that was variously called *thedzo*, *tsimba*, *msasa* or *zoma* depending on the particular locality. The boys who had undergone the initiation were called *aphale* and those who had not were referred to as *alukhu*. The period for the initiation differed from place to place but ranged from two weeks to two months. This place of confinement was located away from home, usually near a river or *dambo*.

A day before the boys go to *thedzo*, their parents prepare a chicken, money and some flour for the village head as a way of asking for permission for the initiation to take place. They also prepare some more money and flour that are given to the *Ngaliba* (the one who administers the circumcision on the *aphale* at *thedzo*) and *Nakanga* (counselor) who is sometimes simply called *namkungwi*. He is the overall in-charge of the *aphale* for the period of confinement.

When the date and time for the initiation has been set the boys' parents are advised to abstain from sex for the whole period that their boys are at *thedzo*. Even the village head suspends sexual activities for this period. This abstinence from sex is known as *kuwelama* in Mangochi. Parents whose first born son is at the *thedzo*, are further advised never to talk to anyone for the period in question, for fear of talking to a 'hot' person, that is, one who has had sex during the period of abstinence. There is a common belief that having sex or talking to any person who has had sex may cause an illness called *tsempho* on their boy at *thedzo* and he may eventually die.

As soon as the *aphale* go to *thedzo*, the *ngaliba* of the *thedzo* buries charms, which are in a form of a *supa* (small guard used for rituals) and some flour, at the centre of the *thedzo* to protect the whole area from witchcraft. *Ngalibas* are expected to be conversant with acts of witches/wizards. In Muslim areas, sometimes a Sheikh comes to pray for the initiation at the *thedzo*. Then the *ngaliba* circumcises the boys.

The circumcision differs from one locality to another. In some places the circumcision involves cutting of the membrane that connects the foreskin and the inner part of a penis. In other places, this involves cutting off the entire foreskin with a knife. The knife is locally called *yoduma* whose Chichewa equivalent is *yoluma* (the one that bites). In some other places the knife is called *simba mkaliye nyama*, which in Chichewa translates to *mkango ukadye nyama* (the lion should eat meat). Yet in other places the circumcision

involves cutting off the foreskin using the Ngaliba's fingernails. Soon after the circumcision the *Ngaliba* leaves the *thedzo* for home and the *nakanga* takes over.

In some areas the *Nakanga* mixes the foreskin from the first initiate and that from the last initiate with medicine. The concoction is put in water that the boys drink. This medicine is said to help the boys to overcome homesickness. And the *Nakanga* with his vice called *Chitonombe* and the guardians of the *aphale* at *thedzo* called *lombwe* take charge of the *aphale*. They start to teach them about good traditional manners. The instruction is usually done through songs that are characterized by obscene language. The boys spend a good number of days naked and without bathing at the *thedzo* to allow the sores to heal.

In addition to providing them with basic information about girls like menstruation and their own sexuality, the boys are advised, among other things, on the following:

- Not to have sex with a woman in her monthly periods or when she has just given birth or aborted.
- They should not fear dead bodies but that instead they should be attending funerals.
- Respect for elders.
- Take care of the sick and the aged.

The purpose of carrying out circumcision for boys is to protect them from hurting themselves when they have sex with a girl.

When the boys are about to be released from the *thedzo* they are given *thobwa la mankhwala* (medicated sweet beer) called *mthibulo* to make their manhood strong. *Mthibulo* is prepared with *chimera* (fermented cereal) whose fermentation is facilitated by urine from the wife of the *ngaliba* of the particular *thedzo*. The boys are finally released from the *thedzo*, and gather at the Village Head's house. While the boys are there, any married couple in the village is identified to prepare "hot" food for the boys to eat. To prepare this "hot" food, the couple is expected to have sex at mid night. After that they wash their private parts. The water used for washing is used to prepare the food for the *aphale*. Once the *aphale* eat this food they also become "hot", and their parents and the village head are now free to resume sex. The boys are then released to go to their respective homes after their parents have paid the *nakanga* some money which they call *subaheli*, to redeem them.

Once the boys undergo circumcision they are considered mature and are actually advised to have sexual intercourse with any girl as soon as they go back home from *thedzo*. This is called *kutaya/kuchotsa/kupungula mafuta or kuminitisa* (spilling/removing/reducing oil or blowing out).

The *mthibulo* mentioned above is actually said to prepare the boys for this sex. The boys are encouraged to do *kutaya mafuta* in order to avoid *tsempho* that they may get once they start playing, or sharing food, with other children who, or whose parents had been having sex during the period the boys were at the *thedzo*. The belief is that if the boys do not have sex their penises would shrink and become too small for sex. This medicine and

belief is similar to what was found in some areas in the Central Region where boys are given traditional herbs known as *mtela* when they have shown signs of puberty which is manifested through, for example, change of voice, growth of a beard, and the experience of “wet dreams.” They are advised to have sex with girls often to release some “energy” in them otherwise they would experience frequent “backaches.”

Although the practice of *kutaya mafuta* was found to be common in the areas the survey was done, there were other places in the same areas where people stopped using sexual intercourse to protect themselves from *tsempho*. Instead, they used traditional medicine.

For those who go to church or mosque, the circumcision might take place at hospitals and places for confinement are usually a church or mosque where respective religious leaders provide advice. In Christian/Islamic practice of initiation there is no encouragement of *kutaya mafuta* and use of obscene language in their songs is limited. However, all other pieces of advice are given. Respondents were however quick to observe that children who underwent Christian/Islamic initiation were not among the best sexual performers and they usually suffered from divorce when they got married. It was established that the Christian and Muslim faiths were working towards addressing this problem by incorporating much of the content of instructions that were provided during traditional initiations.

#### **4.2.2.2 Kumeta Nyau/ Kulowa Gule**

17% of the respondents said that *kumeta nyau* (joining the *nyau* cult) took place in their areas, and 88% said it was for boys. It was a common practice, for example, among the Chewa of Mchinji and Dowa. Most (87%) of them reported that the boys underwent this rite when they were aged 10 to 15 years while the rest (13%) said they did so from the age of 16 to 20 years. Focus group participants said the lower limit is sometimes 8 years.

The boys are taken to *dambwe* (sacred place), which is sometimes referred to as *mzinda*, or *kumanda* (normally it is a graveyard) where they are taught how to conduct themselves in the society. Once they are taken there, a guide, known as *phungu* (counsellor), is identified for each boy. He removes the boy’s shirt and then blindfolds him before entering the *dambwe*. As a way of receiving them the boys are beaten by the *nyau* and it is the *phungu* who protects the boys from the beating. The beating only ends once the boys have been accepted as full members of the cult.

The boys spend the whole week eating food without salt. They eat chicken which is roasted and mixed with medicine called *khundabwi*.

Among other things, the boys are advised not to:

- Enter their parents’ bedroom for fear of dying of vomiting blood.
- Eat straight from the pot for fear of dying of vomiting blood.
- Share fireside stories with their parents.
- Share bathing quarters (bath rooms) with their parents.

- Reveal the secrets of the *nyau* cult.

While at the *dambwe*, the boys are also taught about such skills as building a house, making hoe-handles, and mat-weaving, so that when they get married they should not face difficulties in providing for their families. The FGD participants and respondents said that *nyau* was deeply- rooted in Chewa culture and should be maintained with few modifications.

### 4.2.3 Testing the virginity of a girl and the fertility of a man

In the past among the Sena, the MHRC was told, there were two forms of testing the virginity of a girl. These were, firstly, during the time a boy and a girl are in a formal established relationship and secondly on the first day of marriage. What used to happen was that the women from the man's side would arrange for elderly women who would test for the virginity of the girl by examining her private parts. If they found that she was a virgin, they would ululate to show their good impression of the status of the girl. They would also give some money known as *maonano* to the *phungu* of the girl.

The other kind of testing was done on the first day of marriage. Elderly women would on this day test for both the virginity of the girl and the fertility of the man. The boy and the girl would be requested to have their first sexual intercourse over a piece of white cloth. The elderly women would then examine this piece of cloth. Bloodstains on the cloth meant that the girl was a virgin and they would ululate with the women of the boy's side to show that they had found a properly raised girl. The elderly women would also check for the presence of sperms on the piece of cloth and if they found thick white sperms, they would also ululate with the women of the girl's side, as this was a sign that they had found a fertile man. The study established that testing for virginity and fertility was rare these days. A woman respondent at Nguluwe village, T.A Ndamera in Nsanje district lamented:

*Masiku ano sitikuwayesa kawirikawiri atsikana ngatidi ndi mbambande, chifukwa onse amayamba zachiwerewere ali ana ang'ono, zimene zikubweretsa matenda ambirimbiri masiku ano mmidzimu* ("We rarely test for virginity these days because almost all girls practise sexual intercourse while young thereby contributing to the outbreak of various diseases in the villages.")

### 4.2.4 *Gwamula/ Kutsekulirana/ Kugoderana/ Kujulira*

This is a practice in which young men invade *kuka* (girls' dormitory) at night and force the girls to have sex with them. This was reported to be prevalent in the areas of 38% of the interviewees, who unanimously observed that those who practice it were boys. About 54% of them observed that the age at which the boys first experienced it was from 10-15 years of age while 46% said it was from 16-20 years. Adults who were having extra marital affairs sometimes practised *Gwamula*.

In all sites in the north, participants were circumspect on whether the instructions boys got (structured or otherwise) included the need for the boys to test their attainment of adulthood. However, all FGDs mentioned *gwamula* as a common practice for boys who had attained puberty. In fact it would appear that *gwamula* is taken as an adventure by

which both girls and boys might be testing what they had learned from their *anankungwi* during *chinamwali*.

The MHRC established that unlike in the past, *gwamula* is no longer the organized invasion of a *kuka* or *thanganeni* or *imphanga* by a group of boys that sleep in the same *gowelo* or *mphala* or *imphanga* (boys' dormitory). *Gwamula* these days is done as an individual operation since *kukas* or *gowelos* are no longer a common feature of rural life. Further, most boys would appear, on the one hand, to fear contracting STIs and on the other hand some boys fear the prospect of getting stiff penalties that the community metes out on those caught in the act.

*Gwamula*, which is known as *Kujulizga* in Tumbuka, *kujulira* in Tonga or *kwiguzya kubalindu* in Nyika or Ndale, or Lambya and other languages of Northern Chitipa, might include an arrangement between a boy and a girl by which the boy visits the girl's home at night. Group organized form of *gwamula*, however, was still said to take place in many parts of the areas the MHRC visited.

At some of the sites such as Tululane in Chitipa, Bulala and Mabilabo in Mzimba and Malenga Mzoma in Nkhata Bay, male participants in FGDs were of the view that lack of structured instructions for boys might be behind the prevalence of *gwamula*. They, therefore, advocated for constituting structured dissemination of information to boys, as was the case for girls. Instructions like those confined to *sila*, they proposed, ought to extend to boys from an earlier age.

*Gwamula* was generally negatively viewed by all FGDs in all the areas covered by this study. Reasons advanced against *gwamula* included:

- Group organized *gwamula* is a form of forced sex as girls are not accorded the opportunity to choose their sex partners.
- It can promote the spread of sexually transmitted infections including HIV/AIDS.
- Those boys/men caught in the act can be wounded or severely beaten by girls' parents or guardians. As a case in point at Malenga Mzoma's in Nkhata-Bay, a man was severely beaten in the night preceding the visit by the MHRC team there.

The interviewees and FGD participants said that this practice should be abolished because of its negative impact. They also said that once *gwamula* is abolished, many girls would have the chance to continue with their education.

In general people in the various communities covered by this study expressed different sentiments in respect of the practices pertaining to rites of passage discussed above. Some felt that the various initiation ceremonies were very good practices and that they should not be tampered with for the following reasons:

- Advice given to the initiates is essential for them as they prepare for adulthood. The initiates know how to make love well before they join marriage life.
- They learn good manners like respecting the elders and assisting the sick and the elderly.

- The practices are part of their culture which have been there since time immemorial, and the practices have never let them down in any way.
- The practice of *kuthuna* strengthens family bonds, as it is a source of sexual satisfaction and pleasure.

Others felt that while the cultural practices may have very good intentions, they needed to be modified in some aspects for the following reasons:

- Lessons about best sexual performance should be suspended because in most cases the boys and girls who undergo initiation are too young for the information. They suggested, therefore, that the minimum age at which they under go these rites should be revised upward to 10 years.
- Some of the practices such as *kusasa fumbi*, encourage the boys and girls to indulge in promiscuity, thereby exposing them to dangers of STIs including HIV/AIDS. They felt that wherever possible, use of traditional medicine that works in the same way as *kusasa fumbi*, should be promoted instead.
- Use of a single knife or finger nails to cut off boys' foreskins during traditional circumcision of initiates or for FGM is a risky practice as it can result in the spread of HIV/AIDS. Their view was that this should be discouraged and that the circumcision, whether traditional or religious, should be done in hospitals where it will be done safely and the boys' wounds properly taken care of. FGM, on the other hand, should be abolished.
- The duration of some of the initiation processes when the boys and girls are isolated from the community is long. They proposed that the period be reduced to 2 or 3 weeks to avoid conflicts with school calendars and to minimize food wastage.

Generally, interviewees were of the view that most of the practices related to *chinamwali* must be retained in their current state except for the period of confinement. They argued that information given to girls during *chinamwali* is beneficial in that it adequately prepares them for adult life. However in a number of sites, interviewees proposed that girls need not necessarily be confined as is the case in most areas because confinement at times interferes with girls' attendance at school. They felt that *makuna/ kukuna* too should be maintained because they are part of the preparation a girl should undergo for adult life. In fact at most of the sites, participants lamented that most of the practices that helped young ones properly prepare for adult life were increasingly being ignored. The emergence of modern modes of disseminating information such as the radio and video shows were partly blamed for this situation. *Chilangizo cha anyamata ndi atsikana* (instructions by religious groups) were also mentioned as contributing to the decline in traditional methods of counseling young ones.

### **4.3 Practices Related to Pregnancy**

The MHRC came across many practices that are associated with pregnancy. While some of the practices were mentioned in all the sites visited, others were unique to certain areas. This section presents a few of the major ones.

#### **4.3.1 *Kuthumbira mimba/ Kubvala mkali/ngayo***

This is a practice common in some areas in the Central Region. When a wife is pregnant, the husband buys *chitenje* and female relatives of the husband come and instruct the wife how to use it (the *chitenje*) during the period of pregnancy. This is done to show that the husband's relatives have accepted that their son is responsible for the pregnancy. During this time the couple is advised to take care of the pregnancy and how to avoid harming the foetus during sexual intercourse.

The participants said that this practice should be retained as it helps women who are pregnant for the first time to learn how to take care of the pregnancy for delivery of a healthy baby.

#### **4.3.2 *Kutsegula mkutu/ Kugubula/Kungaitsa mwana***

This is common in most of the sites visited although the name varies. For example, it is referred to as *kutsegula mkutu* in the centre, *litiwo* among the Yao, and *kumulangiza wapakati* among the Sena and the Lomwe. It involves elderly women giving advice to a couple having their first pregnancy on how to take care of the pregnancy. The woman is also advised about matters related to what happens during delivery. The advice given to the pregnant woman may include that she puts on *nkuzi* (a special string) around her waist to prevent miscarriage. This practice is referred to as *kuyimikiza mimba*. According to FGD participants, this cultural practice should be retained because there are some people in the villages who do not wish others well and can easily wish the pregnant woman to experience problems during delivery. The husband may be advised, among other things, to abstain from sex with the wife from the time the pregnancy is about 8 months old.

The purpose of this practice is similar to *kuthimbira mimba*, except that the emphasis is on getting the woman prepared for delivery. From the point of view of the FGD participants, this cultural practice is important and it should be retained because it helps the woman to deliver a healthy baby, and helps to protect the woman from contracting diseases.

#### **4.3.3 *Kudika mimba***

In some of the areas in the Centre, it is at 8 months of pregnancy that the couple stops having sexual intercourse. This is referred to as *kudika mimba*. It is believed that if the couple continues to have sexual intercourse beyond the eighth month, the baby will either die or will be born with sperms. The participants felt that the practice should be retained because it helps the woman to deliver a healthy baby, and helps to prevent the woman from contracting sexually transmitted diseases.

In all the sites MHRC visited in the North, it was found that when a woman was pregnant, from 3 to 7 months, it is recommended that during intercourse, the husband should not ejaculate inside the woman. It is thought that semen can hurt the foetus. The woman was expected to stop sleeping with the husband at 7 months.



#### **4.3.4 Kudamatira**

This is a special medicine given to a woman to help her deliver without problems as it is believed that some people can play tricks to create obstacles so that the woman should not deliver (*kumanga mimba*).

The people said that this cultural practice should be retained for the same reasons advanced for *kutsegula Mkutu*

#### **4.3.5 Taboos and Beliefs Associated with Pregnancy**

In some areas in the north it was said that society expects that a newly wed woman should not become pregnant soon after she enters into a marriage. She is expected to wait for at least two to three months into a marriage lest people think ill of any woman that gets pregnant early. People might think that she came into marriage already pregnant by another man.

In Nkhata Bay, when the woman is pregnant for the first time, she is usually taken back to her parents for delivery. After giving birth, she stays with her parents for a week or two and then she is taken back to her husband's home. The husband's family then takes the message in a ceremony called *Kuruvya* to the girl's family informing them of the birth as if she had never left her matrimonial home.

##### **4.3.5.1 Mdulo/kusempha:**

Complications that come during delivery are believed to be caused by some act of infidelity on the part of either spouse in marriage. Such acts are called *mdulo* (shortcut or cutting) or *kusempha* (to miss).

In many sites when a woman is pregnant, the man is strongly advised not to sleep with other women apart from his wife. In fact in most areas visited, both the husband and the wife are advised not to commit adultery while the wife is pregnant. It is believed that when one or both of them violates this norm, the woman experiences a lot of pregnancy complications such as miscarriage. FGD participants recommended that encouraging faithfulness when a woman is pregnant should be retained because it helps the man to be more responsible and caring for his wife and the unborn baby, and helps to protect the woman from contracting diseases, which the husband might contract from elsewhere.

In some sites visited in the Southern Region, when the pregnant woman was experiencing complications and it was established that it was her husband who committed adultery, the husband is instructed to wash his penis in a cup of water and the water is given to the woman to drink. This is believed to immediately help reverse the complications and the woman delivers the baby normally. When it is the woman who had sex elsewhere during her pregnancy, she is asked to mention the name (names) of the man (men) she had sex with. Once she mentions the names, it is said that the complications are removed and she delivers the baby normally.

It was indicated in Chitipa that a man who commits adultery while his wife is expectant, is expected not to use hands but feet when adding firewood to a fire to avoid causing birth complications for his wife.

In some of the sites visited in the Northern Region, the following were taboos for a pregnant woman:

*Kwambuka mulonga* (crossing big rivers). In Chitipa, a pregnant woman is not supposed to cross a big river. When, however, it is imperative for her to do so, she is expected to tie some sand to a piece of cloth she is wearing before crossing the river. This sand is thrown back to the spot it was taken from on her return. It is believed that if she does not do this, she will miscarry or produce a child shaped like a river.

- *Kukoma njoka* (killing a snake) to avoid producing a child that will crawl like a snake for the rest of its life.
- Drinking water while standing because she might produce a baby who will choke when suckling.
- Sleeping with someone else who is not responsible for her pregnancy to avoid a curse on the child. Strictly observing this becomes a problem when *fisi* was used for conception.
- Carrying two water buckets at the same time to avoid giving birth to twins as twins were regarded a curse in Mpherembe area in Mzimba.
- Tying a knot on a piece of cloth she is wearing so that on delivery, the baby is not entangled by the umbilical cord (Nkhata Bay).
- Putting her hands on her back or at the back of her head. It is a sign of misery and the child born will also be miserable (Nkhata Bay).
- Sitting with her legs folded to avoid hurting the baby.
- Sleeping on her belly or carrying heavy loads so that she does not affect the forthcoming baby.
- *Kulya vyakotcha* (Eating hot foods) to protect the fetus from heat from the food.
- Taking drugs such as choroquin, to avoid a miscarriage.

In addition to these taboos, in all the three districts visited in the north, a woman who has just delivered is not allowed to cook food or put salt in food for two to three months or until she gets her second period after giving birth. She is expected not to put salt in food for hygiene purposes and for her husband to know that at this time she is out of bounds for sex. Other beliefs related to birth are:

- *Kuleka kuthira ndongo mudindi* (not putting earth into a grave): In Chitipa South, the husband of a pregnant woman should not participate in the ceremony of throwing earth into the grave when burying a dead relative to avoid a miscarriage.
- A woman who gives birth to a child who comes out legs first is put in isolation in a shack for up to 2 months. She is allowed to return to the village after taking some

traditional medicine for cleansing. The cleansing is necessary because such children are said to bring a curse to the village.

- When the baby is not moving downwards in the last trimester as is expected, people believe that the husband is being promiscuous. Some families take the woman to a *sing'anga* (traditional healer) for assistance. Some women are even advised to eat dog faeces.
- When a woman gives birth to a child who is covering its face, it is a sign that the child is born out of a union between blood relations (incest).
- When a child's teeth come out on the upper gum first, the child will be a witch/wizard. Such a child is not allowed to go into a granary for fear that food would deplete fast. This was common in all the sites.

Most respondents doubted whether these beliefs had the effects they were said to have. Sentiments to the effect that these were mere beliefs were quite common meaning that most might not serve any particular purpose and that; therefore, there was no harm if they were dispensed with.

In most of the sites in the Central Region, it was taboo for a pregnant woman to do the following:

- Watch *gule wamkulu* as this will make her deliver a baby who resembles *nyau*.
- Eat leftovers especially *nsima (mkute)* as this will make her have problems during delivery (Also mentioned in the North).
- Eat eggs because the baby will be baldheaded. (Also mentioned in the North).
- Eat twin bananas (*zophatikizana*) because she will deliver a child with *ziwalo zophatikizana* (baby with joined parts of the body that normally are not joined).
- Carry things wrapped in a cloth (*osanyamula zinthu zomangidwa mu nsalu*) because *mwana adzakhala omangika* (the child will be tied, that is without free movement of limbs and other parts of the body).
- Sit on a mortar (*mtondo*) otherwise the husband will die.
- Eat red pumpkins; otherwise she will experience breached delivery, as the baby will present itself legs first.
- Eat pepper otherwise the child will be born with red eyes.
- Eat *mlamba* (cat fish) since it is very slippery, to prevent a miscarriage.
- Eat mouse called *kabwanda* because she will not bear more children, as the uterus will close.

FGD participants said that these taboos should be abolished as they do not serve any purpose but restrict the woman from getting nutritious foods.

In most of the Southern Region sites visited, a pregnant woman is advised against the following:

- Wearing a bra, necklace, or a belt because this makes the baby inside to be entangled by the umbilical cord and this leads to unsafe and complicated delivery.
- Wearing a wristwatch for fear of prolonged delivery, as it is believed that the baby will be busy looking at the clock instead of coming out of the womb.
- Pulling and tearing down things because the baby too will come out in the same manner, that is, with speed, and the woman will be hurt.
- Eating or drinking hot food or tea, for fear of scalding the unborn child.
- The woman is not expected to eat eggs. If she does, a thing like the egg would come out of her birth canal before the baby is delivered, and the baby will excrete feces similar to an egg yolk. It is also feared that the baby will be born without hair or he/she will be having problems with digestion.
- Eating goat's intestines for fear that the navel of the new baby will take long to heal.
- Arguing with people especially the elderly for fear that these people might bring a bad omen through witchcraft that might result in complications during birth.
- Sewing anything. Since sewing is done slowly and diligently, the baby too will be slow in coming out during delivery.
- Buying already prepared food from the market because when she eats the food that was prepared by a person who had sex, she might miscarry.
- Shaving her hair or taking any medication for purposes of *kumeta pamaliro* (shaving as a funeral rite), as doing this will make the woman miscarry.
- Closing the door of her house herself, because by doing that she is also blocking the baby's way out, and this leads to delayed and complicated delivery.
- Leaving a bundle of firewood tied intact after coming from fetching firewood, to avoid complications during birth.
- Eating while standing on the doorway to avoid delivery complications.
- Eating duck meat or sugar cane to protect the baby from *ziwengo* (ringworms).
- Eating tomatoes to protect the baby from developing *manthongo mmaso* (perpetual discharge from the eyes).

- Eating *mkute* (*nsima* leftover) to avoid delivering a baby born with a continuous sneeze.

Many interviewees held the view that many of these taboos, particularly those that relate to food, should be abolished.

#### **4.3.5 Child Preference and Practices and Beliefs Associated with Birth of a Child**

In most areas, male interviewees showed strong preference for a male child because they were of the view that it is they and not girls who make the village grow (*bakumanga muzi/amamanga mudzi*) and continue the family name (*kulutiska munthazi zina/kupititsa mtsogolo dzina*). In fact, 40.1% of the interviewees said they preferred a boy to be their first-born child, while 23.0% said they preferred a girl, and 37.0% said they had no preference. Women interviewees indicated preference for a daughter as their first-born child because they said that the girl would assist with household chores. In some areas especially Chitipa, some men had preference for girl as first born so that she could marry early and that her *lobola* would be used by her brothers that would come after her.

#### **Twins**

In Chitipa north, twins are considered a special occurrence. As such the chief is the one who names the children. In other areas, the names for twins are automatic. In Mpherembe two or more babies are considered an unnatural occurrence. Interviewees indicated that no celebration took place. In fact the mother and her children are banished from the village. She can only return to the village after she is cleansed. In the other parts of Mzimba and Chitipa when the twins were of both sexes, the community was happy. Further, the indications were that there was more jubilation when twins were male than when they were female.

#### **Children with Disabilities**

Although children with disabilities were accepted as God's gift, they were considered a burden. In Chitipa parents went as far as seeking assistance from a *sing'anga* on foul play. In most of the other areas, they rushed to the hospital to seek medical advice.

#### **Celebration of a Birth**

The celebration of the birth of a child differs from one area to another, and it depends on gender of the particular child as follows. Some communities in Nsanje celebrate the birth of a baby boy and a baby girl by ululating three times and two times, respectively. While in some communities they ululate twice for the birth of the boy and once for the birth of the girl. The difference in the number of ululations symbolizes strength of the roles the children will play when they grow up. The higher number for boys than for girls stands for the bigger role society places on boys when they grow up mainly that of heading his household and caring for his wife and children.

In Mangochi, on the other hand, they ululate softly only once and briefly for the birth of a boy. For the birth of a baby girl they ululate loudly once but extendedly. There is actually more celebration for the birth of a baby girl because she stays in the village of birth with her husband when she grows up. But in Mulanje, where a man also stays at the wife's home, the elderly women and the *nkhoswe* from the wife's side wear trousers, and

carry hoes, *pangas*, axes and other instruments that men use in their daily work when going to deliver the message about the birth of a baby boy to the husband's home. In the case of a baby girl the women and the *nkhoswe*, in their normal attire, carry baskets, a sieve, mortar and pestle and other equipment that women use in their daily work as they go to the husband's home to announce the birth of the child. In Chitipa north, a cockerel accompanies the announcement of the birth of a baby boy while a small hen accompanies announcement of the birth of a baby girl.

In T.A. Chindi's area in Mzimba which was covered by an earlier study by Women's Voice cited above, the MHRC was told that ululation at the birth of a baby boy was done once while that for a baby girl was done twice. FGD participants indicated that the difference in the way they ululate was to indicate that the baby boy was going to grow to live in one village (his home of birth) while the baby girl would grow to belong to two homes (her place of birth and that of marriage.)

### **Attitude towards Infertility**

Failure to bear children in the family is an issue of concern in the particular family and the society as a whole. In such a case the family partner who is suspected to be infertile is provided with traditional medicine to restore his/her fertility. If this fails, and if it is the man who is suspected to be impotent, the wife, usually on advice from her husband's relations, looks for another man to have sex with in order to conceive. This however is done without the husband's knowledge. But when it is the woman who is suspected to be infertile or barren, the man goes to marry another wife. There are cases where, for purposes of maintaining the marriage, the wife assists the man in proposing to other women for him to get married to. Yet in some cases the family breaks down completely. Oftentimes, the society, especially the man's family, does not look at a woman who was infertile kindly. In the north, for instance, the study found that an infertile woman is openly abused with terms such as *ukuzuzga waka chimbuzi pano* (you are here to only fill the toilet), *chumba* (barren), *ulikutayiska waka ng'ombe za kwithu/ za kwa adada* (you simply wasted my father's cattle). The man's family encourages the man to marry another wife or encourage the woman's family to bring a relative to procreate with the husband.

#### **4.3.6 Resumption of sexual intercourse after the birth of a child**

In most areas visited in the north, male interviewees claimed that there were no rituals involving sexual intercourse, insisting that in *kulimbitsa mwana* (strengthening a child) or *kutengera mwana ku mphase* (taking the baby to bed) couples use medicine. However female interviewees indicated that rituals involving sexual intercourse were quite common. At Mabulabo and Bulala in Mzimba, even men conceded that rituals involving sexual intercourse took place. In most of the areas the rituals took any of the following forms:

- The man either ejaculates on the baby or on a piece of cloth which is then used to massage the baby's joints.
- The man ejaculates on the cloth used for strapping the baby (*mbereko*) or on the baby's clothes.

- The man is asked to ejaculate on the floor then the baby is bathed in medicine. The baby is then thrown to and fro between the mother and father over a pot of medicine.

After the rituals, couples are encouraged not to engage in sexual intercourse again until after one year or until the child starts crawling or walking. However, the MHRC found that in most areas, sexual intercourse usually resumed after three to four months and some couples resumed sexual intercourse in just over a month after delivery to stop men from seeking sexual favors from other women. It was reported that where couples resumed sexual intercourse early and the rituals of *kulimbitsa mwana* are not followed, early pregnancies are common, which are abhorred by the society. Some reported that these days use of condoms is gaining currency in situations in which there is early resumption of sexual intercourse.

In some of the sites in the south, the couple was not expected to have sexual intercourse until four or six months after the birth of the child. The first sex after delivery of a baby was known by different names in different areas and the significance of this sexual intercourse, like was the case in the north, was to make the baby strong and to protect him/her from any misfortune or bad omen. In Nsanje this is called *kupita or kulowa bzyade* which is described below.

When time comes for *kulowa bzyade*, the message is sent to all families in the village for them to strictly comply with sexual abstinence that is expected of them. Those people who have had sexual intercourse during the period of abstinence are supposed to come and confess during the evening or night the couple has arranged to perform the ritual by saying that “**they had stolen bzyade and that they had come to deliver it back**”. The father of the child sits on the veranda of his house with a plate of maize husks and a plate of water beside him. As the person confesses he/she touches the maize husks and thereafter washes the tips of his/her fingers in the water and goes away. They call this *kutula bzyade*.

When all the people have finished *kutula bzyade* the man enters the house where he finds the wife already undressed. Without any talking the man goes straight to make love with his wife as he says “*tikupita bzyade ya mwana wathu...* (name mentioned).” They have the intercourse in the same way three times on that night and rest on the following night only to do it once on the third night. They have another rest on the fourth night and finish the ritual on the fifth night. Thereafter all people in the village are free to resume sexual intercourse.

If by some other misfortunes the man fails to obtain the required erection at the time for *kupita bzyade* he tells the people for them to suspend the sexual abstinence. If the man still fails to obtain the erection when *kupita bzyade* is rearranged, which is believed to be caused by acts of witchcraft, the man asks his brother or father to perform the ritual in their family setting on their behalf. The process is however the same. In a situation where a woman has a child out of wedlock, the woman is advised to identify any man with whom to fulfill the rite of *kulowa bzyade*.

In Mulanje and Mangochi this practice is referred to as *kuika mwana kumphasa* or *kutenga mwana* or *kutaya mesi*. Some people perform the sexual intercourse with the

baby just beside them. In some places the baby is placed in between the couple during sexual intercourse. After that, if it is a baby boy, the father stretches it in his hands and throws it up and down, and then gives it to the wife to do the same. If it is a baby girl, it is the wife who starts stretching it and thereafter gives it to the husband to do the same. With that it is believed the baby becomes strong.

In some areas, immediately after the sexual intercourse, the man uses his still erect and not yet wiped penis to rub it against the baby's knees, ankles, elbows and back. Still in other places, after the parents have had sexual intercourse, they use any garment of the child to wipe the fluid from their private parts. Then they dress the baby with the garment making sure that areas with the fluids are in direct contact with the body of the baby.

In the event that a woman has a child out of wedlock, she is advised to arrange with any man to have sex with anywhere, even in the bush. When going there she carries with her any garment for the baby, which they use to wipe away fluids after the sex. When she comes back she dresses the baby with the garment.

#### **4.4 Practices Related to Sexuality and Education**

In this section we discuss findings in respect of practices that relate to sexuality and education in the nine districts this study covered.

##### **4.4.1 Sexuality and Sex Education**

The study found that some discussions on sexuality take place in some communities such as among the Ngoni of Mlonyeni in Mchinji. This starts when the children are about 10 years old. Girls are taught by their mothers on what to do as they grow up, for example how to conduct themselves before elders. Oftentimes, however, it is the grandmother who is responsible for teaching the girls. Grand parents of either sex often take the responsibility of instructing boys. Some denominations also provide sex education to boys and girls so that the children should not go astray.

However, this study found that, generally, information on sex, sexuality and reproduction is rare and where it is disseminated it is often confined to the time one attains puberty or when the boy has identified a girl he wants to marry. At many sites in the north for example sentiments like, ***“kuyowoya nabana bako vyakabilo kawo nimuzilo”***, (**talking to your own children about their sexuality is taboo**), were not uncommon.

Thus, the study established, issues of sexuality for children who have not yet attained puberty are usually discussed with grandparents who often use fables as a popular mode of communication. Direct reference to body parts is at best avoided because, most people interviewed said, explicit language or indeed too much information on sexuality at this stage would only encourage children to begin experimenting. In fact at most of the sites the MHRC was told that, among other things, the current state of early pregnancies and promiscuity; drunkenness; disrespectfulness towards adults and a general decadence in behaviour are so prevalent because children are exposed to a lot of information. They attributed the current state of decay in behaviour among the youth to their exposure to, for instance, explicit language on radio programmes such as Straight Talk, advertisements for condoms, uncensored television programmes and video shows which children as young as five years of age are exposed to. The information children get from



school on sexuality from subjects that deal with reproduction and the coming in of open discussion on human rights were not spared from the blame for the current state of affairs in the behaviour of the youth.

It is worth noting that although information on sexuality is generally at a premium in these areas, adults had similar expectations from their youth in as far as behaviour is concerned. In all the sites, it was expected that girls, especially those who have attained puberty, should:

- Avoid sexual relationships before marriage.
- Respect adults by, among other things, kneeling before them, keeping some distance when talking to their fathers and by assisting any elderly person carrying a load.
- Help their mothers with household chores.
- Not enter their parents' bedroom.
- Not wear trousers or miniskirts. Instead they should always cover themselves with *chitenje* (wrapper). It was argued that trousers and miniskirts highlighted the body profile of women thereby arousing men, and that the inappropriate attire adopted by women today provoked most of the rape and defilement cases. Some actually argued that wearing trousers by women was not part of their culture.
- Respond to calls from adults respectfully by avoiding such call terms like *yo!* *hee!* *haa!*

Boys of the same age are expected to:

- Avoid sexual relationships before marriage.
- Squat when talking to adults.
- Avoid smoking *chamba* (marijuana) and drunkenness.
- Be hard working especially when helping their fathers with household work.
- Assist elderly people carry their load.
- Avoid having their hair plaited because it is not part of culture and it is disgusting.

It would appear that while people expect so much from their youth, the responsibility to pass on such values is left to chance by many parents. Many adults were quick to concede that in the face of the HIV/AIDS pandemic and considering that children are already exposed to a lot of information from various sources, parents must begin to open up to their children. They held the view that parents were better positioned than anyone else to properly time the dissemination of appropriate information to the children they live with if young ones are to be spared from contracting HIV/AIDS and other STIs and early pregnancies.

FGD participants felt that the government should close video show rooms mushrooming in parts of the country to avoid exposing children to inappropriate information and encourage children to go to school instead.

#### **4.4.2 Incest**

The study established that incest is common particularly in Mangochi and Mulanje districts. There are various forms of incest and they include: father to daughter, brother to sister, uncle to niece and in some rare cases son to mother. Culturally, incest is a taboo. However, there is not much that is done when cases of incest have been known in that they are often dealt with as family issues and therefore out of the public domain.

There are various factors that contribute to incest and these include:

- *Ligoya* (vigil celebrations in honour of new initiates) when people stay for too long in the night watching persuasive/suggestive dances. At times a man may watch with admiration his own daughter dancing in a suggestive manner and fail to resist the urge to have intercourse with her.
- Daughters who enter the bedrooms of their fathers for whatever reasons may end up being victims.
- Daughters who sit with some of their private parts mistakenly or by design shown to their fathers end up seducing them.
- As part of ritual to get rich. For instance, many men in Mangochi who like to trek to South Africa are at times advised to sleep with a close relative for them to have a successful and meaningful trip.
- Out of sheer lust.

#### **4.4.3 Sexuality and Formal Education**

In all the areas visited, education was highly valued. It was the feeling of most FGD participants that children must be forced to go to school because it is their future.

However, people indicated that in spite of free primary education many children are out of school. In almost all the areas, more girls drop out of school than boys. Some respondents connected the girls' failure to continue with school with the type of initiation that the girls went through. They pointed out that once the girls underwent the initiation rites they no longer took school seriously.

In other areas the high drop out rate among girls was also attributed to lack of female teachers in schools who would act as role models. At Makoko School in Nsanje for example, where the dropout rate among girls was very high, there was no female teacher at the time of the survey.

Only at Chitipa Boma did the study find that more boys than girls were out of school because, it was learnt, most boys found the prospect of making quick money by engaging in piecework (*ganyu*) at the market more attractive than going to school.

Generally, the following were cited as factors accounting for both the high school drop out and the failure to go to school for children of school going age:

- Poverty, which includes lack of money for clothes and learning materials for the children and lack of food at the household level. Poverty was blamed for pushing some girls to work as housemaids in towns and cities while boys go to work in tobacco and tea estates or as herd boys. Children in Mangochi were found to be largely involved in fishing and vending.
- Early pregnancies among girls. Some girls from poor families easily get persuaded to sleep with men in exchange for cash or goods, and consequently they get impregnated while still young. At Mendulo School in Mulanje for example, the study uncovered cases of some girls who at 12 years of age dropped out of school due to pregnancy.
- Early marriages partly encouraged by societal notions of adulthood, when society regards as an adult and treats with reverence those who have married regardless of age.
- Long distances to schools in some areas and lack of boarding facilities in other areas. In the case of Community Day Secondary Schools, the long distances have forced pupils to secure accommodation near schools. What MHRC found at Kabunduli, Nkhata Bay, is that girls in such situations are sexually harassed or use sex to secure food or meet their material needs. As a result many girls end up getting early pregnancies and into early marriages.
- Introduction of mobile markets in many areas to which children go on a regular basis to vend or buy various merchandise at the expense of attendance at school,
- Lack of incentives to continue with school when unemployment among those who have completed school abounds.
- Misplaced notions of democracy and human rights among many children. Many children hide behind exercising their democratic rights to be unruly to both teachers and parents and for their truancy.
- ‘Laissez faire’ attitude towards education from parents.
- Sheer laziness on the part of girls because of their inferiority complex.

When asked whom they would prefer to send to school (especially to higher education) between a boy and a girl in the face of limited resources, many respondents indicated that they would prefer sending a boy. This explains in part why there were more boys than girls in secondary schools from these areas. Reasons for preferring boys’ to girls’ education included:

- In patrilineal societies, the fact that girls are married away and therefore amenable to the influence of their husbands in terms of control over property. Boys, on the other hand, live in their home of birth and therefore would easily share the benefits of their education with their relatives.
- The assertion that girls are less intelligent than boys and therefore less interested in school.
- Girls feel intimidated in the presence of boys in class.
- Girls tend to be easily manipulated by boys and men including teachers to engage in sex that leads to early pregnancies.
- Girls are offered to early marriage to bring *lobola* (cattle) for their brothers or bring the pride of having *mkamwini* (son in-law) to the household.

Other interviewees, however, held the view that girls are more compassionate than boys and sending them to school therefore is more beneficial than sending a boy to school. Some also indicated that sending girls to school increases their *lobola* value. In fact in some areas the MHRC was told that girls who obtained high education attracted *lobola* which was commensurate with their education, that is, the higher the level of education attained the higher the *lobola* demanded.

It would appear from the foregoing, that preferential treatment of children on education based on gender is not without controversy. Some of the interviewees proposed that a thorough review of the situation was necessary.

#### **4.5 Practices Relating to Funerals**

In all three regions of the country, it was found that a number of practices took place in relation to funerals. It was established that such practices were similar in certain aspects and were considerably different in other aspects. The following were some of the practices the study came across:

##### **4.5.1 *Kugona msiwa/ Kugona kusiwa/ Kugona mnyumba ya chiliro***

This is a practice where women or men, or both of them sleep in a *nsiwa* (a room where the dead body lies in state or where after burial people shall hold vigil). This practice was prevalent in all the communities the MHRC visited. There were, however a few variations. Among the Lomwe and the Sena in the South, only women slept in the funeral vigil room. Men slept outside the vigil room. Among the Yao, on the other hand, women slept in the funeral vigil room if the deceased was either a woman or a child. Men slept in the vigil room if the deceased was a man. In the latter scenario, women slept in other houses. However, after burial, women only slept in the vigil room.

In some areas in the Centre, both men and women slept at *the nsiwa* but women slept inside the house while men slept outside. The reason was *kukhazikitsa ananfedwa*

(providing the bereaved with company and assistance). Women slept inside because it was believed that *amayi amafungatira bwino maliro* (women know how to best take care of the dead body). The FGD participants recommended that this practice should be retained in its present form because a bereaved person needs to be comforted.

It was found that in all the three districts the MHRC visited in the North, only women slept in the *nsiwa* during funerals. Men slept around a fire outside the *nsiwa*. This, according to the interviewees in all the three districts, was the case because of two major reasons. Firstly, women were said to be more compassionate and therefore more closely affected by death. It was contended that women needed comforting which they got from other women who understood what women in bereavement went through by sleeping close to where the dead body is lying. Secondly, it was said that historically most of these areas were clothed in thick forests with plenty of wild animals. Men scared away these animals by making a fire around which they slept outside the *nsiwa*. Thus people have maintained this historical fact.

In general the survey found that 73.6% of the respondents said that in their area, only women slept in the vigil room, while 16.5% and 9.9%, respectively said it was men only and both women and men who slept in that room. The situation where both sexes could be in the funeral vigil room was when people sang hymns if their religion permitted so.

The respondents cited the purposes of sleeping in the vigil room as follows:

- To comfort the bereaved family.
- To provide security for the corpse.
- For religious purposes, when they may be required to conduct prayers and preaching.

#### **4.5.2 *Kugoneka mizimu / Kusoperera mizimu***

There are several permutations of the ritual of *kugoneka mizimu* although largely the purpose is the same, that is, to avoid further misfortunes or a sickness known as *tsempho* or *mukho/mwikho* befalling the family or community. In some cases the ritual is done using unprotected sex while in others this is done using herbs, and in some circumstances using both methods. The practice in which no sexual intercourse is involved was said to be prevalent in their communities by 57% of the interviewees while 19.4% indicated that *kugoneka mizimu* involved sexual intercourse.

In the areas in the south that the MHRC visited, close relatives were supposed to abstain from sex for forty days when death of a relation had occurred. This was reported to happen among the Yao. (to remain cold – *wozizira*- during the mourning period). If anybody indulged in sex during the mourning period, he or she became ‘hot’ and therefore dangerous to sleep near a ‘cold’ person. The person who remained “cold” during the mourning period had to sleep with a hired person, to make him/her “hot” as well. After that, the couple could safely resume sex. The study established that these days this practice of abstaining from sex was largely restricted to the bereaved family.

The Lomwe also abstain from sex until after *kusesa* (sweeping the surroundings before close relatives disperse), which is done on the third day. On this day, a couple is chosen to do a ritual called *kudula milaza*. The chosen couple is required to have sex once in that night. They are then required to prepare some food the following morning, which is shared among the members of the bereaved family and close relatives. Thereafter, parents and close relatives are at liberty to resume sex. Some medicine is given to those who might have misbehaved in order to avoid *tsempho*.

FGD participants observed that there was a need to retain this practice of abstaining from sex in order to avoid *tsempho*. However the males and youths in various FGDs advocated for abolishing the practice of hiring somebody to cleanse the acts of unfaithfulness particularly as is the case among the Yao.

In some areas in the Centre, a couple was not allowed to have sex for up to three months when a child in the house had passed away. This practice was referred to as *kudika maliro*. The purpose of this practice was to avoid *kulowetsa mphepo m’banja* (bringing ills into the family) such as sicknesses and death of the other children in the family. FGD participants said that this practice should be abolished because most people could not afford to stay that long as “*ena matupi awo ndiwotentha*” (some have hot bodies). It was felt that such people could not resist the temptation to have sex with their spouses or other partners before the three months elapsed.

The Ngoni and Chewa brewed beer some of which was taken to the graveyard where it was sprinkled around the graveyard and thereafter there was feasting in the village as a process of *kugoneka mizimu* (pacifying the spirits of the dead). This was done once every year when need arose. The belief was that if this was not done, the spirits would haunt the village. The FGD participants recommended that this practice be modified because it was an expensive activity, especially these days when food is scarce. People should only go to clear the graveyard but not to feast.

In Nkhata-Bay some people smeared the floor of the house (*kuzira nyumba*) in which the dead was laid before burial to remove all the spirits. Most people these days do not insist on placating the departed spirits (*kugoneka mizimu*) because of the influence of Christianity. After burial often the Christian leaders come to offer prayers even for someone who did not belong to a church.

However some practices have persisted. For instance, if the deceased was a pregnant woman, a witch doctor was invited to open her up and cleanse the body so that bad luck should not befall the family. This is called *chiviliro*.

If the person who died was believed to have been a witch or wizard, the relatives brewed, some of which they took and left on her/his grave. If they noticed spit-like matter on the grave, it was believed that the spirit came around and was now content.

In Mzimba people took a stick from the graveyard and moved with it around the house of the deceased before it was taken back to the graveyard to put the spirits of the deceased to rest. Others put beer at some corner of the house in which the deceased's body lay before burial, which was believed to disappear after some time. This meant that the spirits were happy.

In the same district people prepared *mowa* (beer) and *thobwa* (sweet non-alcoholic drink) which were to be drunk by all in the village one month after burial. This marked the end of the mourning period. Some beer was poured on the clothes left behind by the deceased as an act of cleansing them before other people could use them. The relatives were expected to shave their heads at this time. This was called *chimeto cha maliro* or *kugoneka mizimu*. In these days *kugoneka mizimu* might involve offering Christian prayers. Most funerals occurring to those professing Christianity do not encourage rituals like *kumeta* and *kugoneka mizimu*.

Further, it was established that relatives of the deceased built tombstones to placate his/her spirit which might otherwise bother them by complaining that they feel cold. Some people pour beer on the grave for the same reason of avoiding bother from the spirit of the deceased.

In Chitipa the study found that relatives, usually brothers of the deceased husband, forced the bereaved wife to sleep with them in the name of *kugoneka mizimu* two or three days after burial. Usually such men use sexual intercourse as a way of influencing the bereaved woman to choose them during the ceremony of wife inheritance (*chokolo*). Men who did this were those who often realized that chances of the bereaved wife choosing them in an open competition were very slim.

Respondents in Mangochi and Mulanje indicated that *kugoneka mizimu* might also take place when there was either drought or some strange or persistent illness. The chief plays a major role in this. People in these areas in most cases attributed drought or illness to the spirits of the departed who might not be happy with the way certain things were being done. The witchdoctor was usually consulted to confirm the cause of the problem at hand. If it was found that it was a wizard or witch who was contributing to the problems, he or she was beaten severely and could be driven out of the village.

If it was established that there was need to pacify the spirits of the departed, the chief then requested the villagers to prepare some food in the form of *thobwa*, roasted meat, maize flour and others. This package of food was given as *nsembe* (offertory) to the departed spirits. The food was either deposited at the graveyard or at a certain chosen hilly area with very thick forests. Married couples were requested to abstain from sex on the eve of that day. Thereafter, the people returned to the villages where there was a lot of feasting. If the *nsembe* was meant for rain respondents indicated that oftentimes the rains would come even as they were on their way back or after they had arrived at the village. If rains continued to fail, they invoked the spirits for assistance.

In T/A Mthiramanja in Mulanje, respondents pointed to a distinct feature of this practice in which a young boy and a girl who were not yet initiated and who had not yet attained puberty were locked up in a room as people were out making the offering. The purpose of locking up the two children was to facilitate the smooth conduct of the ceremony since the children were regarded as saints. However, some people suspected that the little children were requested to have sexual intercourse.

Many respondents indicated that the practice should be maintained for the purposes it serves with the exception of encouraging the small children to engage in sexual activity as feared by some respondents.

#### **4.5.3 Washing of the dead body**

The other ritual that was crosscutting in the various ethnic groupings was washing the dead body before burial. People of the same sex as the deceased normally washed the body of the dead. In most cases gloves were not used when washing the bodies.

The distinct feature in the Yao tradition was that they would also press hard on the abdomen of the deceased so that the body was not taken to the grave with faeces in the abdomen. Men would also extract a foetus from the womb of the deceased if she was pregnant so that the two bodies are buried separately. In Nkhata Bay it was also found that when a pregnant woman died, she was opened up before burial.

#### **4.5.4 *Kulowa kufa/ Kupita kufa***

*Kulowa kufa*, a practice by which a man slept with a woman whose husband or son had just died, to put to rest the spirit of the deceased, was mentioned as a practice that took place in the areas of 12.9% of the interviewees.

In Chitipa, for example, *kulowa kufa* was said to take place in isolated cases. The revelation that it took place came from women's FGDs and not men's. The latter insisted that in their area no practice involving sexual intercourse took place as a means of appeasing the spirit of the departed man. According to the women, where it happens, a meeting of relatives of the deceased husband was organized where a man was chosen to sleep with the woman. In most cases the chosen man would be the one who would eventually inherit the woman as his wife (*chokolo*).

*Kulowa kufa* is common in Nsanje where generally it would start three days after burial when the widow or mother of the deceased would sit at the veranda of her house with maize husks in one calabash, and water in the other. Those relatives that had sex during the period of mourning came and confessed their wrong deeds, by touching the husks. While touching the husks, they whispered: "I stole your death so I have come to give it back to you." After the exercise, the woman would take some of the husks and put them under the mat or bed, where she would have sex with a cleanser. The process would last for three days.

On the initial day, the cleanser was supposed to have sex with the widow/chief mourner for three rounds. They rested on the second day and finish off on the third day, with one or two rounds. The cleanser had to whisper to the widow/chief mourner, "*ndikupita kufa kwanga*" while having sex. A sexual cleanser was hired if there was no relative who was



willing to perform the cleansing and he was paid some fee. The charges ranged from K2, 000 to K8, 000 depending on the nature of the death and the abilities of haggling on the part of the bereaved family.

The cleansing was finally marked by *kupita kufa* by *nyalumbi* (the one who buried the deceased). He is supposed to sleep with his own wife, for at least one round after the cleanser had done his job. The *nyalumbi* is usually given some food (chicken and maize flour) by the bereaved family in appreciation.

It should be noted that close relatives have to abstain from sex while *kupita kufa* is in progress. The chief is communicated to about these developments. After *kupita kufa*, relatives are free to share utensils with the widow/chief mourner and to resume sex in their respective homes. The process has to be repeated if it has not met the set conditions.

People in the area believed that if the process was not done, the widow/chief mourner would suffer from *tsempho/mukho*, which was an illness that included perpetual coughing, swelling of the body, and perpetual diarrhea. Further, anybody else would also suffer similarly if they defied the requirements of *kupita kufa*.

Most of the FGD participants were unanimous that the practice of *kupita kufa* needed to be modified especially on the demands that either the relative or hired sexual cleanser sleeps with the widow/chief mourner. In the face of the HIV/AIDS pandemic it was being suggested that instead there was need to request relatives to perform *kulowa kufa* with their spouses on behalf of the widow or chief mourner.

#### **4.5.5 *Kupita ngozi***

In Nsanje, when someone died in any accident such as road, drowning or fire accident, there is what is known as *kupita ngozi* (where *ngozi* means accident). This entails having two types of cleansing. They start with cleansing for the accident and then the normal death cleansing as described in *kulowa kufa* above. The accident cleansing is done on the same day soon after burial. The cleanser does the sexual act either close to or at the place where the accident happened. The MHRC was told that this was done to avoid occurrence of misfortunes of that nature in future.

#### **4.5.6 *Kupita chitayo***

In some areas in the South, if a man died suddenly, it was believed that he had died of *chitayo* (sleeping with a woman who had had a recent abortion and before the expiry of the recommended days before resumption of sex). The signs of *chitayo* include wasting away fast. The widow is expected to undergo two types of cleansing: one for *chitayo* and the other one for the normal death cleansing discussed above. This process takes six days.

#### **4.5.7 *Mtayo wakumudzi* (Still birth) and Death of Babies**

In all the three districts the MHRC visited in the North, burial of stillborn babies was said to be the responsibility of women. The consensus was that women took up this task because it was only women who would have seen the stillborn baby, as they were the people who attended to other women during delivery. Even a child who died before its

umbilical cord was cut was treated in the same manner and for the same reasons. Weeping for the dead child was rare and often restricted to its mother.

The study found that among the Lomwe and Sena in the South, and among some of the ethnic groups in the Centre, the funeral ceremony and burial of babies who died during birth or were stillborn and those who died when they were less than three months old was done by women only. No men were involved because those babies were still 'cold.' The women were responsible for the digging of the graves, which were shallow. The graveyards were separate from those of older people and people were not allowed to go into this area without medicine called *mtela* otherwise *miyendo imazizira* (legs become numb or cold). In some communities in the Centre, children who were less than six months old, but whose parents had not yet gone through the ritual of *kulimbitsa mwana* or *kuika mwana kumalo* (described under 4.3.7 above) would be buried as in the case of still births. However in some cases, men will dig the grave and it will be deeper but women will conduct the whole ceremony.

Among the Yao who profess Islam, all still births whose pregnancy was nine months old to a child who cried a bit before death, men are involved in their burial. Islam dictates that men should be involved because burial among the Muslims are done by men and that these too are regarded as full human beings.

#### **4.5.8 Death of One of Twins**

In some areas in the Centre, when one of twins dies, *mbvunguti* (sausage tree fruit) will be buried together with the dead child and the remaining child will also be required to sleep with another *mbvunguti*. This is done to prevent the remaining child from feeling lonely and to avoid psychologically disturbing it. In Nthalire, Chitipa, a *mvunguti* fruit is also buried together with the dead twin as stand in for the surviving twin, while in the northern parts of Chitipa, the mother and the remaining twin are taken away from the village on the day of the funeral to stop them from yielding to emotions that could force them to cry. In some Ngoni areas like Njolomole, Ntcheu, people do not hold a vigil as they would normally do for any other death once the burial ceremony of one of the twin has been done.

The FGD participants in the centre felt that the practice of burying the *mvunguti* together with one of the twins who had died should be abolished because it did not help at all. They observed that, in any case, *mvunguti* trees were scarce these days.

In some areas in the South, there were special rites associated with the death of one of the twins, particularly when they were less than six years of age. The common feature that cut across all the ethnic groupings was that people needed not openly show grief during the funeral ceremony. No mourning was done in order to protect the surviving child from misfortunes including death itself. In the North too there was no weeping for a dead twin. Instead people used terms that would normally be used for jovial occasions such as *watengwa* or *watola* (she/he has got married), and *wahamba ku Harare* or *ku Jubeke* (s/he has traveled to Harare or Johannesburg).

#### 4.5.9 *Kupita imfa ya Mimba* (Maternal death)

Among the Sena, when a woman dies after a still birth, there are three types of cleansing: cleansing the death of the woman, the death of the baby and finally the ritual that could have marked protection of the new born baby from *tsempho/ mukho* if the baby had lived (*kupita bzyade*). This process lasts for nine days. Among the Ngoni, if a pregnant woman dies, her stomach is speared in order to kill the unborn baby. It is believed that burying the pregnant woman with a live unborn baby is an abomination. This practice is referred to as *nthumbi*. FGD participants recommended that this practice should be modified because it does not make sense to spear a dead body.

#### 4.5.10 Death of a Prominent Persons

In Nkhata Bay when a chief dies, the District Commissioner and other prominent chiefs attend and conduct the whole ceremony. In some areas of the district, people in the surrounding villages do not perform any work for four days. Every household contributes food. Four days after the burial, people can resume their normal work but they are expected to mourn the chief for a whole month.

In Mzimba, when the chief dies, he is put in a cattle hide and buried in a sitting position. He is made to hold a bow and arrow (symbols of war for a person who was his warriors' commander in-chief in life). Chiefs and *indunas* (chief's counselors) who also carry out the burial prepare the body. The whole village mourns the chief until two days after burial. During this time people dance *Ingoma*. The first-born son carries a spear on the day of burial. A gun is fired. The first wife is dressed like any bereaved wife and she is expected to crawl. She wears the royal crown until a new chief is installed. The first wife of the chief is accorded a similar funeral when she dies. The oldest girl-child carries feminine items on the day of the funeral of the chief's first wife.

Among the Chewa, when a chief dies, there is *gule wamkulu*, which performs throughout the period. Fellow chiefs and elders conduct the funeral ceremony because it is believed that Chiefs "*amakhala anthu okhwima*" (rooted in witchcraft). Sometimes the *gule wamkulu* cause problems within the village, snatching things from people.

In Chitipa, when a chief dies, elders bury him at night. He is buried in a sitting position. A white chicken or sheep is buried with him. Ordinary people are not told about the death till the next day. People dance *sendemule* (a royal dance) and mourning for the chief by the general populace takes place then. A gun is fired.

In the areas in the south that the MHRC visited, the death of a chief or prominent member of the society was given due respect across all the ethnic groupings. Fellow chiefs played an important role in terms of washing the deceased and carrying his/her coffin for some distance among others.

A distinct feature among the Yao culture during the death of a chief or prominent member of the community was *kulonga dzina* (naming someone who will take the name of the deceased). A successor in terms of a chief is appointed on the same day of the funeral and is publicly introduced. He/she wears a headband made out of the *nsanda* (shroud or piece of cloth for wrapping the corpse). In case of a prominent person, the one who takes over the name (may be a child or grown up person), also wears the headband

of the *nsanda*. The purpose of this practice is to let the good deeds of the deceased be continued by the successor.

Among the Lomwe there is some dancing and role-play about what the chief was doing such as how he used to settle disputes so that people do not despair.

The special feature that was prevalent among the Sena particularly in the past was the need of trying to conceal the death of the chief so that people do not despair. Messages about the death of a chief were not disseminated. The deceased chief would be buried at night. It was reported at the time of the study that the time of burial for a chief these days had changed to dusk time in most communities, and many people attend the function.

#### **4.5.11 Mode of Dressing for Funerals and Attendant Treatment of the Bereaved**

In the paragraphs that follow the findings begin with what is expected of women when their husbands have passed away. What is expected of men or how men behave when their wives have passed on is discussed later.

In Nkhata Bay the *choko* (the bereaved wife) wears rags, and she is not supposed to wear shoes. Her face is covered so that there is no eye contact with relatives of the husband. The woman dressed in such attire so that she is easily identified as the chief mourner.

In some areas in the district, the woman wears her normal clothes with *ngiya* (a type of headgear) and a piece of cloth brought by friends as a wrapper around her waist. After burial, special attire is made for the bereaved wife, which she wears for up to two months or until the final funeral rite of shaving hair is performed.

In Chitipa bereaved women wear their ordinary clothes with *nkusi* or *nkhwamba* (a piece of cloth) and *inkhiya* (woman's headgear). Women friends bring in the *nkhwamba*. The bereaved wife can get as many as over 20 *nkhwamba* from friends. These pieces of cloth are a form of debt because the woman is expected to buy similar pieces for her friends when they find themselves in the same situation. She wears the *nkusi* or *nkhwamba* and *inkhiya* for about a month.

In Mzimba, the respondents indicated that on the day of burial, a woman could wear black or any clothes that she would later give away to her grandmother. She does not wear shoes. The head and face are covered by a piece of cloth with only a small space left for vision. She wears *nwazi* (a band made from goat skin strung into the upper hoofs of a goat) around her wrists. One of the *nwazi* is made from the goat that would have been slaughtered for the funeral by the husband's family while the other (which she wears later) is from a goat that is slaughtered by her family at the time (usually immediately after burial) her husband's people take her to her home for condolences with her people in a ceremony called *Kulinda yifwa* or *kulinda chiliro*. She wears the same attire for a month.

In some parts of Mzimba, the woman is supposed to walk with her hands behind her back during the time of mourning. If she is carrying some load on her head such as a bucket of water, one hand is supposed to remain behind her back. She lives in isolation. Boys in the village are not allowed to enter the house in which she stays. She stays indoors for a week but she can go outside her house to work but with her face still covered. After a week she

prepares *thobwa* and *mowa* and invites her late husband's relatives who instruct her to remove the attire she has been wearing. Her hair is then shaved with a razor.

At first light (dawn) and at dusk every day for a month, she goes to cry at the bush for her dead husband saying '*myeni wangu*' (my redeemer). In the case of a polygamous marriage, all the wives converge at the house of the first wife. They go at the same time in the morning and at dusk to mourn for their dead husband. The husband's relatives have to hear her (them) cry otherwise she (they) can be given a tough time. In the old days, they were supposed to crawl as they mourned but the practice is now dying out.

A bereaved wife sleeps on an old mat for as long as a month. She is told to sleep on the course side of the mat and to face the direction opposite to that the dead body had faced. She is given her own utensils to use. She is not allowed to enter other people's houses. The bereaved woman enters a house where a funeral has taken place but only when it is a man in that house that has died because it is thought that the woman there is in a similar situation to hers. Otherwise when she attends other funerals, she is not allowed to enter the funeral house.

Most women interviewees, especially those in Mzimba, complained against the treatment they were subjected to during bereavement. They considered most of the treatment dehumanizing. They argued that a woman was being treated as if she had caused the death of the husband. The women said that the relatives of their husbands usually took advantage of this occasion to abuse them especially when it was thought that they had prevented them from accessing the husbands' wealth when they were alive.

The men, on the other hand, held the view that such practices ought to be maintained because they accorded funerals the respect and dignity they deserved. At Mpherembe, for instance, men argued, "*vinthu ivi vikufumira kumtendeko; bapapi bithu bakavisanga ndipo kuti vakavisintha chala; ise mazaza tabatolankhu kuti tivisinthe* (These practices have been there since time immemorial; our ancestors found and left them unchanged. Who has given us the authority to change them)?"

In the Southern and Central Regions bereaved women were required to wear a headband made from a small piece of cloth. It is known as *duku*, or *m'bambe*, among the Chewa and Ngoni of the Central Region, *nsangamutu* among the Lomwe and Yao, and *kadenje* among the Sena. It is supposed to be untied either on the day of *kusesa* or on the day of *kusudzula*, which is discussed later. Those who can afford to dress in black are allowed to do so as long as their religion permits. The *nsangamutu* is for purposes of identifying the bereaved from the rest of the people, as well as for cooling them down so as to avoid headaches.

Among the Chewa, the bereaved woman wears *chitenje* and has her head covered with a piece of cloth to hide her face so that "*asamaonekere maso ngati alibe misonzi*" (if she is not shedding tears, people should not notice). She does not change this mode of dressing until the time for her to undergo *kusudzulidwa* (being set free), which may not take place until a year after the death of her husband.

The Sena culture also demands that the clothes and *kadenje* that were being used by the lady during the mourning period should be burnt after the ritual of *kusesa*. As a result, many women wear tattered clothes during the mourning period.

In regard to men, the MHRC found out from the women FGD participants that in Nkhata Bay, the bereaved husband, just like the bereaved woman, known as *choko* sometimes wore rags, no shoes and did not shave. Usually, according to the women, such men returned to their normal attire after a week although the recommended period was at least a month to show grief for the deceased wife. Sticking to the recommended period was particularly hard for a husband who had more than one wife who might also require his attention. The men FGDs, on the other hand, said that men would usually wear clothes they wore at the time the death occurred which were later given to the person that closely stayed and supported them before burial. They indicated that the bereaved husband would give away such clothes immediately they took a bath after burial.

In Mzimba, the bereaved husband did not shave for a month and he wore a small piece of cloth on his chest for identification. The man was not expected to openly weep for his dead wife because doing so was a sign of weakness. He was supposed to show courage as head of the family and weeping would only bring his courage to question. In polygamous unions, it was said that it would be difficult for the man to show grief openly since it was expected that the other wives would be looking up to him for encouragement. Weeping would not be helpful in this respect.

In Chitipa the MHRC found that there was no change in the manner of dress for men when their wives died. The men were allowed to remarry soon after *chimeto* which, these days, takes place only a few days after burial. There was no formal dress for men in the Central and Southern Regions except that among some Ngoni and Chewa of the Central Region the bereaved husband was required to wear an armband on the day of the funeral to show that he was bereaved. This could be removed immediately after the burial service.

In so far as bereaved children were concerned there were no special attire in Mzimba, Nkhata Bay and in most of the areas visited in the Centre and South. In Chitipa, however, the older girls were expected to dress like their mothers, that is, they wore *nkusi and inkhiya*. The very young children wore a thread around the wrist, taken from the *inkiya or nkusi* so that the spirits do not bother them. They wore the thread until it broke. In some areas in the South and Centre young children could wear a small cloth (*kasanza*) around their wrist if it was a fellow child that had passed away.

Most participants in the FGDs in Nsanje indicated that all the above practices in their area should be retained because they were part of their way of living, and also to avoid misfortunes. Among the participants in the Centre, the general view was that the practices should be modified especially in regard to forcing women to dress in a particular way when the same was not demanded of men.

#### **4.5.12 Kusamba Madzi a Mankhwala**

This is the type of death cleansing that involves washing of hands with normal water or water mixed with herbs soon after coming from burying the dead. Everyone coming back from the graveyard is expected to wash his/her hands before taking their seats. This is done in order to pacify the deceased and to avoid bad omens. This practice is prevalent among the Lomwe.

Most of the FGD participants indicated that this practice should be retained on grounds that it promotes hygiene.

#### **4.5.13 *Kukazonda kumanda***

Among the Lomwe, there is the practice that three days after burial, the bereaved and close relatives go early in the morning to check on the grave of the deceased. The reasons for checking on the grave were given as follows:

- To check whether the grave had been tampered with by witches/wizards.
- To check if the deceased had turned into a beast.

If they find that the grave had been tampered with, some relatives are sent to get medicine from a herbalist. If they suspected that the deceased had turned into a beast some food mixed with medicine was taken to the graveyard by a *mulukho* (one who is not initiated) for the beast to eat. It was believed that after this ritual, the beast would not cause any problems to the village. The FGD participants felt that these practices should be retained because they serve very useful purposes of ensuring the sacredness of burial grounds.

#### **4.5.14 *Kusesa/ M'meto***

This is a practice that generally marks the end of the mourning period. It is done one to three days after burial. Longer periods, at times as long as a year are not uncommon. On this day, the bereaved and the close relatives have to have their hair shaved (hence the term *m'meto* meaning shaving). In some areas in the Centre, this is *Kupitikitsa mizimu yoipa* (chasing away bad spirits). Another important ritual after burial is *kusesa* (sweeping) around the compound of the bereaved family after which usually relatives disperse to their respective homes.

In some instances, it is only the woman who undergoes *m'meto*, which, in some areas, might take place after a year. In instances where *m'meto* takes place after a year, the woman is not supposed to go outside the village, not shave, in some areas not take a bath, not shake hands with any man, and not go out and work in the garden.

The study established that currently the shaving of hair was not compulsory in some areas. *M'meto* and *kusesa* were common in all the districts covered by this study.

In the case of the Yao, the third day after burial is known as *sadaka ya tatu*. On this occasion they have some prayers accompanied by eating porridge, after which they disperse. They meet again after eight days for *sadaka ya Saba* when they have prayers for the dead and then they have a feast. They meet for the third time after forty days for *sadaka ya lubaini* at which they have prayers and a lot of feasting. This then marks the end of the official mourning for the dead.

Generally FGD participants and interviewees felt that these practices should be maintained because they help in chasing away bad spirits.

#### **4.5.15 Kusudzula**

The formal dissolution of marriages (*kusudzula*) after the death of one of the spouses is done throughout the ethnic groups in the country. Of the interviewees, 96.2% said that this practice was prevalent in their community. The main purpose of *kusudzula* was to let the surviving spouse free to remarry or settle elsewhere. The bond of marriage could be formally dissolved either on the day of *kusesa*, or after forty days particularly among the Yao, or on the day of erecting the tombstone over the deceased's grave which was usually done after one year. Formal distribution of property amongst the concerned parties was also done on this day.

In Mzimba, it usually took about a month for the relatives of the deceased wife to free the man from the marital bond. Usually many men started showing signs of straying before the end of the month. As such *kusudzula* was done early. The wife's family could decide to give him the young sister or niece of the deceased wife or let him look for a wife from outside their family.

In some areas in the South, the relatives of the deceased usually gave a token for the dissolution of the bond of marriage. There were however, small variations in terms of what was given out. For instance, the Lomwe tradition gave out some money, a razor blade for shaving the hair, and some new clothes to the widow. The widower, on the other hand, was only given a razor blade and money.

In the Central Region sites that were visited and under the *chitengwa* system, a widow was given soap, *mafuta* (body oil) during *kusudzula* and she was free to return to her home village or stay in the matrimonial village. *Kusudzula* for the woman here was often done after one year and when a tombstone (*chiliza*) had been built for the late husband. They call this *samba ukwatiwe* (take a bath and marry). If she wanted to keep on staying in the village, then she was not allowed to remarry. If she remarried, she was asked to leave the village. Sometimes the woman was chased out of the village if the village considered her to be a rude person.

In many parts of the North, if the widow was regarded to have been rude, she was freed from her matrimonial home soon after burial. She could be allowed to take with her the children only when the children were still young but they were supposed to be returned to their father's people later.

Under *chikamwini* system it was the man that was told to leave the matrimonial home if the wife died. The man could not take his children if he decided to go out of the village since *ana ndi mbumba yakuchikazi* (children belong to the woman's clan).

Generally, respondents felt the practice of *kusudzula* should be modified especially where widows took longer to be released than widowers. The argument was that there should be equal treatment of women with men.

#### **4.5.16 Property inheritance**

In most of the sites the MHRC visited in the Centre, it was found that when a husband died, the wife and children inherited the property and vice versa when a wife died. It was



found that in the poor rural areas, many people did not own much property and, therefore, the issue of property sharing was not a big deal to them.

If the woman was at *chitengwa*, she was not allowed to take the property away if she decided to leave the family or remarry. Similarly, a man who was at *chikamwini* was not allowed to take away the property if he decided to resettle elsewhere. Among the Chewa, if the property had to be distributed to individual children, then the boys would have a bigger share than the girls because the belief was that the latter would be married and taken away to *chitengwa*. Irrespective of their sex, however, children who were born outside marriage were not considered when sharing the property left by a dead father because this property must remain where the man was staying. The people felt that this helped to keep property within the family.

The FGD participants said that this should be modified to ensure that property was distributed equally between boys and girls.

In Nkhata Bay, when the husband died, his wife and children inherited the property. However, the husband's relatives also benefited when the wife was inherited as a *chokolo*. When she refused to become a *chokolo* sometimes the property was grabbed from her. The case was worse if the marriage was contracted through *kutsomphola* or if the union did not produce any children regardless of the manner by which the marriage was contracted.

When the wife died, the husband automatically inherited everything because it was believed that the husband usually bought almost all the valuable property. The wife was not considered as making a significant contribution to the amassing of wealth. The husband however gave the wife's family her clothes and the kitchen items the wife was using. The deceased woman's parents were usually forced to give *chiusha nyumba* (replacement wife) as a means to accessing the property left by their late daughter.

The study revealed that property in Nkhata Bay was distributed almost equally among children. For instance, girls too were given land, which they however stopped using when they got married away (*kuchitengwa*). They used that land when they came back to their home village but they did so under their brothers' authority. Children born outside a family union received their share of property if they were known but this property did not include land because such children did not come to help expand their father's village.

In Mzimba when the husband died the surviving wife (who was expected to stay in the matrimonial home) and male children inherited property especially land. The girls received items regarded fit for females such as kitchen utensils. The argument was that the girl would be married somewhere else and produce children for another family and giving them land was tantamount to surrendering the right to valuable property to outsiders.

The girls could benefit from land if it was sold and the cash was distributed to all the children or when their marriages failed. In the latter scenario they were allowed to use the land only under their brothers' authority. If all the children in the family were girls or when the male children were very young, brothers to the deceased inherited the property and were entrusted with the responsibility of looking after the children.

It would appear that many women accepted *chokolo* principally because they wanted to have access to property and children. Children born out of wedlock did not receive anything unless the father had written a will (which was rare) or when some *lobola* was paid. If the bereaved woman was regarded rude, she was told to leave soon after burial. When she was thought not to have mourned the husband to the satisfaction of the relatives, she was told to leave for her home at the time of *kumeta*, and she could not be considered for *chokolo*. If, on the other hand, she was considered to have been of good character, she was offered *chokolo*.

The MHRC established that the late husband's family usually manipulated the woman to accept *chokolo* on the pretext of being offered security. On being inherited, however, the levirate husband sometimes became so abusive so that the woman left on her own accord and left property and children behind. Such men took *chokolo* principally because they wanted to inherit property their late relative might have accumulated.

If the wife died, the husband kept everything. He could be given a sister or niece of the deceased wife to help him raise his children and produce more children for him. It was reported by female participants to FGDs that some husbands actually demanded that a wife be replaced because they felt that they did not fully benefit from the *lobola* they paid.

In Chitipa children shared the property but land and livestock was left with male children. If all children were girls, the father's relatives were entrusted with the responsibility of controlling the property and providing for the children. Children born outside a family union could only be regarded as part of the inheritance if the father paid for damages and that the children accepted to come and live in their father's home.

In all the districts of the North the MHRC visited it was found that women strongly felt that the practice of girls not inheriting valuable property like land should be abolished. Property like land, in their opinion, afforded them an opportunity to be independent and prosper in life. Men, however, were of the view that some modifications to inheritance procedures were necessary but surrendering rights to own land to girls was unthinkable since girls were always married away.

Among the Lomwe and the Yao, the female children were supposed to get more property including land than their male counterparts. But the male child, if grown up, usually used force to acquire more for himself. Among the Sena, on the other hand, the boy child was supposed to get more property including land than the females. However, there was a lot of property grabbing that was done by the relatives of the male side particularly during the death of a husband. The following thinking, among others, was behind it all:

- It was said that the husband amassed most of the property.
- Blood relationship was said to be stronger than the mere bond of marriage.
- Children would be able to fend for themselves as they grow up.

Surviving widowers usually did not face problems among the Sena. However, some surviving widowers in both the Yao and Lomwe communities, which are matrilineal, did

face some problems related to property grabbing. They might be chased away from the land they were cultivating. Like their counterparts in the North, interviewees here advocated for a change in the manner deceased's property was handled with a view to achieving equitable distribution to all beneficiaries.

#### **4.6 Practices Relating to Chieftaincy**

Among the Chewa, usually one of the children of the chief's sisters becomes a chief. A group of women comprising the chief's sisters are responsible for appointing a chief from a pool of all the children belonging to the sisters. Once this is done, the name is presented to the community. Both men and women are eligible for chieftaincy. However, the women caucus prefers men to women because it is believed that "*amuna amasunga mudzi*" (men build the village) and that women will always be taken away as *atengwa*. Unlike among the Chewa, among the Ngoni, chieftaincy is given to the first-born son of the first family (where the chief had more than one wife) because, just like among the Chewa, men are the ones who keep or build the village.

The MHRC found that the successor of the chief in the Sena society was supposed to be a brother/sister or eldest son/daughter of a retired/deceased chief. In the Lomwe and Yao societies, the successor was supposed to be the nephew/niece born to the eldest sister of the retired/deceased chief.

There were certain variations in terms of the actual processes of installation of a chief among the different ethnic groups in the Southern Region which are worth noting.

Among the Lomwe, the nominated chief was assessed for his/her knowledge of witchcraft. It was believed that a chief ought to be knowledgeable in witchcraft as he/she had to protect the village from witchcraft. In some areas among the Lomwe, a chief elect, if male, was requested to sleep with his sister in a ritual aimed at safeguarding the chieftaincy.

Among the Yao, the nominated chief wore a headband made out of the *nsanda* used for the burial of the late chief. This was a statement to the effect that the new chief would emulate the good deeds of the late chief.

The new Sena chief on the other hand, was supposed to perform installation cleansing known as *kupita ufumu* by having sex with his/her partner while the close relatives in the village abstained from sex, for one night.

Though both men and women were eligible to become chiefs almost in all sites in the South, the study revealed that there were generally more male than female chiefs. It was however, worthy of note that in Mulanje the trend was fast changing in terms of accommodating women in decision-making positions. For example, at the time of the study, there were six Traditional Authorities out of which three were women. There were nine Members of Parliament out of which five were women.

Mulanje, however, could be regarded as an exception and not the rule and respondents cited various reasons as to why there were more male chiefs than female ones in general as follows:

- Societies regarded males as being braver than females.
- Males were faster in responding to issues than females.
- Men, particularly among the Sena, were not willing to go and live in the woman's village even when she had been chosen as a chief.

In Chitipa north and Mzimba, only men could become chiefs. The argument was that females were married away and the fear was that when they married, their husbands would be the real authority behind their wives' leadership.

In Chitipa, since being a chief was a big responsibility and people intending to harm the chief are many, many chiefs-to be ran away from the responsibility. The royal guards and his *ndunas* persuaded the heir apparent to accept their nomination for the chieftaincy. The chief to be was beaten up together with his wife. If he ran away, he was followed and pestered until he accepted the position. Interviewees indicated that it was fun to beat him up because the opportunity to rough up a chief would never present itself again since after installation, the people were at his mercy. *Chisekeresko* (a celebration that includes dancing, beer drinking and eating) took place at the installation of the new chief.

In Mzimba, people danced Ingoma, slaughtered cattle and drank beer as celebration at the installation of a new chief.

In Nthalire, Chitipa south, a woman could become chief. Nthalire had one female chief who had just died at the time this research was conducted. The women, however, indicated that many women refused to become chiefs because they could not handle the responsibility expected of them in leadership and that their husbands would not let them.

In Nkhata Bay, both men and women could become chiefs. A matrilineal system was practiced here and people looked for whoever was best suited from the lineage to ascend to the throne. Although either could become chiefs, males dominated because females were said to be married away and as such the fear of giving them leadership positions was that this would amount to selling their leadership to husbands who might run affairs of the throne from behind their wives.

Generally in all the areas the successors of chiefs were subject to scrutiny for good manners and legitimacy in terms of lineage. An installation ceremony was generally organised where there is some feasting, dancing and counselling of the new chief. In Mchinji the MHRC learnt that the installation of a new Ngoni chief was accompanied by a practice called *shazi*. This was a practice by which girls or young single women were chosen from the community to entertain by, among other things, offering sexual services to visiting dignitaries on the eve of the actual installation ceremony. In T. A. Mlonyeni's area the MHRC was told that at the installation of the current T.A. a girl who had been picked to entertain the *Inkosi ya Makosi* Mpezeni had run away because she feared contracting STI from the *Inkosi* who looked sickly. Respondents in the area were for the abolition of *shazi* because of the risk of spreading STIs including HIV/AIDS it poses.

## **4.7 Other Emerging Practices**

The study came across a number of beliefs and practices which were difficult to put in any of the categories of cultural practices. In fact for others it was even difficult to consider them cultural and yet others were unique to Nkhata Bay where what would be called a tourist culture was fast evolving. These beliefs and practices include:

### **4.7.1 Relationship with immigrants**

The research found that in all the areas, immigrants were treated well as long as they followed the customs of the area they have settled in. If the chief gives them land, people are quite tolerant towards the new settlers. Intermarriages are also acceptable. They are however expected to practice rites pertaining to their ethnic group within the confines of their own settlements.

In some areas like Nkhata Bay settlers can become chiefs if they have stayed for some time; they are of good character and they respect the culture of the Tonga. They are however given chieftaincy over their own people.

Respondents felt that the status quo with regard to relationships with immigrants should be maintained.

### **4.7.2 Homosexuality**

In Nkhata Bay, it was indicated that homosexuality was on the increase. The interviewees indicated that tourist guides practiced homosexuality quite a lot. The tourist guides were usually young men or boys and were usually wearing dreadlocks. Some interviewees indicated that these young men or boys provided tourists with *chamba* (marijuana) and sleeping partners. The sleeping partners were secured from the surrounding villages where tourist guides coaxed parents to release the children for the tourists for a fee. The children were boys and girls as young as 15 years of age if not younger.

It was indicated that cases of STIs in the district were on the rise and both tourists and locals had been affected. The Magistrate indicated that he had come across tourists who had complained that local boys had infected them with STIs. A number of respondents at the Boma complained that the tourists were tainting their culture in which homosexuality and sodomy were considered a taboo.

### **4.7.3 Mixed marriages/ relations**

It was established that the coming of the tourists to Nkhata-Bay had produced a lot of mixed relations and marriages. Young men and women had been taken to Europe and America by their white spouses. Some, it was reported, had come back but the whereabouts of many was not known.

### **4.7.4 Prostitution**

The MHRC was told that because of the tourists, the numbers of young people involved in prostitution was high especially at the Boma. The interviewees indicated that young boys and girls 14 years old could be found loitering the streets and bars of the *boma* at

night looking for customers. It was further indicated that female tourists engaged in sexual relations with young men who sold curios in order to purchase the carvings at a low price. The interviewees also indicated that many tourists came to Malawi with the intention of having a sexual experience with a black person.

#### **4.7.5 Rastafarianism**

The MHRC found that many people in Nkhata-Bay associate homosexuality, prostitution and substance abuse especially *chamba* to the growing culture of Rastafarianism in the district. However, interviews with Rastas indicated that not all people with dreadlocks and who smoked *chamba* were true Rastafarians. They claimed that there were many copycats who behaved like Rastas to taint the image of the true ones. It was indicated that many boys smoked *chamba* and donned dreadlocks to appear like Rastas because the tourists preferred to have relations with Rastas who, according to the Rastas, were considered friendly and had access to *chamba*, which many tourists sought in the area.

In Nkhata-Bay, the growth of the tourist industry generally appeared to have brought with it changes in the way people lived. The impact of these changes on the cultural beliefs and practices ought to be researched into further.

### **5.0 RELATIONSHIP BETWEEN PRACTICES AND HUMAN RIGHTS**

This study revealed that community life in various parts of the country revolves around a number of cultural practices and beliefs. It also established that these practices fulfilled specific functions whose significance and value were, on the one hand, similar across the ethnic groups targeted by this study and, on the other hand, vary from place to place. Further, this study would like to submit that the various cultural practices and beliefs variously impact on the extent to which people enjoy their human rights. As will become clear in the paragraphs that follow, a critical examination of the practices revealed that their impact on the manner and extent to which people exercised their human rights was two-dimensional. Firstly, the practices had an age dimension in that there were sets of practices that affected children differently from the way they affected adults. Secondly, the study found that the practices had a gender dimension, that is, they affected women and girls differently from the way they affected men and boys. Thus in an attempt to link cultural practices with human rights the findings of this study are discussed under two broad subheadings, namely;

- The Impact of Cultural Practices and Beliefs on Child Rights
- The Impact of Cultural Practices and Beliefs on Women's Rights in the Context of Gender

It is also noteworthy that a critical assessment of the findings revealed that it would be rather simplistic to put the practices into bad or good or into positive or negative categories in as far as their impact on the enjoyment of human rights was concerned. Indeed, the study found that it was possible, for instance, to isolate some negative elements in practices, which, on face value, appear positive and find some positive elements albeit marginal in cultural practices that could easily be considered negative. At the other extreme the study also came across practices which people themselves indicated

did not serve any particular purpose stating; “*basi ndichikhalidwe kapena chikhulupiliro cha makolo*” (this is a mere cultural practice or belief). For this reason and for the purpose of this study, therefore, the various practices vis-à-vis their impact on the enjoyment of human rights particularly by women and children are placed on a continuum. This entails looking at the practices from their positive impact on the one end through their negative impact on human rights with those that do not have specific consequences occupying the other end of the continuum.

## **5.1 The Impact of Cultural Practices and Beliefs on Children’s Rights**

In this section the various cultural practices and beliefs this study unveiled are discussed in the context of their impact on the rights of the child. An attempt has been made to relate these practices to child rights as enunciated in international human rights instruments (especially the CRC) to which Malawi is a party and, in the Republican Constitution.

### **5.1.1 Practices Related to Marriage and Children**

The study revealed that in all the regions children are affected by various practices that pertain to marriages. The impact of these practices on the extent to which children enjoy their rights is quite revealing and worth exploring albeit only a few of the practices vis-à-vis their impact on the enjoyment of human rights by children are discussed in the paragraphs that follow.

#### **5.1.1.1 Early Marriages**

As indicated above in all the areas covered by this study it was quite common for girls to get married by the time they reached puberty which was around 12 years while many boys were married by the age of 17 years. It would appear therefore that girls went into early marriage earlier than boys. The study revealed that early marriages such as *kutomera*, *kutsomphora*, *ukwati wotulira*, *kupoka*, *kupimbila*, *chimeta masisi* and *mbirigha* were quite prevalent in the country and that most of these involved young girls more than boys. This is a clear case of discrimination against girls especially when it is remembered that some of these, like *kupimbila*, could easily apply to boys if the issue at stake was genuinely that of repayment of a debt.

The Convention on the Rights of the Child states that in all action concerning children... the best interest of the child shall be the primary consideration.<sup>4</sup> The Constitution of the Republic of Malawi protects people below 15 years from entering into a marriage<sup>5</sup> or being involved in any treatment that is likely to be hazardous, interfere with their education or be harmful to their physical, mental, spiritual or social development.<sup>6</sup>

The study established that once children entered into marriage, they did not continue with education. They were expected to take care of their husbands, do household chores and attend to farm work among the many tasks demanded of them. In a family where the young girl was not the first wife, she was treated like a slave by the older wives who assigned her various tasks. This bordered on servitude. For many young girls, the

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<sup>4</sup> CRC Article 3. 1

<sup>5</sup> Malawi Constitution Section 22 (8)

<sup>6</sup> Malawi Constitution Section 23 (4)

problem also arose when they started bearing children. The chances that they would give birth and return to school were almost non-existent. Thus the girl's right to education was greatly compromised if not completely denied.

Early marriages also have a harmful effect on the health and physical development of the girl child. Many girls end up being pregnant as soon as they enter into such marriages. Early pregnancies like early sexual encounters can have harmful health consequences on the life of the girl. UNICEF indicates that no girl should become pregnant before the age of 18 because she is not yet physically ready to bear children. The study found that there were cases of maternal complications such as prolonged labour and that fistula which often followed obstructed labour was so common among young mothers. As intimated by a participant from Nkhata-Bay who lost her daughter to after effects of obstructed labour, incontinence or fistula was a common occurrence in all the areas covered by this study. The study revealed that apart from leading to loss of life, birth complications that led to fistula also caused abandonment of the young girls by their husbands. This meant that early marriages were not only a danger to the very right to life but they also led to psychological torture among girls who were abandoned.

Girls who enter into marriage early also have a high chance of having many children early in their lives. During the study, it was established that some girls had as many as four children by the time they were 20 years old. Such girls were robbed of their childhood early and were therefore deprived of the opportunity to develop physically, emotionally and psychologically. The chances that these mothers would provide proper guidance to their children were very minimal. In fact the study established that most of the young girls depended heavily on their parents for care and support. Most of them did not know how to take care of their children let alone themselves. Cases of child neglect by the young mothers were very high since the mother was torn between childhood needs and adulthood expectations. Further, the young mothers could easily lose their lives because the uterus was over used and not fully developed to overcome such repeated use.

While children have a right to be protected from sexual abuse the study revealed that in situations where the young girls entered into marriage with old men who had children by earlier marriages, the girls sometimes ended up having affairs with boys the girls found in the family. This amounts to sexual abuse, which increases the girl's chances of contracting sexually transmitted infections including HIV/AIDS, violating the right of the girl to enjoy the highest attainable state of health.<sup>7</sup> On the other hand, such affairs would also predispose the old men to contracting STIs.

Further, most of these marriages were oftentimes forced upon young girls by parents or their guardians. This meant that the girls' right to choose marriage partners was not respected. Indeed, these girls were not given a chance to choose their partners as is guaranteed by the Constitution. The parents choose a person they believe would bring them wealth and eradicate their poverty. As already indicated, some marry off their children to settle a family debt. The study also established that some parents in the Northern Region preferred to marry their children while they were still virgins for more *lobola* value. This, like marrying off girls to settle a family debt, amounts to exploitation of the girl child since the parents benefit either financially or materially at the expense of their child's needs and happiness.

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<sup>7</sup> CRC Article 24



### **5.1.1.2 *Chithyola imvi* and incest**

*Chithyola imvi*, a form of incest, was common in Mangochi and Mulanje but isolated cases were also reported all over the country. It must be remembered that the family is supposed to provide a safe haven for children. The CRC in fact entrusts the first responsibility of caring and protecting the child in the hands of parents as primary care givers. Incest in all its forms violates the child's right to protection from sexual and emotional abuse. The experience can be traumatizing for the child and has the effect of turning the home into a place the child no longer considers safe. It leaves a scar in the lives of the victims that makes it hard for them to positively relate with men. The girl might not only find it difficult to continue with school but also make it hard to found a family in future as she carries the stigma of having been used. Incest can also promote the spread of STIs including HIV/AIDS to the child thereby negatively affecting the girl's enjoyment of her right to health.

### **5.1.1.3 Marriage by proxy**

Marriages by proxy as were reported in Mzimba amount to sexual abuse of the young girls who are taken advantage of because of their naivety and because of being found in a new environment. Indeed the practice affords the young girls little opportunity to choose their sexual partner contrary to constitutional provisions in respect of choice of a marriage partner. The practice can aggravate the spread of STIs including HIV/AIDS since both parties engage in sexual activities outside the marriage even before their health status is ascertained.

### **5.1.1.4 Wedding dances**

It was indicated in Mzimba, that during celebrations of marriages wedding dances like *mtungo* and *magolowazi* took place. The fact that people, including children, indulge in sexual activities during such festivities means that sexual abuse of children is highly possible. In addition, these dances are known to lead to unwanted pregnancies, which in turn, affect the manner the girls in particular would enjoy their rights such as the right to education that might be curtailed. Early pregnancies have health implications as noted in 5.1.4.1 above.

## **5.1.2 Practices Associated with Rites of Passage**

The study uncovered many practices that children were exposed to in the process of growing up. The study established that more practices pertained to girls than to boys and that most of the practices revolved around grooming girls for married adulthood. With regard to the impact these practices have on the extent to which children enjoy or fail to enjoy their human rights the paragraphs that follow look at a few of them.

### **5.1.2.1 Initiation ceremonies**

Initiation ceremonies are essential for counseling and providing proper guidance<sup>8</sup> and providing the children with information which is necessary for their upbringing. The

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<sup>8</sup> CRC Article 5

children are provided with information on good manners, respect for elders, their prescribed roles in the society and also on how to take care of themselves if and when they attain puberty.

However the Commission noted that some of the guidance and information passed on to children during initiation ceremonies is not appropriate and promotes the violation of the children's welfare, dignity, normal growth and development.<sup>9</sup> Most of the recipients of this information with negative consequences are girls. Many societies in Malawi target girls in the initiation processes because it is alleged that girls or wives are central to general welfare of families and the Community at large.

### ❖ Initiation for girls

The Commission established that in initiation ceremonies like *umwali*, *amasundo*, *chindakula*, *maseseto*, *masosoto*, girls in their early teens were counseled on their conjugal duties particularly on how to perform sexually once they were married. In *msondo*, *zoma*, *chidodoto*, girls as young as six years attended instruction sessions for two to four weeks, which was not in their best interest.<sup>10</sup> It is doubtful whether any child below 10 years would really appreciate any serious advice, let alone advice on sex. This information does more harm than good and four weeks is a long time for a child to be away from home in the care of strangers. In other words the sessions not only exposed children to information that was harmful to their development but also deprived children of the right to be raised by their parents at a time when they needed them most. Further, the long periods of confinement sometimes coincided with school time. This meant that girls' attendance at school was negatively affected thereby negatively affecting their right to education.

The content of the curriculum, even for girls who have attained puberty, was such that it promoted sexual abuse of girls who were encouraged to indulge in sexual activities to prove their adherence to the practice.<sup>11</sup> In some initiation ceremonies girls danced naked in front of the public to display what they had learnt during the period of confinement. People who attended such dances were free to touch the breasts of any girl as long as they paid a small fee. This is a blatant violation of the girls' rights to personal dignity and liberty.<sup>12</sup> The explicit dancing and the exposure make the girls vulnerable to sexual abuse in the process violating the girls' right to be protected from sexual abuse and sexual exploitation.<sup>13</sup> The girls can also contract sexually transmitted infection including HIV/AIDS thereby greatly compromising their right to health.

The Commission also established the involvement of *fisi* in the initiation practices. In situations where girls were encouraged to identify any boy to have sex with to avoid *kutuwa* or where older men were used as professional *fisi* for *kuchotsa fumbi* the girls ran the risk of contracting STIs including HIV/AIDS. Sometimes girls were threatened with the occurrence of a misfortune to solicit their consent. This is tantamount to denying the girls the freedom to freely choose their sex partners. The acts did not only promote the

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<sup>9</sup> OAU Article XXI

<sup>10</sup> CRC Article 3

<sup>11</sup> CRC Article 37

<sup>12</sup> Section 19 of the Constitution of the Republic of Malawi

<sup>13</sup> CRC Article 34

sexual abuse of children and put the health<sup>14</sup> of the girls at risk, but they also violated the right of girls to free choice which is inherent in human beings.

The study found that girls who were rude and thought to have bad manners were rebuked and in some cases beaten by the *anamkungwi*. This promoted physical abuse of the girls.<sup>15</sup> This was the same for girls who were examined by *anamkungwi* and found to be without *makuna* or found to have lost their virginity. The importance of *makuna* in communities covered by this study need not be overemphasized. However, when girls who had boyfriends were encouraged to help in developing *makuna*, it became apparent that sexual abuse was likely. Indeed, this could easily lead to early marriages and early pregnancies, which, in turn, could lead to school drop out. Checking the genitalia of the girls for virginity and *makuna* violated the dignity and privacy of the girls as it must be appreciated that not everyone is free to expose their private parts to strangers

The study also established that the *anamkungwi* used obscene language when communicating to the girls, which might not be in the best interest of the child. Teaching about sexuality can be explicit but not necessarily obscene. A good parent would not want to see her/his child using abusive and obscene language. As such parents, and those they choose to entrust their parental responsibility to, have the responsibility of providing proper care to their children.

### ***Thimbwidza***

This practice was for girls who became pregnant before undergoing *chindakula*. Putting a dog's intestines over the girl and the beating meted out on the girl by *anamkungwi* when imparting advice amounted to degrading treatment and physical abuse. They violated the girl's right to personal dignity and her right not to be subjected to torture or inhumane or degrading treatment<sup>16</sup>. Further *thimbwidza* was discriminatory in that boys or men who were responsible for the out of wedlock pregnancy were not targeted for such type of treatment. In other words, only girls bore the humiliation meted out onto them by society for a "crime" they did not commit alone.

### ***Genital mutilation***

Although participants indicated that genital mutilation was no longer practiced due to death of some of the girls, the research established that in very small pockets in Mulanje district, the practice was still there. Genital mutilation has health implications on the child. It can lead to uncontrollable hemorrhage, acute pain and infection since it is not done with hygienic and sterilized instruments. Chronic infection can lead to infertility and anemia. Genital mutilation can also be traumatizing for any child who undergoes the practice. These are all violations of the rights of the child such as right to sound health care and right to life itself.

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<sup>14</sup> CRC Article 24

<sup>15</sup> CRC Article

<sup>16</sup> Constitution Section 19, CRC Article 37

### ❖ **Initiation for boys**

In *jando*, the boys' undergo circumcision where instruments which are crude and unsterilized are used. The study found that a big knife or sharp fingernails were used for the operation. Sometimes one tool was used on all participants. This practice is amenable to the spread of STIs including HIV/AIDS.

The fact that boys were asked to take a concoction made from a mixture of foreskins and herbs is very unhygienic. On the other hand cooking of food for the boys from water, which was used to wash the private parts of the *ngaliba*'s wife, puts the health of the boys at risk.

It can also be said that encouraging boys to indulge in sexual activities after initiation (*kutaya mafuta*) with any girl as soon as they get home promotes sexual abuse of both boys and girls. These acts not only exposed young boys and girls to STIs including HIV/AIDS, but could also lead to teenage pregnancies and eventual drop out from school. Thus, the practices as much negatively affected the children's right to health as they did the children's right to education.

Advising the boys not to sleep with girls who were menstruating and those who had recently given birth did not assist the young boys to abstain from sex. This was quite risky in the face of the HIV/AIDS pandemic. In fact it was encouraging boys to be promiscuous.

In *Kumeta nyau* while boys were advised on good manners and taught social skills which they would use when they grew up, some of the content of instruction might not be in the child's best interest especially when it is remembered that some of the boys who entered the *nyau* cult were as young as 8 years old. The study established that the new recruits were severely beaten once they entered the cult. This was detrimental to the lives of the boys as they were subjected to physical abuse, contrary to the provisions of the Constitution and the CRC on the treatment of the child. In addition, the boys stayed for a very long time at the *dambwe*. At this time they did not attend school violating their right to education.

#### **5.1.2.2 Gwamula**

*Gwamula* promotes sexual exploitation of girls and may also lead to early pregnancies. Both boys and girls are at risk of contracting STIs including HIV/AIDS and dropping out of school. The act can traumatize the girls affected and also encourage boys to become perpetual sexual assaulters. *Gwamula* also threatens the lives of the boys because once they are caught, they are severely beaten.

#### **5.1.2.3 Sexuality**

The study found that in all regions parents were not comfortable to talk about sexuality with their children. In fact many parents linked child delinquency to too much information being provided by the media. They failed to link child delinquency to their lack of communication with their children and lack of proper guidance and appropriate information from parent to child. It can be argued that in most societies in the country children lacked appropriate information on sexuality from parents. In other words parents

had abdicated their responsibility as primary care givers, which should, in essence include provision of appropriate information. This being the case, the child's right to information, which could be quite helpful for their future roles in society, was unreasonably denied.

#### **5.1.2.4 Education**

The study established that more girls than boys dropped out of school and that in many areas preference for boys to girls in choosing who went to school was quite prevalent. While cultural practices and a number of other factors accounted for the high girl drop out rate from school as alluded to above, preference for boys to girls amounted to discrimination contrary to Sections 20 and 23 of the Constitution and Article 2 of CRC, read with Article 28 of the same.

#### **5.1.3 Practices Associated with Pregnancy and Reproduction**

Largely the study found that very few practices pertaining to pregnancy and reproduction directly affected children. In fact most of the practices, particularly those associated with pregnancy, affected children only to the extent of children's close association with mothers as primary care givers. However, the following two practices on reproduction deserve special mention.

Firstly, in all the districts covered by this study, except for Mangochi and to some extent Chitipa, it was established that most male interviewees preferred boys for their first-born children while female interviewees preferred girls. The reasons for these preferences were quite revealing. The most commonly cited reason was that boys would help in the expansion or growth of villages (*amamanga mudzi/bakuzenga muzi*) or perpetuate the family name (*kulutiska munthazi zina*) while girls were principally preferred for the assistance they would render to their mothers with household chores. In areas where girls were preferred to boys even by men, like in parts of Chitipa and Mangochi, reasons for such preferences were largely for motives which at best border on greed. In Chitipa, for instance, the reason was that first-born girls would marry early to generate wealth in form of *lobola* while in Mangochi girls would attract men as husbands to the villages for the purpose of expanding the villages.

It would appear, therefore, that in almost all the societies covered by this study the tendency was to ascribe higher-level responsibilities to male and not to female children. This has implications for gender equality as this mode of thinking permeates the socialization process to the extent that higher expectations with regard to responsibilities in society are placed on boys than on girls. This goes against the spirit of section 20 of the Constitution and Article 2 (1) of CRC which prohibit discrimination on any grounds. Discriminatory attitudes towards children on the basis of their sex may affect the way parents take care of their children in that in terms of investment, especially in the face of scarce resources, there may be preferential treatment of boys to the near exclusion of girls. At the end of the day, girls may grow up in an environment of deprivation in which their rights to good health, education and economic opportunities among others, may be severely curtailed.

Secondly, in all the areas the MHRC visited it was found that some rituals widely known as *kulimbisa mwana* accompany resumption of sexual intercourse between couples after

delivery. Although this study came across several permutations of these rituals, they have the protection of the child from harm or the ‘strengthening’ of the child as their common denominator. Whether massaging the child with a piece of cloth on which sperms have been ejaculated or strapping a child with *mbereko* that has sperms actually protects the child from harm is open to debate, but that these rituals serve as a reminder to parents about their responsibility of taking care of the welfare of their children is critical. For instance, the rituals in some areas demanded that couples should abstain from sex for some time to avoid pregnancy before the parents have had adequate time to take care of the child. In this regard it can be argued that the rituals have the principal purpose of helping in the promotion of the best interest of the child (one of the four principal tenets of the CRC).

However, some of the things that take place during these rituals such as massaging the child with sperms or asking a girl who has a child out of wedlock to have sex with any man for the purpose of *kulimbisa mwana*, might have dire health implications. The latter in particular might predispose the girl to the risk of contracting sexually transmitted infections (STIs) including HIV while the former is tantamount to putting dirt on the child’s body, which is a health hazard. In other words, notwithstanding the noble intentions of the rituals, the actual practices might compromise the right of the child to the highest attainable standard of health care<sup>17</sup> and negatively affect the girl mother’s right to be protected from all forms of sexual exploitation and sexual abuse<sup>18</sup>.

#### **5.1.4 Practices Associated with Chieftaincy**

The study has established that regardless of the system of descent (patrilineal as is the case in the North except for Nkhata- Bay and matrilineal as is the case in the South except for Nsanje and in the Centre except for the Ngoni of Ntcheu and Mchinji) ascension to the throne revolved around male members of the lineages. The small number of female chiefs in all the areas except for Mulanje testified the dominance of males over females in decision-making positions. The reason advanced by patrilineal societies that this was so because girls were married away and therefore should not become chiefs lest their husbands rule behind them is rather suspect when it is remembered that even in societies where residence of men was in their wives’ homes preference was still for male members of the families in matters of chieftaincy. What could probably explain the situation was the socialization process alluded to in 5.1.2. Children are raised in an environment in which leadership is regarded a male preserve contrary to the provisions of the Constitution in sections 20 and 23(1) and CRC Article 2 (1).

The practice of *shazi*, which takes place at the installation of an Ngoni chief in Mchinji, is so pertinent to the rights of the girl child. In the first place the practice predisposes the girl child to contracting STIs. As the case in Mlonyeni amply demonstrated, while the girl who ran away from the ritual on account of her assessment of the paramount chief’s appearance was spared the prospect of infection, the others who succumbed to the demands of this tradition might not have been equally fortunate. Clearly the girl child’s right to protection from all forms of sexual exploitation and sexual abuse and in particular

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<sup>17</sup> CRC Article 27(1)

<sup>18</sup> CRC Article 34

her right not to be induced or coerced to engage in sexual activity<sup>19</sup> is at stake as a result of this practice. Further, *shazi* runs counter to the spirit of free choice inherent in human beings in that the practice affords the young women and girls little, if any, opportunity to choose a sexual partner. The practice might leave an indelible scar on the lives of the affected women and girls to the extent that girls, for instance, might not continue with their education as they carry the burden of having been used or fail to find a marriage partner of their choice for the same reason.

Practices like *shazi* are in a word inimical to the letter of the OUA Charter on the Rights and Welfare of the Child, which enjoins States Parties to the Charter to take appropriate measures to eliminate harmful social and cultural practices<sup>20</sup>.

## **5.2 Cultural Practices and Beliefs and their impact on Women's Rights in the Context of Gender**

Malawi is a party to several international instruments that uphold non-discrimination and equality of persons. These include, the recently ratified Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, CEDAW, CRC, ICCPR, ICESCR, ACHPR, and SADC Heads of States and Government's Declaration including its Addendum on the Prevention and Eradication of Violence against Women and Children. Malawi's Constitution has also entrenched a bill of rights which includes the rights of women and proscribes discrimination on any ground.

In this section the findings of this study are examined in the context of the impact of the various cultural practices on human rights of women against the standards and ideals set forth in the various human rights instruments.

### **5.2.1 Marriage Rites and Women's Rights in the Context of Gender**

The study has revealed that many practices pertain to contracting of marriages. While some promote the rights of contracting parties, others inhibit the rights of the parties particularly those of women. Some of these practices are:

#### **5.2.1.1 Marriage Procedures**

In most cases, the study revealed that formal marriage procedures between intending spouses commence after the two persons reached an agreement. This aspect, when done at the appropriate ages, promotes the right to freely choose a spouse and to enter into marriage with free and full consent.<sup>21</sup>

However, the assessment of the findings of the study also shows that there was insistence on preliminary payments that could be done in cash or kind (*chikole*) after successfully asking for a hand in marriage across all the ethnic groupings to show seriousness of intent. This was mostly one sided as it was done by the man's side and may therefore appear discriminatory against men.

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<sup>19</sup> CRC Article 34

<sup>20</sup> OAU Charter on the Rights and Welfare of the Child, Article XXI

<sup>21</sup> Article 16 (b) CEDAW

The study found that cutting across most types of marriages in all the societies in Malawi was the process of counseling for the newly weds. Parents and relatives did this on the eve of the first day of marriage, which had been contracted following culturally acceptable procedures. Some of the content of this marriage counseling promoted some rights and responsibilities for men and women during marriage<sup>22</sup>. These elements included:

- Need to render assistance to parents and relatives of either side.
- Need for mutual respect between the spouses.
- Need for faithfulness during marriage. Faithfulness in marriage promotes and protects the health of partners particularly in the face of the HIV/AIDS scourge.

However, some of the messages in the marriage counseling sessions made men dominant and women subservient. These elements included:

- To always regard the man as the head of the family
- Not to refuse sexual intercourse when requested by one's husband.
- The requirement for a woman to endure hardships and persevere in marriages.

The idea of regarding men as heads of families does in a way deny women control of their own property, and makes women subservient to men in many situations. The notion of not refusing sex in marriage subjects women to marital rape, which society generally appears to condone. This, unfortunately, is another serious form of sexual abuse against women. The fact that the woman should persevere in the face of various problems gets inculcated in many women. Many women end up suffering domestic violence in its various forms such as physical, psychological, sexual and economic.

The study also observed that there was non-payment of bride price in some societies such as those of Mulanje, Mangochi and Ntcheu (Yaos, Lomwes and Ngonis) when contracting marriages. These are matrilineal (except for the Ngoni) societies. There was just exchange of a hen to a cock by the marriage sureties. This aspect does promote equality on the basis of gender in as far as contracting of marriages is concerned since the practice does not make any one look inferior.

However, the study also noted that there was payment of *lobola* for contracting of marriages as practiced in Chitipa, Mzimba, Nkhata-Bay and Nsanje. These are patrilineal societies (except for the Tonga of Nkhata- Bay). The payment of *lobola* was construed as the buying of the woman and children as pointed out by some respondents in the said districts. It was viewed as buying because, on the one hand, children born out of such unions belonged to the husband's family on the strength of the *lobola* paid and on the other hand, the woman could be held in bondage if *lobola* was not paid back even when the woman was living in an abusive union.

The *lobola* practice appears to perpetrate gender based violence which violates women's rights in various aspects such as:

- Women's right to human dignity as they are treated as mere objects

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<sup>22</sup> Article 16 CEDAW



- Women’s right to be accorded the same rights as men in law, including equal capacity to acquire and retain custody, guardianship and care of children, and to have an equal right in the making of decisions that affect their upbringing.<sup>3</sup>

### 5.2.1.2 Residence in Marriage

The study found two types of residence in marriage namely *Chikamwini* and *Chitengwa*. The *chikamwini* and *chitengwa* systems were in principle practiced to various degrees in the respective societies that the study targeted. This in itself promoted freedom of movement and residence<sup>23</sup> since they provided a chance for a couple to stay at a place of their choice

However, the study found that both the *chitengwa* and the *chikamwini* systems perpetrated gender-based violence to various degrees. The *chitengwa* system as practiced in Mchinji, Dowa and to a lesser degree in Mulanje, Ntcheu and Mangochi, in most cases deprived the woman of valuable property at the dissolution of marriage with the exception of the custody of children. While the *chitengwa* practiced in the societies of Chitipa, Mzimba, Nkhata Bay and Nsanje disadvantaged the woman to the extreme because it was coupled with the *lobola* system as discussed earlier.

On the other hand, the study found that *chikamwini* as practiced in Mulanje, Mangochi and parts of the Central Region deprived men of their rights to custody of children. This was so because the children in such societies were believed to belong to the woman’s side. Another serious form of gender-based violence against men in this system related to property rights. Upon the death of the wife, the man was oftentimes asked to take leave of the matrimonial home, particularly after the formal dissolution of marriage (*kusudzula*). The most common valuable property that the husband lost was the land he might have cultivated and the house he might have built and lived in for so long.

### 5.2.1.3 Forced marriages

A critical analysis of the findings revealed that there were various forms of forced marriages in Malawi and these included:

- *Kupimbila* or *kupawila* as found in Chitipa and Mzimba districts.
- *Mbirigha* or *nthena* as found in Nsanje and parts of Mzimba, Nkhata-Bay and Chitipa.
- Wife inheritance (*chokolo*, *banja lakupita kufa* and others) as practiced throughout the country in which coercion factors such as fear of witchcraft, loss of property and loss of custody of children among others forced women to succumb to inheritance.
- The type of marriages in which either parents or guardians coaxed young women or girls even using threats of misfortunes befalling the young people if they did not comply.

These forms of marriage violated the rights of women to freely choose a husband. The right of women to human dignity was compromised as women were reduced to mere

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<sup>23</sup> Section 39 (1) Malawi Constitution

objects that were at the whims of men. These forced marriages also violated the health rights of both men and women involved. The health rights were at risk as the marriages predisposed both parties to HIV and other sexually transmitted diseases. That health rights (if not right to life itself) can be negatively affected by this practice was amply demonstrated by a female respondent in Nsanje district who intimated that two men had died after successively inheriting a woman whose husband, in the eyes of the woman, had succumbed to the HIV/AIDS pandemic but the society that highly valued *kulowa kufa* had thought that witchcraft had been responsible instead.

#### **5.2.1.4 Polygyny**

This is a practice that is deeply entrenched and cutting across all the ethnic groups in Malawi. An assessment of this practice revealed that there was a lot of violence against women and children. Polygyny generally conflicts with the spirit of the CEDAW, which guarantees equal rights for men and women in marriage. It could also be argued that there is a certain kind of slavery of women and children that happens in a polygamous situation. For instance, some respondents cited women and children being used as labourers in farms that were controlled by a man. This violates the right not be held in slavery or servitude.<sup>24</sup> In some instances, the practice exacerbates socio-economic abuse of women and children in that the man oftentimes abdicates his responsibility of providing for the needs of his family as the economic burden becomes heavier with increases in the number of individuals to be taken care of. Children from earlier wives and their mothers often suffer neglect as the man turns his attention on the younger wives. Polygyny also puts at risk the right to health of persons involved as it predisposes them to HIV/AIDS because they, in most cases, engage in it without ascertaining each other's sero status and fidelity among all the parties involved cannot be guaranteed.

#### **5.2.1.5 Chimwanamaye**

The practice of *chimwanamaye* as practiced in Mulanje, subjects women in particular to sexual exploitation and psychological torture as it is generally imposed by an agreement reached at by men friends. It also exposes the individuals to health risks in the face of the HIV/AIDS pandemic.

#### **5.2.1.6 Ceremonial Dances associated with Marriages and Rites of Passage**

Ceremonial dances are the order of the day in all the societies covered by the study particularly during initiation, weddings, installation of chiefs, and at times during funerals. These in themselves are fine as they promote the right to participate in recreational activities and one's culture.<sup>25</sup>

However, these ceremonial dances do in certain ways contribute to sexual exploitation of women and at times put at risk the right to health of the people involved. This is so because the study found that some men and women who watched or participated in these dances (as is the case during initiation ceremonies in Mangochi or *mtungo* in Mzimba during wedding ceremonies) ended up having sexual intercourse. These practices,

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<sup>24</sup> Section 27 (1) Malawi Constitution

<sup>25</sup> Article 13 (c)

therefore, subject women and girls to sexual exploitation. They are also a potential health hazard to all the persons involved as they predispose them to HIV/AIDS and other STIs.

The dancing of the *anamkungwi* while naked during the initiation of girls as found by the study in Mulanje and Mangochi also degrades women. Women are reduced to mere objects of pleasure contrary to the letter of human rights standards which bestow personal dignity on all people.

Other forms of dances such as *nyau* and *jando* as practiced among the Chewa and the Yao respectively, do not allow non-initiates to associate with them freely. Non-initiates could be harassed in various ways if they came into contact with initiates. In a way, these dances violate the right of freedom of movement and association of the non-initiates.

## **5.2.2 Practices associated with Pregnancy and Reproduction**

It was revealed that pregnancy was associated with so many taboos in all the societies covered by this study. According to the respondents, most of these did not mean much but people clung to them because the practices had been passed on from generation to generation. Others were in fact considered harmful to women as they were meant to deny them the right to access nutritious food. The following deserve special attention:

### **5.2.2.1 Counseling for a Woman with first Pregnancy**

The study noted a common feature of counseling for women who were pregnant for the first time in all the societies visited. Certain content of the counseling promoted the rights of a pregnant woman to special protection during pregnancy in all types of work<sup>26</sup>. These elements include the following:

- The need for a pregnant woman not to be burdened with work.
- No more sexual intercourse for a pregnant woman from about 8 months.
- The practice of men assisting women with domestic chores such as cooking after a woman had just delivered as was the case in Mzimba, Chitipa and Nkhata-Bay did to some extent protect and promote the health of mothers. This practice did also promote gender equality at family level with the involvement of men in tasks that were ordinarily viewed as feminine.

However, most of the taboos associated with pregnancy violated the health rights of women. For example, the belief that pregnant women should not eat certain foods such as eggs, tomatoes, sugarcane and twin bananas deprived pregnant women of nutritious foods. It was pleasing to note that the trend was changing for the better due to some human rights advocacy.

Certain beliefs also discriminated against pregnant women as the various “don’ts” made women to be precluded from participating in or doing certain things such as not standing or sitting in the doorway, not watching *nyau* dance and not putting their hands on their backs for various reasons advanced by respondents in different parts of the country.

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<sup>26</sup> Section 24 (1 a) [iii]

Some of the practices that were done when the pregnant woman was in labour compromised the woman's right to health. For example, the idea of making the concerned woman drink a concoction of water in which a husband's penis had been washed as found in Nsanje leaves a lot to be desired. Even forcing the woman in labour to mention men she might have had sex with during her pregnancy did not help much because it only denied the woman the opportunity to access expert attention in good time. In fact some women lose their lives because of such procrastination. Thus, the practice can be considered a hazard to the right to life itself. Further, forcing a confession from a woman in labour about the men she might have had affairs with violates the woman's right to remain silent.

#### **5.2.2.2 *Fisi* for Procreation, Birth Cleansing (*kulimbitsa mwana*), Death Cleansing and for Cleansing Infidelity.**

It would appear that in various societies there was the belief that sex could be used as a tool for sorting out some social problems. The study established various kinds of *fisi* and these were: the practice of *fisi* for procreation (among which is the *fisi* used in marriages by proxy as found in Mzimba); *fisi* for birth cleansing (*kulimbitsa mwana*) which is done on behalf of the person who is away or who denied responsibility for pregnancy or who is dead; and *fisi* for death cleansing as done in Nsanje and parts of Chitipa; and *fisi* for cleansing infidelity during mourning periods as found in Mangochi. These practices demean the dignity of women and put at risk the reproductive health rights of women. *Fisi* men and *fisi* women (in case of other death cleansing rituals) do engage in unprotected sex with any other person who might require their services which means that they end up having multiple sexual partners. This situation exposes them to HIV infection and other sexually transmitted diseases, which in turn means that the right to health of those involved is at stake.

#### **5.2.3 Practices Associated with Funeral Rites**

The study revealed that in all the three regions a number of practices that pertain to funerals impacted negatively on the rights of women more than they do on the rights of men. For instance, in respect of mode of dress during funerals it was found that while women were supposed to dress in a way that easily distinguished them as mourners, the same was not demanded of men. This is discriminatory and needs to be re-examined in the light of provisions in law that proscribe discrimination on any ground.

The fact that in some societies, such as what the study came across in Mzimba, women were supposed to display their grief in a way that was not expected of men was not only discriminatory but also amounted to treatment that was degrading if not dehumanizing. Expecting widows to openly mourn for their departed husbands for as long as a month, and demanding of them not to take a bath or use utensils that others were using or not to freely associate with others, goes beyond matters of grief. The practices are degrading just as they deny the women the freedom to associate and enjoy the right to sound healthcare. In addition, such practices go against the spirit of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women which in Article 4 (1) states that "Every woman shall be entitled to respect for her life and integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited." Malawi is State party to this protocol and is therefore under obligation to ensure that women receive maximum support and protection in

instances where their right to personal dignity and integrity is violated in the name of culture. Or indeed, in the words of Article 5 of the protocol, Malawi is enjoined to prohibit and condemn all forms of harmful practices, which negatively affect the human rights of women, and which are contrary to recognized international standards.

The study also uncovered the prevalence of discrimination in respect of inheritance of the deceased estate especially land. In patrilineal societies land reverts to male heirs to the extent that female members of clans access land only on the good will of their male counterparts. In matrilineal societies, on the other hand, it is the male members of clans that occupy this unenviable position. Whatever the system of inheritance, therefore, discrimination on the basis of gender is common in Malawi contrary to the spirit of human rights standards.

#### **5.2.4 Practices associated with Chieftaincy**

The findings revealed that succession to chieftaincy was in principle open to both males and females in all but a few ethnic groupings. This in principle opens the door for women to participate in decision-making positions at community level. The study found that in certain areas there had been remarkable progress in terms of women's participation in decision-making positions. A case in point was the situation in Mulanje where there were three women chiefs out of a total of six chiefs at Traditional Authority level.

However, it was generally noted that although the responsibility of choosing chiefs was mostly given to women, particularly in matrilineal societies, the results often produced men as chiefs. This could be attributed to some of the contents of initiation ceremonies and general pieces of advice given to girls and women, which recognize men as more capable leaders than women. It could be argued that women are just being used as custodians of a culture that actually perpetuates unequal power relationships between men and women, which in itself is tantamount to abuse of women.

In patrilineal societies, succession to chieftaincy was almost restricted to men except in a few isolated cases in Chitipa district for reasons cited under section 4. 6. This discriminates against women in decision-making positions at community level and runs counter to the letter of CEDAW and the Constitution of Malawi which proscribe discrimination in any sphere of life.

The expected beating up of chiefs-to-be as cited in Chitipa district is a form of physical violence. It actually violates the right not to be subjected to torture of any kind or to cruel, inhuman or degrading treatment or punishment.<sup>27</sup>

## **6.0 Conclusion and Recommendations**

In the following paragraphs salient features of the findings of this study are highlighted followed by a number of recommendations that help underscore the significance of the study.

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<sup>27</sup> Section 19 (3) Malawi Constitution

## 6.1 Conclusion

This study has catalogued a number of cultural beliefs and practices which prevail in various parts of the country. It started by conceding that culture was quite complex and that whatever others might say, the various cultural beliefs and practices played functions which were generally valued by those who believed or practiced them. The study further revealed that the various cultural beliefs and practices impacted on the extent to which people in the various communities enjoyed their human rights. The study also found that women and girls, on the one hand, were affected differently from men and boys, and on the other hand, the cultural beliefs and practices affected children differently from the way they affected adults.

It has been established that some of the practices promoted the enjoyment of human rights and therefore required reinforcement while others were inimical to the enjoyment of human rights especially by women and children and therefore required modification or abolition. Some of the negative practices were so deeply rooted that changing them might appear impossible. However, as Reproductive Health Outlook (2002) observes, “sometimes a harmful practice is so deeply rooted that it seems impossible to change. But in every country people have pushed forward positive social changes, and harmful practices have ended.” In Malawi, there are many cultural practices that are falling out of favour, such as *chokolo* and *fisi* for procreation.

If Malawians are to modify or abolish the practices that infringe upon women and children’s rights and human rights in general, it is important that they are made to understand the hazards and indignity of the practices. It is also imperative that they are made aware of the possibility for them to give up these practices without giving up meaningful aspects of their culture.

## 6.2 Recommendations

In assessing the human rights issues associated with a traditional practice, and when working toward changing the practices, the following recommendations are worthy of note:

- There is need to understand the details of the practice, granted though that often it is difficult to understand the actual physical and mental impact of a practice.
- A harmful practice often has strong cultural underpinnings. Therefore, individuals and communities may hesitate to sacrifice what is perceived as important, although they realise that the practice is harmful. Offering substitute activities or a modified version of the practice is constructive since the abolition or modification of the practice does not leave a vacuum. For example, after abolishing *fisi* for procreation, a couple that is unable to have children may be provided with alternatives such as adoption. The Ministry of Health may also provide counselling for the couple and where possible provide treatment for the infertility.
- There is need to respect a positive or “neutral” traditional practice. This helps to make the people realise that not all of their cultural practices are negative.

- The power balance must be understood. As this study has shown, lower social and economic status leaves children and women especially vulnerable. There is therefore an urgent need to create public awareness through information, formally and informally, and outreach programmes on gender equality with a view to empowering all sectors of society
- Children and young women need to be empowered. People, such as *anankungwi*, who perform harmful practices often do what they think is best for the children and therefore fail to protect them. Engaging them regularly on the significant role they play in the upbringing of children by emphasizing the positive information they pass on to children and at the same time making them see elements in the practices which are negative would be worth pursuing. The “unwritten curricula” used by *anankungwi* during initiation should be reviewed by regularly engaging them in dialogue or interactive discussions. Information that is passed on to the initiates must be appropriate for the initiates and must not centre on how to perform sex but on good behaviour. It is therefore recommended that the *anankungwi* should undergo training on sex and sexuality and how best information about this subject matter can be passed on to the initiates. Interactive discussion with them on a regular basis by all those interested in promoting the rights of children could be helpful.
- Changing harmful traditional practices is a complex process that must involve all stakeholders, including traditional leaders, community members, religious groups that may be reluctant to speak out about the practice, and the government.
- Women, as one category of the main victims, must be given the opportunity to participate in the process of modifying the “negative” practices. Their voice must be heard on how the practices must be modified.
- Education for women is vital to the realisation of their rights. Unless girls’ education is promoted so that they realise their full potential, the status of women in Malawi will remain low, and women’s rights are likely to continue to be violated.
- Practices that directly or indirectly confer higher status on boys and men than on women and girls should be modified so that males and females enjoy equal status.
- Initiation of girls and boys should be arranged in such a way that it does not coincide with the school calendar in order to ensure that initiation does not interfere with the initiates’ education.
- The Ministry of Health should take a leading role in promoting healthy cultural practices by giving advice to all participants in cultural practices such as circumcision and discouraging the unhygienic practices such as *kulimbitsa mwana*.
- This study established that many people are not aware of their rights. Some may not know that some of the practices they take part in impinge on the rights of others and even their own. There is need for the MHRC and other stakeholders to

intensify awareness campaigns in the communities. The role and support of traditional and religious leaders in the campaigns is vital considering that these leaders are influential and they are the custodians of culture.

- Many of the harmful practices have legal and/or administrative implications. This study recommends that the Law Commission should thoroughly study the practices discussed in the study with a view to initiating a process of law reform pertaining to culture.



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## 8.0 Appendices

### 8.1 Appendix 1: Questionnaire

#### CULTURAL PRACTICES/BELIEFS AND HUMAN RIGHTS IN MALAWI: A SURVEY

*District* : .....

*Target Area* : .....

*Location* : 1. *Urban* \_\_\_\_\_ 2. *Rural* \_\_\_\_\_ 3. *Peri-urban* \_\_\_\_\_.

*Name of Interviewer* : .....

*Interview Number* : \_\_\_\_\_.

*Date of Interview* : ...../...../2005  
*dy mnth yr*

*Checked by* : .....

#### For Respondents/Key Informants

##### Section A: Respondents' Background

Name of Respondent/Key informant..... (Optional)

Sex : 1. Male ( ) 2. Female ( )

Age group : 1. 10 – 15 years ( ) 2. 16 – 20 years ( )  
3. 21 – 25 years ( ) 4. 26 – 30 years ( )  
5. 31 – 35 years ( ) 6. 36 – 40 years ( )  
7. 41 – 45 years ( ) 8. 46 – 50 years ( )  
9. 51 years and above ( )

Occupation:.....

Highest Education attained: 1. No Formal Educ ( ) 2. Std 1-5 ( )  
3. Std 6 - 8 ( ) 4. Form 1-2 ( )  
5. Form 3-4 ( ) 6. Post Secondary Education ( )

Denomination:.....

Marital status: 1. Never Married( ) 2. Married ( ) 3. Widowed ( )  
4. Divorced ( ) 5. Widowed ( )

Original home district:.....

Ethnic group.....

**Section B: Prevailing Cultural Practices**

1. Do the following cultural practices in respect of **rites of passage** take place in your home area?:

- (1) Fisi (for initiation): 1. Yes ( ) 2. No ( ) 3. Don't Know ( )
- (2) Gwamula: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )
- (3) Chinamwali: 1. Yes ( ) 2. No ( )
- (4) Jando: 1. Yes ( ) 2. No ( )
- (5) Nyau: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )
- (6) Female genital mutilation: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )
- (7) Other(s) (name them).....

1.1 Which of the above cultural practices should be retained in their current state? (**For each practice mentioned the respondent must explain why**)

1.2 How are girls aged less than 10 years expected to relate to their parents in the following areas?:

(1) Responding to a call from their parents.....

Reason(s).....

(2) Approaching and conversing with their parents.....

.....  
.....  
Reason(s).....  
.....  
.....  
.....

(3) Entering their parents' sleeping room.....  
.....  
Reason(s).....  
.....  
.....

1.3 How are girls aged 10-15 years expected to relate to their parents in the following areas?

(1) Responding to a call from their parents.....  
.....  
Reason(s).....  
.....  
.....

(2) Approaching and conversing with their parents.....  
.....  
Reason(s).....  
.....  
.....

(3) Entering their parents' sleeping room.....  
.....  
Reason(s).....  
.....  
.....

1.4 How are boys aged less than 10 years expected to relate to their parents in the following areas?:

(1) Answering a call from their parents.....  
.....  
Reason(s).....

.....  
.....  
.....

(2) Approaching and conversing with their  
parents.....

.....  
Reason(s).....  
.....  
.....  
.....

(3) Entering parents' sleeping room.....

.....  
Reason(s).....  
.....  
.....

1.5 How are boys aged 10-15 years expected to relate to their parents in the following areas?

(1) Responding to a call from their parents.....

.....  
Reason(s).....  
.....  
.....  
.....

(2) Approaching and conversing with their  
parents.....

.....  
Reasons.....  
.....  
.....

(3) Entering their parents' sleeping room.....

.....  
Reason(s).....  
.....  
.....  
.....

1.6 Other expectations about children's relation to their parents (**For each expectation, respondent must give reason(s) why**):.....

.....  
.....

.....  
.....  
.....  
.....

1.7 Between a boy and a girl who do most people in your home area prefer to send to school? 1. a girl ( ) 2. a boy ( ) 3. No preference ( )

1.8 Which of the practices above should be retained in their current state? **(For each practice mentioned, the respondent must explain why)**

.....  
.....  
.....  
.....

2. Are the following marriage rites found in your home area?:

(1) Polygamy: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(2) Wife inheritance (Chokolo): 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(3) Replacement for a deceased wife (e.g Chimetamasisi):  
1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(4) Bonus wife (hlazi; mbiriya; or nthena): 1. Yes ( ) 2. No ( )  
3. Don't Know ( )

(5) Lobola/bride-price: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(6) Chitengwa: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(7) Chikamwini: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(8) Fisi (for procreation): 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(9) Kupimbira/kupawila: 1. Yes ( ) 2. No ( ) 3. Don't Know ( )

(10) Other(s) (name them):.....  
.....  
.....

2.1 Which of the above cultural practices should be retained in their current status? **(For each practice mentioned, the respondent must explain why)**

.....  
.....  
.....  
.....  
.....  
.....  
.....

.....  
.....

2.2 How are marriages contracted or entered into in your home area?

- 1. Lobola ( )
  - 2. Chinkhoswe ( )
  - 3. Chiwongo ( )
  - 4. Other(s) ( ) name them.....
- .....  
.....

2.3 Which of the above practices should be retained in their current state? (**For each practice mentioned, the respondent must explain why**)

.....  
.....  
.....  
.....  
.....  
.....

3. What cultural practices pertaining to funerals are practiced in your home area?

- 1. Kulowa kufa ( )
  - 2. Kuchotsa/kugoneka mizimu ( )
  
  - 3. Kugona msiwa where women only sleep in the funeral vigil room ( )
  
  - 4. Kugona msiwa where men only sleep in the funeral vigil room ( )
  
  - 5. Kugona msiwa where women and men sleep in the funeral vigil room ( )
  
  - 6. Other practices relating to funeral rites (name them).....
- .....  
.....  
.....

3.1 Is the dressing during funerals the same as the dressing on an ordinary day?

(a) For Women: 1. Yes ( ) 2. No ( )

(b) For Men: 1. Yes ( ) 2. No ( )

© For Girls: 1. Yes ( ) 2. No ( )

(d) For Boys: 1. Yes ( ) 2. No ( )

3.2 Is the dressing immediately after a funeral the same as the dressing on an ordinary day?

(a) For Women: 1. Yes ( ) 2. No ( )

(b) For Men: 1. Yes ( ) 2. No ( )

© For Girls: 1. Yes ( ) 2. No ( )

(d) For Boys: 1. Yes ( ) 2. No ( )

3.3 Which of the above cultural practices should be retained in their current state?  
(For each practice mentioned, the respondent must explain why)

.....  
.....  
.....  
.....  
.....  
.....

4. Is the birth of a boy celebrated differently from that of a girl? 1. Yes ( ) 2. No ( )

Explain why.....  
.....  
.....

4.1 Is the birth of twins or more babies celebrated differently from the birth one child? 1. Yes ( ) 2. No ( )

Explain why.....  
.....  
.....

4.2 Who would you prefer to have as a first-born child?  
1. A boy ( ) 2. A girl ( ) 3. No preference ( )

Explain why.....  
.....  
.....

4.3 Is Fisi used in the culture of your home area for the purpose of *kulimbitsa mwana*?  
1. Yes ( ) 2. No ( ) 3. Don't Know ( )

If Yes, describe what happens.....  
.....  
.....

5. What food is taboo for:

(a) Women.....  
.....  
.....

(b) Men.....  
.....  
.....

(c) Girls.....  
.....  
.....



(d) Boys.....  
.....  
.....

5.1 Which of these practices should be retained in their current state? (**For each practice mentioned, the respondent must explain why**)  
.....  
.....  
.....  
.....  
.....

6. Any other comments.....  
.....  
.....  
.....  
.....

**Thank You Very Much**

## 8.2 Appendix II: Focus Group Guide

### CULTURAL PRACTICES/BELIEFS AND HUMAN RIGHTS IN MALAWI

District: \_\_\_\_\_.

Target Group: \_\_\_\_\_.

Location: Rural \_\_\_\_\_ Urban \_\_\_\_\_ Peri-urban \_\_\_\_\_.

Venue: \_\_\_\_\_.

Name of Facilitator: \_\_\_\_\_.

Name of Note-Taker: \_\_\_\_\_.

Date FGD Conducted: \_\_\_\_\_.

Checked by: \_\_\_\_\_.

### B. GENERAL CULTURAL PRACTICES

1. What are the major cultural practices/beliefs in this area and what are their purposes?
2. What cultural practices/beliefs take place in this area, in respect of (for each practice/belief, ask if it varies with the sex of the individual(s) in question (e.g . boy or girl, mother or father, woman or man) and for what purpose(s):
  - (a) Birth of a child (boy or girl)? [**Describe in detail what happens**]
  - (b) Rites of passage [ **as above** ]
  - (c) Marriage [ **as above** ]
  - (d) Pregnancy [ **as above** ]
  - (e) Divorce [ **as above** ]
  - (f) Death/widowhood [ **as above** ]
  - (g) Dressing [ **as above** ]
  - (h) Taboos on food [ **as above** ]
  - (i) interactions (a) among age-groups within the area and (b) with people from outside the area. [ **as above** ]
3. In what ways are these influenced by religious beliefs in this area?

4. Which practice(s)/belief(s) should be retained in their present form? Why?
5. Which one(s) should be modified? Why? In what aspect(s) and how should that be done?
6. Which one(s) should be abolished? Why?

### **C. SEX AND SEXUALITY.**

7. Do people in this area openly discuss sex and sexuality (a) with children and (b) among adults? Why?
8. Between a baby-girl and a baby-boy, which one do most people prefer to have as their first-born? Why?
9. How are adolescent (a) girls and (b) boys socialized into adulthood? Who has the most influence on them?
10. How common is abortion in this area? What practices/beliefs are associated with abortion?
11. Is HIV/AIDS a problem in this area?
12. Do people in this area discuss HIV/AIDS openly (a) as a community (b) with children and (c) with adolescents? Why?
13. What is the relationship between cultural practices prevalent in this area and HIV/AIDS?
14. Which cultural practices prevalent in this area are changing significantly? What factors are influencing the change in these cultural practices?

### **8.3 Appendix III: Composition of the Research Teams**

#### **8.3.1 Northern Region Team**

- Mr. Adams Banda - Research Coordinator
- Ms. Noris Mangulama - MHRC Staff
- Mr. Boniface Mandere - MHRC Thematic Committee Member
- Mr. Emanuel Sohaya - Research Assistant
- Ms. Chipiliro Mzumara - Research Assistant
- Mr. Joe Chunga - Driver
- Mr. Herbert Buliani - Driver

#### **8.3.2 Central Region Team**

- Mr. M. S. D. Kakatera - Research Coordinator
- Mr. R. J. Chikwakwa - MHRC Staff
- Ms. Chaliza Matola - MHRC Thematic Committee Member
- Ms. Mercy Msukuma - Research Assistant
- Deus D. Lipenga - Research Assistant
- Peter Mangani - Driver

#### **8.3.3 Southern Region Team**

- Mr. McDonald C. Mumba - Research Coordinator
- Mr. Jolex Malikhaya - MHRC Staff
- Mrs. Mercy Makhambera - MHRC Thematic Committee Member
- Ms. Evelyn Maseya - Research Assistant

- Mr. Patrick Zaipa - Research Assistant
- Mr. George Phiri - Driver

Dr Charles Chilimampungu - Consultant