REPORT ON THE PUBLIC INQUIRY ON TRANSACTIONAL SEX FOR FISH IN NKHOTAKOTA DISTRICT, MALAWI

June 2024

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We, the members of the Panel of a Public Inquiry on Transactional Sex for Fish in Malawi submit this Report pursuant to section 129 of the Constitution of the Republic of Malawi as read with sections 12 and 13 (e) of the Human Rights Commission Act; and sections 8 and 9 (2) (b) and (c) of the Gender Equality Act; and commend the Report and its recommendations to the Government, Parliament and the people of Malawi.

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Judge of the High Court of Malawi
(Panelist)

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Commissioner of the HRC
(Panelist)

Mr. Andrew Kavala
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ACKNOWLEDGEMENT

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In particular, Justice Fiona Mwale of the High Court of Malawi deserves special recognition for the leadership role that she provided in the conduct of the Public Inquiry. The Panelists: Commissioner Viwemi Chavula, Commissioner Andrew Kavala and Commissioner Theresa Ndanga, are specially recognized for their incisive and constructive guidance throughout the inquiry process. The Commission’s Secretariat led by the Executive Secretary, Habiba Osman deserve special mention for the invaluable input and insights that they brought to the inquiry process. The Commission is grateful to Nkhotakota District Council for its assistance in the Inquiry including several organizations that also contributed to this Inquiry.

This Inquiry was conducted with financial support from the Government of Iceland through Embassy of Iceland in Lilongwe.
<table>
<thead>
<tr>
<th>ACRONYMS</th>
<th>Definition</th>
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<tbody>
<tr>
<td>ACHPR</td>
<td>African Charter on Human and People’s Rights</td>
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<tr>
<td>AIDS</td>
<td>Acquired Immune deficiency syndrome</td>
</tr>
<tr>
<td>ART</td>
<td>Anti-Retroviral Therapy ARV Anti-Retroviral</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>BVC</td>
<td>Beach Village Committee</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on Elimination of all forms of Discrimination against Women</td>
</tr>
<tr>
<td>CRC</td>
<td>International Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CSOs</td>
<td>Civil Society Organizations</td>
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<tr>
<td>DOA</td>
<td>Director of Administration</td>
</tr>
<tr>
<td>DSWO</td>
<td>District Social Welfare Officer</td>
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<tr>
<td>FGD</td>
<td>Focus Group Discussion</td>
</tr>
<tr>
<td>FP</td>
<td>Family Planning</td>
</tr>
<tr>
<td>GEA</td>
<td>Gender Equality Act</td>
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<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
</tr>
<tr>
<td>ICCESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>MDFRA</td>
<td>Marriage, Divorce and Family Relations Act</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<tr>
<td>NSP</td>
<td>National Strategic Plan on HIV and AIDS</td>
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<tr>
<td>SRH</td>
<td>Sexual and Reproductive Health</td>
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<tr>
<td>STI</td>
<td>Sexually Transmitted Infections</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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EXECUTIVE SUMMARY

In November 2023, Malawi Human Rights Commission (the Commission) conducted a Public Inquiry on Transactional Sex for Fish popularly known as ‘Sex for fish’ in Nkhotakota district, at Matumbi village, T/A Kanyenda and Vinthenga village, T/A Malengachazi. The term refers to particular “arrangements” between female fish traders and fishermen, in which the fish traders engage in sexual relationships with the male fishers to secure their supply of fish, which they then process and sell to support their families. The main objective of the Public Inquiry was to examine the nature and extent of the transactional sex for fish practice and its effects on the enjoyment of human rights. The Public Inquiry on Transactional Sex employed mixed-methods for data collection and analysis to examine the nature and extent of the practice in the fishing industry, in particular in the lakeshore fishing communities. The Report discusses the roles of people in sex for fish, the reasons for such transactional sexual activity, and its implications on the enjoyment of human rights. The inquiry used the human rights-based approach and the theory of gender and power to explain gender dynamics in power inequalities, and their effects on interpersonal sexual relations between males and females within the fishing community. The Inquiry revealed a number of issues including the following:

i. Inquiry confirms anecdotal accounts of the occurrence of sex for fish along specific lakeshore communities such as Nkhotakota, Mangochi and Salima which is driven by different factors including the gendered division of labor which sees men as being the fishers and boat owners, whilst most women are involved in fish trading.

ii. That men are perpetrators of the vice. In most cases, men have financial capacity than women do, hence giving men the upper hand in accessing business opportunities and in turn, have power to economically and sexually exploit women in the industry. Most female fish traders, though economically empowered, lack capital to engage in and maintain large scale fish trading, and even those who engage in small scale fish trading, their capital is not enough to sustain their livelihood, hence being forced into transactional sex for fish. It was observed that women who are involved in transactional sex can either be married or single. Additionally, women who are new into the business are also at higher risk as they lack enough experience on how to maneuver in the trade.

1 longstanding and quite engrained as a social norm in many countries
iii. Further, it was observed that local young women and women who go to the lake to wash dishes, swim or buy fish for food at home are also involved into transactional sex. This is mainly in exchange for the fish for food. Most young girls sell off the fish they get.

iv. It is a norm that men in the fishing industry demand for sexual favours in order for female fish traders to purchase certain types of fish which have better returns than other types of fish such as *usipa*.

v. Community structures mandated to ensure such violations do not occur, lack coordination and capacity to eliminate the practice.

vi. In addition, the Inquiry found that sex for fish has a negative impact on sexual and reproductive health rights with many women speaking to the risk of HIV exposure, teen pregnancies and school dropouts.

The Inquiry recommends systemic reforms at all levels through the empowerment of female fish traders. Granting them trading capital and fish marketing skills might limit their overdependence on male fishers for capital. As a result, women’s vulnerability on the need for exchanging sex for fish will be eliminated. Governance and local structures should ensure the prosecution of sexual exploiters. The Commission aims to support standard setting for desirable behaviors for each relevant stakeholders in ending sex for fish practice as outlined in the table below.

<table>
<thead>
<tr>
<th>Category</th>
<th>Desirable behaviour/suggested action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Council Officials</strong></td>
<td>i. Development of community model by laws for fishing communities</td>
</tr>
<tr>
<td></td>
<td>ii. Facilitate development of women centred community action plans</td>
</tr>
<tr>
<td><strong>Police</strong></td>
<td>i. Prosecute the offenders</td>
</tr>
<tr>
<td></td>
<td>ii. Enforce laws related to sexual exploitation and abuse</td>
</tr>
<tr>
<td></td>
<td>iii. To provide awareness through VSU to the public on consequences of transactional sex</td>
</tr>
<tr>
<td><strong>Boat Owners</strong></td>
<td>i. Enforce fair fish selling systems</td>
</tr>
</tbody>
</table>
| Crew members | i. Responsible in facilitating fair fish selling systems  
| ii. Self-control/ responsibility  
| iii. Considers women as business allies in the supply chain of fish selling |
| Male Fish Traders | i. Support implementation of fair-trade system  
| ii. Self-control and condemn, report bad behaviour |
| Female Fish Traders | i. Assertiveness  
| ii. Capacitation in group savings, marketing skills, leadership skills  
| iii. Establishment of buying groups among female fish traders.  
| iv. Reject and report to relevant authorities on any advances for exploitation  
| v. Have alternatives to generate incomes to finance their fishing business |
| Parents around the lakeshore | i. Guidance and control of children  
| ii. Awareness on the impact of engaging in early sexual activities  
| iii. Respect to child labor laws  
| iv. Report on cases of child sexual abuse to relevant authorities |
| Community Leaders | i. Safeguarding children and women’s rights in the fishing community  
| ii. Enforcing fair fish trading system  
| iii. Enforcing community bylaws  
<p>| iv. Rejecting and reporting the vice |
| Youth around the lakeshore | i. Abstinence |</p>
<table>
<thead>
<tr>
<th></th>
<th>ii.</th>
<th>iii.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social competence</td>
<td></td>
<td>Empowerment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Members</td>
<td>Reporting the vice to the relevant authorities, desist, dismantle</td>
<td>Willingness to actively participate in initiatives aimed at positive change.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recognizing and building upon this resilience is important in the development and implementation of interventions that will address the root causes of transactional sex for fish.</td>
</tr>
</tbody>
</table>
1.0 INTRODUCTION

This report presents the findings of the Public Inquiry on transactional sex\(^2\) for fish which was undertaken by the Commission from 27\(^{th}\) November to 1\(^{st}\) December, 2023 at Matumbi village T/A Kanyenda and Vinthenga village T/A Malengachazi, Nkhotakota district. Specifically, sex for fix refers to particular “arrangements” between female fish traders and fishermen, in which the fish traders engage in sexual relationships with the male fishers to secure their supply of fish, which they then process and sell to support their families. The main objective of the inquiry was to examine the nature and extent of the transactional sex for fish practice and its effects on the enjoyment of human rights. In this exercise, the Commission inquired into circumstances leading to the practice of exchanging sex for fish and the transactional sexual relationships in the fishing communities.

Members of the public, government agencies and civil society organizations attended the Public Inquiry where oral testimonies by survivors of transactional sex for fish practice were narrated. The testimonies were actual experienced by both men and women in the fishing industry and they covered issues of sexual harassment, abandonment, access to justice, human dignity, sexual and reproductive health rights among others. Apart from the oral testimonies from survivors, the Department of Fisheries, Ministry of Gender, Community Development and Social Welfare, Ministry of Health, Malawi Police Service and Ministry of Local Government and National Unity highlighted their role in managing cases of sex for fish.

The fishing industry in Malawi is one of the significant sources of employment, with over 50,000 people working in the sector.\(^3\) Economically, the industry contributes up to 4% of the Country’s Gross Domestic Product (GDP).\(^4\) Notably, the profits generated from the involvement in the fisheries business have enabled people in Malawi to provide essential support to their families and cover expenses such as school fees for their children, constructing

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\(^2\) Transactional sex is defined as a relationship that involves the exchange of money or material goods for sex. Different types of transactional sex reported included female fish traders exchanging sex for access to fish from fishing boats, sex for capital in terms of money, sex for fish related services e.g. cheaper price, increased chances of buying fish, food, transport and accommodation.


\(^4\) Ibid.
permanent dwelling houses, purchasing food for their households and acquiring clothing for their children.

However, the fishing business has become increasingly challenging, especially due to the scarcity of fish species in Malawi's lakes\(^5\). This scarcity has led to heightened competition and sexual exploitation, particularly among women who usually engage in sexual relationships or transactions in exchange for fish or fishing-related resources as the practice has long standing and quite engrained as a social norm\(^6\). This practice is commonly referred to as “Sex for Fish”. The issue of "sex for fish" has been a pressing concern in several lakeshore districts of Malawi, including Salima, Nkhotakota, Karonga, Nkhata-Bay, Likoma, Mangochi and Zomba.

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\(^5\) Manyungwa et al.,

1.1 BACKGROUND TO THE INQUIRY ON TRANSACTIONAL SEX FOR FISH

The Commission upon receiving a number of complaints concerning sexual abuse along the lakeshore from different stakeholders ranging from the police, media and lakeshore community; geared to engage in a Public Inquiry with the aim of soliciting in-depth information as regard to the practice and find ways in how to deal with the vice. A Public Inquiry is a holistic and in-depth inquisition into an issue. It brings parties together to examine issues from different perspectives such power relations, economic dynamics, gender-based violence and health among others. In the end, an inquiry makes recommendations on better ways of responding to and improving the situation in the interest of a wider public\(^7\). In addition, the judge also makes determination on the issues raised to address the subject in question. In the fishing communities where mostly poverty is pervasive, fishermen are able to exert the power they gained through access to money and fish over poorer younger women. This leads to more vulnerability and exploitation as well gender-based violence.\(^8\)

Other scholars\(^9\) have noted that sex for fish has been a bedrock where women, including people living in fishing communities, continue to face an elevated risk of infection and have high rates of undiagnosed disease due to exchange of fish through sex\(^10\). The Commission set out to inquire how intersecting inequalities, make fishermen and women conducting in fish business on the lakeshores, particularly in Nkhotakota district vulnerable to HIV-infection and a number of sexual abuses and gender based violence. They pressurize them into sex and increasing the risk of HIV for both men and women\(^11\). This is observed when fishermen migrate from one fishing camp to the other. This poses threat of transmission if infected by HIV into the new fishing community\(^12\).

The Studies by FAO (2003; 2007) show that while the fisheries sector contributes significantly to livelihoods of the poor, it has become evident that fishing people in many lower income countries suffer from high HIV prevalence rates, often five to ten times as high as those in the general population. In Malawi, fishermen have been identified as the sixth high risk group.

\(^7\) https://manchesterarenainquiry.org.uk/
\(^8\) Ibid
\(^9\) Nangoli et al,
\(^10\) MacPherson et al., Doi: 10.7448/IAS.15.3.17364, Accessed on 25th April 2024
\(^12\) https://www.aljazeera.com/features/2023/4/14/in-malawi-female-fish-traders-mobilise-against-transactional-sex
with an HIV prevalence of 16.6\% (GoM, 2006),\textsuperscript{13} this just shows the rate in how the vice is affecting the communities in Malawi.

On the other hand, women use the fishermen’s catch with a promise to pay after sales. However, in the markets, women face similar demands for sex in order to be allowed a free and fair-trading opportunity. For example, in certain circumstances, women are demanded to keep the money meant to pay for the services rendered by some men at the market like measuring the fish in buckets or using the place for selling in exchange for sex. A 39 years old witness from Chisamba village lamented over unprotected sex as the men refuse condom usage.\textsuperscript{14}

At its core, transactional sex for fish represents a violation of fundamental human rights such as the right to dignity, right to economic activities, right to privacy as well as the right to health.

2.0 THE MANDATE OF THE COMMISSION IN RESPECT OF THE PUBLIC INQUIRY

The Commission is a National Human Rights Institution established by the Constitution of the Republic of Malawi. Section 129 of the Constitution of the Republic of Malawi stipulates that the Commission’s primary function “shall be the protection and investigation of violations of the rights accorded by the Constitution or any other law.” Under section 130 of the same Constitution, the Commission has powers to investigate human rights violations and make recommendations as are reasonably necessary for the effective promotion of human rights on its motion or following an application by an individual of class of persons.

Furthermore, the Commission’s operations are guided by the Human Rights Commission Act (1998). Section 12 of the Act, mandates the Commission to “be competent in every respect to protect and promote human rights in Malawi in the broadest sense possible and to investigate violations of human rights on its own motion or upon complaints received from any person, class of persons or body.” Under section 13 of the Human Rights Commission Act, the Commission has, among others, the following duties: (i) to act as a source of human rights information for the government and the people of Malawi (ii) to assist in educating the public on, and promoting awareness and respect for human rights; and, (iii) to consider, deliberate

\textsuperscript{13}https://digitalarchive.worldfishcenter.org/bitstream/handle/20.500.12348/1350/WF_3374.pdf?sequence=1&isAllowed=y
upon, and make recommendations regarding any human rights issues on its own volition or as may be referred to it by the government.

The Commission under the Gender Equality Act (GEA 2013) is entrusted with enforcement powers which among others ensures that all acts of sexual harassment are prohibited and prevented. For example, section 6 of the GEA states that, “a person commits an act of sexual harassment if he or she engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a responsible person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated”. Further to this, section 7 of the same Act, calls upon the Government to put in place systems, practices and procedures eliminating sexual harassment.

Therefore, the Commission conducted the Public Inquiry, in line with its constitutional powers and competence in order to address the systemic human rights issues of sexual harassment and sex-based discrimination manifested in the sex for fish practice in Nkhotakota district. Mostly, systemic human rights violations oppress the powerless and voiceless who are more vulnerable as well.
3.0. OBJECTIVES

The overall aim of the Inquiry was to establish the extent and nature of transactional Sex For Fish and its impact on the enjoyment of human rights.

3.1. SPECIFIC OBJECTIVES

3.1.1. To determine the existence and extent of transactional sex for fish in Nkhotakota district as a systemic or individual human rights violation;

3.1.2. To explore, document and analyse the key drivers and facilitators of participation in transactional sex in Nkhotakota;

3.1.3. To document individual and community perceptions of the impact of transactional sex on human rights;

3.1.4. To recommend any changes in the laws, policies, and practices as far as transactional sex for fish is concerned; and,

3.1.5. To propose channels for accessing justice and remedies for victims of transactional sex for fish.

4.0 LIMITATIONS

The Public Inquiry was limited in terms of data collection in some instances as some women who were supposed to be interviewed refused to grant the Commission audience. This might have affected the number witnesses and experiences shared to inform the actual hearing. Nevertheless, the Commission managed to visit another community that had more women giving their stories.

There was no gender balance in terms of the witnesses. The Commission failed to obtain men who practically indulged in the sex for fish activity as they could not open up for the public testimony. The Commission obtained testimonies from 8 women and 1 man only. However, men’s views were solicited through focus group discussions, where several issues regarding the practice were narrated. Despite men’s involvement in the focus group discussions and only one of them openly testifying about the practice from a male perspective, the hearing did not provide a platform to hear the untold experiences of men.
5.0 ETHICAL CONSIDERATIONS

The Commission is an institution that promotes safeguarding issues in all its operations. In ensuring adherence to safeguarding principles and confidentiality, the Commission took several interventions aimed at preventing the participants and witnesses from further victimization due to their participation in the inquiry and they included the following:

i. All focus group discussions (FGDs) were held in secluded places, in smaller numbers of between 8 to 10 participants and done as separate sessions for men and women.

ii. The focus group discussions touched on the general practice in the area with an aim of getting insights that would warrant further investigations into the matter.

iii. In furtherance to ensure compliance with confidentiality, participants with individual experiences were interviewed separately to prevent others from listening to their stories. It was through this exercise that witnesses testify at the inquiry were identified.

iv. Witness protection from further victimization against revelations of experiences made to the public. The Commission considered the fact that some testimonies carried names, offices, and positions of perpetrators or duty bearers that failed to diligently protect the survivors.

v. All participants in the focus group discussions, witnesses, members of the Gender Technical Working Group and the Beach Village Committee took an oath of secrecy.

Witness protection comes in when there is potential fear that if their identity is revealed to the perpetrator or their associates, or to the wider public, then they or their family or friends will be at risk of serious harm. This is in line with the United Nations Human Rights office of the High Commissioner core principles of witness protection that includes: Respect for confidentiality; do no harm; do raise expectations; participatory assessment; know the local context; regular risks assessment and review of monitoring objectives. In this regard, the Commission ensured that all witnesses’ identities were concealed and were given numbers

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instead of using personal names. In the understanding of the local context where the witnesses reside and easily interact with the society, the Commission allowed the witnesses to testify in camera (in a separate house).

6.0 METHODOLOGY

The Inquiry was designed in seven stages namely: Literature review, meeting with the district stakeholders, field visits, soliciting of the written submissions, FDGs, individual interviews and actual hearing.

6.1 LITERATURE REVIEW

The literature review was done to establish that transactional sex for fish is occur in Malawi, particularly in the lakeshore districts. It also established that the fishing industry in Malawi, as in many other countries, is highly gendered. In Malawi, men almost exclusively carry out the fishing. They also own the fishing boats and nets, which are the most profitable part of the fishing. Men dominate the selling of larger, fresher and more profitable fish because they have better access to capital. Women on the other hand are dominant in the drying and processing of smaller fish, which requires smaller capital but also provides smaller profits. In this gendered division of labour, men are able to make larger profits and dominate the means of production and women have to negotiate access to fish through men. These power imbalances can increase both women and men’s vulnerability to HIV.16

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16 Transactional sex and HIV: understanding the gendered structural drivers of HIV in fishing communities in Southern Malawi - PMC (nih.gov), Published online 2012 Jun 14, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3499929/
6.2 MEETINGS WITH DISTRICT ASSEMBLY AUTHORITIES

Prior to conducting hearings in Nkhotakota, a task force comprising of 7 men and 5 women from the gender technical working group was formed. This task force was responsible for planning and identifying the witnesses as well as other stakeholders who were directly connected to the issue. It worked hand in hand with then Commission in all the preparations including site identification for the hearing.

6.3 FIELD VISITS TO THE COMMUNITIES

The preparatory phase for the Public Inquiry also involved carrying out field research visits to two communities in Nkhotakota, being Vinthenga and Matumbi, in order to engage with the communities on the practice of transactional sex for fish, the extent of the practice and the availability, accessibility, acceptability and quality of services in relation to the practice. In particular, the purpose of the community engagement meetings at this stage was to analyze the situation on the ground viz-a-viz the findings of the desk review.

6.4 WRITTEN SUBMISSION

The Public Inquiry was also carried out through solicitation of written submissions, in Vinthenga and Matumbi Villages, Traditional Authority Malengachanzi, in Nkhotakota district a week prior to the hearing. The Commission had an interface with the witnesses where they were requested to state their experiences in the transactional sex for fish. These included personal experiences as well as witnessing the conduct. After narrating their stories, the Commission ask them to put their stories in writing and sign on them.

6.5 FOCUS GROUP DISCUSSIONS

Qualitative research methods were selected because they offer the greatest opportunity to elicit concepts and perspectives of different groups, particularly women, men, boys and girls. in Vinthenga and Matumbi areas, by allowing them to express their lives in their own words. Eight (8) research assistants (four male and four female) conducted the interviews and FGDs in Chichewa. The female research assistants conducted the interviews and focus groups with the female participants and the male research assistants conducted the interviews and focus
groups with the male participants. In total there were 5 focus group discussions where 2 were done with men and boys and the other 3 with women and girls. Each group composed of 9 participants.

Interviews and focus groups covered key themes including: the motivations and expectations in the fishing industry including relationships by both men and women; position of men and women in the fishing industry; how fish is accessed by both men and women; mobility; the challenges of working in the fishing industries and how these have changed over time; violence and activities that perpetuate transactional sex for fish; and how people view transactional sex for fish and the impact on their rights as well as in the wider community.

Participants from different genders and ages were sampled to elicit viewpoints from a diverse population of people living and working in the two communities. The participants were identified by the Gender and Technical Working Group members, in particular officials from Fisheries Department and the Community Radio. To ensure maximum variation, interviews were conducted with four groups defined as: insider men; outsider men; and outsider women. Insider men included a wide spectrum of men working in the fishing industry including boat crew members, boat managers, boat owners and male fish traders. Outsider men were those living in the fishing communities but not working directly in the fishing industry. Outsider women were those working in the fishing industry including female fish traders, processors and those who travelled and did not travel to sell their fish.

6.6 PUBLIC HEARING

The main part of the Public Inquiry process comprised of a public hearing which was carried out in Nkhotakota district. The hearing provided a channel through which interested parties submitted oral testimonies regarding their experiences on transactional sex for fish.

A four-member panel led by a Judge of the High Court of Malawi presided over the public hearings. The other panelists were drawn from the Commission and the Judiciary. Primarily, the hearing was conducted in a rural remote setting in order to reach out to a cross section of people who due to distance, isolation, disability or ignorance of human rights, among other reasons may not be in a position to engage in the available forums for redress of the situation. The hearing targeted a cross section of right holders and duty bearers, that is, fishermen, fishmongers, women who buy fish and are involved in the practice, adolescent girls and boys, service providers, for example, health personnel, NGO personnel, and many other.
7.0 LITERATURE REVIEW

This section presents the issue of sex for fish and outlines the issues of access and control of resources as well as gender roles in the fishing industry.

7.1 DEFINITION OF SEX FOR FISH

The term refers to particular “arrangements” between female fish traders and fishermen, in which the fish traders engage in sexual relationships with the male fishers to secure their supply of fish, which they then process and sell to support their families (Christopher, 2008). In Malawi, for instance, a woman may take a fisherman's catch and promise to pay him once she’s made her sales. Only she might have trouble selling all the fish\(^{17}\). In return women might pay off what she owes for the fish by engaging in a sexual encounter.

7.2 ACCESS AND CONTROL OF RESOURCES

The sociocultural and economic construction of gender has led to differences between men and women in general (Ravindran, 2002). Though this might not seem to be problematic, the gender differences have contributed to disparities in communities as well as inequalities (Ibid). Women and girls in most cases, have found themselves in a disadvantaged state as the gender differences lead to discrimination and inequalities (Paul and Rani, 2017). Other scholars (Lawless et al., 2021), have noted that this also emanates from the different means that men and women have in accessing and controlling resources.

Mapping on how women and men access and control productive and reproductive resources, some scholars have noted that women and men are perceived as having equal access to most community services (e.g., education, health services, etc.) and many natural resource assets (e.g., lakes and land) (Elin Torell et. Al, 2021). However, there are clear differences in accessing and controlling of either individual or communal economic resources including land, forest resources and big water bodies such as lakes. The gender differences also notes variations in the use of resources by and men and women based on traditional roles and responsibilities (Adams et al., 2021). While many resources are generally regarded as open to both genders, some are clearly a domain of either men or women (Ibid).

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According to Njuki et al. (2022), Malawi as well as other countries have shown that factors such as age, health, marital status, religion, and wealth are variables that influence men’s and women’s access and control over fish and other communal resources. Social relationships are characterized by inequality and a large “power distance”, which increases the difficulty of empowering women. Lack of education, early marriages, and childbirth are additional factors that hold women back (Cohen, 2019).

### 7.3 GENDER ROLES

Every community has gender roles and its expectations. These vary from one community to another and they have an impact on socio, economic and cultural aspects. Studies have shown that gender roles in most cases, causes bias and place limits on people and their behavior (Bennet, 2005). Commonly, the division of labor in a number of industries including fishing is based on gender, which leads to unequal access to benefits between men and women (Ibid). Gustavsson (2020) has argued that women are a minority in many male-dominated sectors of fishing value chains, fisheries management, and fisheries science despite playing a crucial role.

Other scholars have also observed that women, play key roles in the fishing industry in fish value chains, especially post-harvest processing and marketing of fish products (Rice et al., 2023). However, gendered inequities in small-scale fishery value chains persist around the globe, where Malawi is not exempted. This limits livelihood benefits for many women and their households (Ibid).

Research shows that there are clear gender roles in the fisheries value chain—corresponding to the findings of Nagoli et al. (2019) and Manyungwa et al. (2019). While women and men share the roles of processing and marketing, women dominate lower-value processing (e.g., drying a small pelagic species called Usipa), trading, and associated service industries (e.g., small restaurants located at fish landing sites). On the same, Nagoli et al. (2019), notes that many women are unable to sell their fish products in more remote markets where they can get a higher profit due to financial capacity. Furthermore, there are multiple value chain roles (e.g., gear and boat owner and middlemen) where anyone with strong financial means can engage in the economic activities. However, women are mostly disadvantaged due to weak financial muscle.
Exploiting the causes and effects of gender inequality, Bennert (2005) has argued that norms and values shape gender roles. This corresponds with previous research, which found that social constructs, myths, and misconceptions contribute to unequal power relationships between women and men (Odotei, 2002). Men have access to a broader range of livelihoods and leadership opportunities both because of biases against women (Adams et al, 2021) (e.g., widespread perceptions among both male and female FGD participants that men are stronger and more competent than women) and the fact that they have better access to education. Cultural norms (e.g., women cannot fish because it would expose them to nudity) and taboos (e.g., it will bring bad luck if a woman touches a fishing net) further limit women’s opportunities (Njuki et al, 2022).

Focusing in fishing industry in Malawi, the gender division of labour that is traditionally influenced, results in disparities and discrimination in the economic benefits between men and women. In addition, the intersectionality of sex, body size, triple roles of women (productive, reproductive and community) as well as economic capacity also promotes gender inequalities in the fishing industry (Manyungwa et al., 2019). The intersectionality, breeds power dynamics between men and women which has an impact on the created gender differences and affects preferences and privileged men and women acquire in the industry (Bennert, 2005).

The above literature reveals the existing disparities in the fishing industry. In the Nkhotakota district, just like other lakeshore districts in Malawi, the practice of transaction on sex for fish seem to be a growing phenomenon. The practice is growing as it is influenced by the socio-economic factors that affects women largely in their daily lives.
8.0 POLICY AND LEGAL FRAMEWORKS

8.1 INTERNATIONAL FRAMEWORKS

Convention of the Elimination of all forms of Discrimination against Women (CEDAW)

Article 1 of the CEDAW defines discrimination against women to include gender-based violence that is violence directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

Article 11 (1) requires state parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.

The CEDAW Committee in General Recommendation no.19 stated that Violence (sexual violence inclusive) against women is a form of discrimination because it “impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions.”

Similarly, in General Recommendation Number 28, the CEDAW Committee argued that “Where discrimination against women also constitutes an abuse of other human rights, such as the right to life and physical integrity in, for example, cases of domestic and other forms of violence, State Parties are obliged to initiate criminal proceedings, to bring the perpetrator(s) to trial and to impose appropriate penal sanctions.”

On the other hand, the Declaration on the Elimination of Violence Against Women, 1993 recognizes violence against women to include but not limited to (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

The Beijing Platform of Action calls on UN member states to advance women’s rights and to eliminate violence against women including sexual harassment at work. Article 12(1)(c)
requires state parties to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training and to protect women and girls from abuse and sexual harassment in educational institutions and the workplace and provide sanctions against the perpetrators of such practices.

Convention No. 190 on Violence and Sexual Harassment provides the first international definition of violence and harassment in the world of work (Art. 1(1)(a)), which refers to a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in or are likely to result in physical, psychological, sexual or economic harm and includes gender-based violence and harassment.

The Convention also defines gender-based violence and harassment (Art. 1(1)(b)) as violence and harassment directed at persons because of their sex or gender or affecting persons of a particular sex of gender disproportionately and includes sexual harassment.

At international level, Malawi is also a signatory of a number of conventions and declarations which form a further important guiding framework for national laws, policies and regulations relating to HIV. Key international and regional instruments signed and ratified by Malawi include the following: The Universal Declaration of Human Rights (UDHR) 1948, the 2000 UN Declaration of Commitment on HIV and AIDS, and the 2011 Political Declaration on HIV and AIDS. Malawi has since domesticated these international conventions and declarations in its policies and legislation.

On child rights, Article 3(1) and (2) of the Convention on the Child Rights provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. State Parties have to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
8.2 REGIONAL FRAMEWORKS

The Maputo Protocol

The Maputo Protocol covers a wide spectrum of women’s rights and incorporate provisions that relate to the specific threats women encounter – including violence in the family, at work, in their communities and during times of armed conflict. It calls for the elimination of all forms of gender-based violence within the rights to life, integrity and security of the person (Article 4), with other provisions reinforcing state obligation to end gender-based violence and discrimination.

Further, the Protocol calls on States Parties to prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards (Article 5).

The Policy urges States Parties to ensure that the right to health of women, including sexual and reproductive health is respected and promoted (Article 8). This includes: the right to control their fertility; the right to decide whether to have children, the number of children and the spacing of children; the right to choose any method of contraception; the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS; the right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognised standards and best practices; the right to have family planning education.

It also contains progressive wording on sexual and reproductive rights (Article 14) the right to “a positive cultural context” (Article 17) and a “healthy and sustainable environment (Article 18).

The Protocol also calls upon States to address the HIV/AIDS pandemic through women’s experiences of it (Article 14). In Article 14 (1) (d) and (e), the Maputo Protocol lays down women’s right to self-protection and to be protected from HIV infection, as well as their right to be informed of their HIV status and the HIV status of their partners in accordance with international standards and practices in force. As such, the Maputo Protocol is therefore, in practice, an important tool towards the alleviation of the disproportionate effect of the HIV pull on the lives of women in Africa.
Acknowledging the gender disparities that exist in Malawi, the Malawi Constitution is gender-sensitive. The Constitution contains phrases such as “All persons” and “Every person” in Section 13 (a) which provides the following through—

1. full participation of women in all spheres of Malawian society on the basis of equal opportunities with men;
2. the implementation of the principles of non-discrimination and such other measures as may be required; and
3. the implementation of policies to address social issues such as domestic violence, security of the person, lack of maternity benefits, economic exploitation and rights to property.

Section 19 (1) of the Constitution of the Republic of Malawi entails that the dignity of all persons shall be inviolable. Every person regardless of gender, race, ethnicity, status, sexual orientation, among others is to be respected and treated with dignity, because everyone is born free and equal in dignity rights.

Under section 20, discrimination of any form is prohibited. Section 20(1) states that discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition. Section 20(2) provides that legislation may be passed addressing inequalities in society and prohibiting discriminatory practices and the propagation of such practices and may render such practices criminally punishable by the courts.

The Constitution protects the specific rights of children in sections 23 and 42(2) (g). Section 23 provides that all children, regardless of the circumstances of their birth, are entitled to equal treatment before the law, and the best interests and welfare of children shall be a primary consideration in all decisions affecting them. It further provides that children have the right to know, and to be raised by, their parents. All children shall be entitled to reasonable maintenance from their parents, whether such parents are married, unmarried or divorced, and from their
guardians; and, in addition, all children, and particularly orphans, children with disabilities and other children in situations of disadvantage shall be entitled to live in safety and security and, where appropriate, to State assistance.

**GENDER EQUALITY ACT**

Section 4 of the Gender Equality Act provides for the prohibition of sex discrimination:

‘A person shall not treat another person less favorably than he or she would treat a person of his or her own sex; or apply to the other person an exclusion, distinction or restriction which applies or would apply equally to both sexes but—

(i) which is such that the proportion of one sex who can comply with it is considerably smaller than the proportion of the opposite sex who can comply with it;

(ii) which he or she cannot show to be justifiable irrespective of the sex of the person to whom it is applied; and

(iii) which is to the detriment of the other person because he or she cannot comply with it, with the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of the rights and fundamental freedoms of that person.

A person who contravenes subsection (1) commits an offence and is liable to a fine of K1,000,000 and to a term of imprisonment for five years.

Section 6 of the Gender Equality Act, 2013 defines sexual harassment to mean unwelcome sexual advances, requests for sexual favors and other verbal and non-verbal or physical conduct of a sexual nature that implicitly or explicitly affects or unreasonably interferes, intimidates or creates a hostile or offensive work environment.

Section 7 of the GEA provides that Government shall take active measures to ensure employers have developed and are implementing appropriate policy and procedures aimed at eliminating sexual harassment in the work place. It further provides that a favors person who has been subjected to sexual harassment need not exhaust internal procedures before prosecution of the offence can be commenced or civil proceedings can be instituted.

Section 19 of the Gender Equality Act provides that every person has a right to adequate sexual reproductive health which includes the right to be protected from sexually transmitted
infection, self-protection from sexually transmitted infection, to choose the number of children, and when to bear those children.

In safeguarding women from economic exploitation, Malawi has instituted legal frameworks, particularly in the context of unfair lending practices. The Consumer Protection Act of 2003 serves as a crucial legal instrument in safeguarding individuals, including women, from unfair business practices. Section 6 (1) protects business people from not engaging in unfair trade practices. Section 27 (3) clearly defines an unfair consumer contract as the one that results in an unreasonable or unequal exchange of value or benefits and is oppressive. Therefore, this piece of legislation ensures transparency in transactions and safeguards consumers from deceptive practices by requiring lenders to provide clear and comprehensive information about loan terms. Such transparency is instrumental in preventing economic exploitation that disproportionately affects women, ensures that women are well-informed and protected in financial transactions thereby contributing to the protection of women from economic exploitation.

Additionally, the Gender Equality Act is pivotal in addressing gender-based discrimination, including within economic contexts, section 4(1) stipulates that a person shall not treat another less favorably than he or she would treat a person of his or her own sex. By promoting equal rights and opportunities for men and women, this legislation contributes to dismantling systemic barriers that lead to economic exploitation. The Act underscores the government's commitment to fostering an environment where women can engage in economic activities without fear of discrimination or exploitation.

CHILD CARE PROTECTION AND JUSTICE ACT

Section (3)(a)(ii) of Child Care Protection and Justice Act (CCPJA) imposes a duty on parents and guardians to “provide proper guidance, care, assistance and maintenance for the child to ensure his or her survival and development, including in particular adequate diet, clothing, shelter and medical attention.” The responsibility to maintain the child falls on both parents. Section 19 of the CCPJA states that “Unless the child justice court orders otherwise, the responsibility to maintain a child as between parents and guardians shall be joint and several.” Similarly, parts XIII, XIV, XV and XVI of Marriage, Divorce and Family Relations Act (MDFRA) provides for the need on the question of maintenance.
Section 24(1) provides that women have the right to full and equal protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status which includes the right (a) to be accorded the same rights as men in civil law including equal capacity— (I) to enter into contracts; (ii) to acquire and maintain rights in property, independently or in association with others, regardless of their marital status.

Section 24(2) provides that any law that discriminates against women on the basis of gender or marital status shall be invalid and legislation shall be passed to eliminate customs and practices that discriminate against women, particularly practices such as— (a) sexual abuse, harassment and violence; (b) discrimination in work, business and public affairs; and (c) deprivation of property, including property obtained by inheritance.

THE PENAL CODE

The Penal Code of Malawi, Section 282 stipulates that if a theft is committed under any of the circumstances following, that is to say— (a) if the thing is stolen from the person of another.

Malawi is guided by the HIV and AIDS Policy which is operationalized through the National Strategic Plan (2015 NSP). The National Policy on HIV and AIDS requires an enabling social and legal environment that is characterized by being free of stigma and discrimination. There is now a specific law that deals with HIV issues and the Government is committed to addressing human rights, reflected in its growth and development strategy, the HIV Policy and NSP. The HIV Policy and NSP are also linked to various laws and strategies which are not HIV-specific but provide the overall legal and policy framework.

The Gender Equality Act specifically section 19(1) which outlines sexual reproductive health rights in full and targeting the use of contraceptives as a choice if engaged in sexual activities.

Malawi has the HIV and AIDS (Prevention and management) Act 2017 which aims at strengthening the legal framework for implementing HIV and AIDS interventions. It provides information on best practices to address the criminalization of HIV, mandatory and compulsory testing for key and vulnerable populations. The Act was informed by the findings of the Legal Environment Assessment (LEA) and the stigma index conducted in Malawi (HIV/AIDS National Strategic Plan 2015(NSP). The National HIV Prevention Strategy (2015- 2020) is a critical guiding tool for designing and implementing evidence-based, rights-sensitive, and targeted HIV prevention interventions that will support the achievement of the UNAIDS Ambitious 90-90-90 Treatment Targets as adopted in the revised 2015-2020 National HIV and AIDS Strategic Plan (NSP).

As laid out in the revised NSP, by 2020, Malawi will have: Diagnosed 90% of all people living with HIV (PLWHA), Started and retained 90% of those diagnosed on antiretroviral therapy (ART) and achieved viral suppression for 90% of individuals on ART. Furthermore, in Malawi like in most settings the most common mode of transmission of HIV and STI’s is through heterosexual transmission, followed by vertical transmission from pregnant mothers to children. About 88% of all new HIV infections in Malawi are acquired through unprotected heterosexual intercourse and 10% via mother-to-child transmission, and about 2% of infections are transmitted through blood transfusions, contaminated medical and skin piercing instruments, entailing that the issue of HIV and AIDS is critical as a consequence for sexual abuse in this case under sexual reproductive health and rights.

SEXUAL REPRODUCTIVE AND HEALTH RIGHTS POLICY (2017-2022)

The Government of Malawi is currently reviewing its Sexual Reproductive and Health Rights Policy of 2017 to 2022, which, in the absence of a reviewed policy, prevails.

The Policy recognizes that sexually transmitted infections are a challenge in Malawi as they facilitate HIV acquisition, transmission, and progression. As such, the Policy provides that HTC services and condom use shall be fully integrated in the management of STI and shall
routinely be offered to all men, women and young people, who present for STI services to promote and protect their health.

It promotes the prevention of the transmission of sexually transmitted infections and HIV and that these shall be given priority in the delivery of SRHR services by health workers. However, there is recognition for the need to strengthen behaviour change interventions to reduce risky behaviour among men, women and young people.

The Policy also provides for the prevention of unplanned and unwanted pregnancy shall be given the highest priority in the development and implementation of the family planning services. Further, that public health facilities shall offer a full range of family planning services, including emergency contraception.

On domestic violence and harmful practices, the Policy aims to eliminate harmful SRHR practices by ensuring the full integration in the delivery of sexual and reproductive health and rights services. This includes awareness of practices that have a negative impact on maternal and neonatal health among both men and women in the community.
9.0 FINDINGS FROM THE PUBLIC INQUIRY AND FOCUS GROUP DISCUSSIONS

This section presents the findings of the Public Inquiry as follows:

9.1 SEXUAL HARASSMENT IN THE BUSINESS PLACE

Focus group discussions indicated that women have access to fish in different ways: as secondary users -when they access fish through their husbands, and tertiary users -when they use capital to buy fish directly from fishers or traders. Fishermen are responsible for selling their catch and some men take advantage of the situation by using the fish to bargain for sex with fish-buyers who are not their wives.

There are different seasons in the fishing industry, which commences from January to June, known as the Sumbayi season; and from June to December which is the Bonya season. Each fisherman has his type of fish that he sells, so when their season ends, they move to where their preferred type of fish is found. For example, those from Mangochi like the Tholola fish, and those from Rumphi like Micheni, known as Sumbayi. It is worth noting that fish are sold according to the type and season and that the type of fish and price is also a factor where transactional sex is concerned. Jameson fish is more expensive and scarcer which is a driver of sex for fish, unlike small fish like ‘bonya’ and ‘usipa’ which are found in large quantities and do not necessitate fishermen and male fishmongers to demand sex for fish.
There are two types of fish traders, those that purchase the fish at the lake from the fishermen and those that purchase the fish at the market. The inquiry established that most fish traders who purchase their fish from the lake, begin with a starting capital of MK100,000 which gets them a canoe full of fish, in particular a fish named Jameson which is a preferred fish but is not found in large amounts, which is a driver of transactional sex. Women now engage in joint ventures to raise capital of about MK300,000 and more in order to buy more fish. In turn, this increases their bargaining power and eliminates the need for them to engage in transactional sex for fish. However, very few female fish traders have the economic capacity to raise such capital.

Another factor that influences female fish traders’ economic vulnerability and makes them more likely to engage in transactional sex is their access to capital. All female participants and witnesses discussed gaining and maintaining their economic capital as a daily struggle which sees them engage in transactional sex in order to get more fish. This challenge was discussed by a 30-year-old female fish trader in an in-depth interview who explained that most female fish traders who purchase their fish from the market, are able to raise a minimum capital of MK4000 which buys them fish packed in a 5-liter bucket. Buying fish from the market eliminates the need for female fish traders to engage in transactional sex for fish.

The following quote from one of the female participants explains what is involved in fish trading:

“When you go to the lake to purchase fish, fishermen and fish mongers refuse to sell us fish until you agree to be in a sexual relationship with them or else you will purchase the fish at a higher price for fewer fish. For instance, 6 small fish are normally sold at MK200 but when you agree to be in a sexual relationship with them, they give you 13 small fish at the same MK200.”

The Public Inquiry established that engagement in transactional sex for fish is mediated by economic need, social positions and gender roles and relations of both men and women working within the fishing industry. The economic vulnerability of female fish traders within the fishing industry was often seen as a driver for participation in transactional sex. Interestingly, it was established that fishermen and fishmongers make it a point to sell fish to female fish traders rather than male fish traders. Some of the female participants stated that in
some instances, their husbands have tried to enter the trade but have been unsuccessful because male fish traders prefer to engage in business with female fish traders, forcing the women to go back into business which for many, means engaging in transactional sex for fish.

Another resultant effect of the economic power during negotiations is the verbal abuse female fish traders face from fishermen and fishmongers. All the female fish traders interviewed stated that they have been and continue to be insulted during negotiations. One of the female fish traders explained the following:

“Sometimes during negotiations, I was assaulted verbally “Ndimagwira nsombazi movutika koma umangobwera kuno ndi tindalama tako tonyenyeka kumangonenerera basi” (I struggle to catch fish but you negotiate yet you don’t come with the full amount of money).

9.2 SEXUAL EXPLOITATION

Women without familial connections starting out in the industry often find it difficult to access fish without engaging in sexual relationships with the fishermen or fishmongers. This quote from a 30-year-old female fish trader highlights this and the way fishermen can exploit this position:

“In February 2022, I came back without purchasing fish because every fisherman I approached informed me that their fish was already booked. This happened to me for three days even when I had enough money to purchase fish. On the third day on my way home, I was approached by a fisherman identified as John who is from Rumphi, who advised me to sleep with him or I would never purchase any fish from anyone. I denied his offer and indeed I was never successful in purchasing fish from anyone.”

Some female fish traders’ resort to buying fish with more financial value but at a price, which is transactional sex with the fishermen or fishmongers. The economic vulnerability means some female fish traders are coerced into sexual relationships or acts with fishermen or fishmongers. They do have other options, that is, to buy small fish like ‘bonya’ or ‘usipa’ which are cheaper but their economic value is minimal and cannot meet their financial needs. Small fish such as usipa are sold at an auction where the highest bidder wins the sale. As a result, for someone to purchase usipa, there are no demands for sex.
The Inquiry has established that it has now become a norm that purchasing fish at the lake will require a female fish trader to engage in sexual conduct with the fishermen who make such demands. Further, ‘andagwira’ or fishmongers who weigh fish, both at the lake and at the market place, also demand sex in order to put more fish to a trader’s purchase.

However, some of the fishermen who participated in the focus group discussions stated that transactional sex for fish is not always perpetrated by fishermen and fishmongers but that some female fish traders make sexual advances towards fishermen and fishmongers. One of the fishermen testified as below:

“Many things happen here along the lakeshore, including women also harassing men to buy fish. Usually, the fish business is mostly done at midnight or in the wee hours. After buying the fish, the buyers (men and women) dry the fish-on-fish racks (Thandala) where they even spend a night at the beach until it is fully dry. I was once approached by a certain lady who bought fish from me and informed me that I should collect the money at her house in the evening. After approaching her at her house, she invited me into her house and started showing me her leg. She undressed in front of me and we ended up having sex in order to offset her balance.”

9.3 ECONOMIC EMPOWERMENT

The inquiry found that government and civil society organizations have invested in programmes that support the empowerment of women in the fishing industry and launched interventions aimed at economic empowerment such as loans from National Economic Empowerment Fund and Beach Village Committees that look at sales of men and women. However, female participants stated that these interventions do not touch on changing harmful gender norms, which can help reduce or prevent numerous forms of Gender Based Violence including sexual harassment and sexual exploitation. Female participants expressed concern that men are not targeted in the empowerment initiatives, particularly since most men do not engage in the fish business.
One of the female fish traders explained this:

“My husband is a seasonal fisherman (sells usipa) and if the fish is extinct in other seasons, he just stays at home. Since his work is seasonal, it negatively affected us financially, therefore started purchasing fish (Jameson) to feed my family.”

All the women interviewed during focus group discussions expressed lack of hope in ever seeing transactional sex for fish being eliminated.

The Public Inquiry has established that transactional sex for fish is a form of sexual harassment as fishermen and fishmongers demand sex in exchange of fish from female fish traders which fits the definition of sexual harassment as provided in the ILO Convention 190 and section 6 of the Gender Equality Act. The Public Inquiry established that more female fish traders face demands for sex unlike male fish traders, a practice which is discriminatory contrary to section 20 of the Constitution, section 4 of the Gender Equality Act and Article 1 of the Universal Declaration of Human Rights.

The actions of the fishermen and fishmongers, of demanding sex in order for women to buy fish fits the definition of sexual harassment and is a form of sex discrimination because men who attempt to enter that business are not successful. It is clear that women are targeted for this practice. This is contrary to section 20 of the Constitution, sections 4 and 6 of the Gender Equality Act and international and regional frameworks including the CEDAW, ILO Convention 190 and the Maputo Protocol.

Sexual exploitation and sexual harassment are clearly exacerbated by the lack of financial capacity, holistic or gendered economic empowerment for both men and women in the fishing communities, lack of leadership roles for women in the Beach Village Committees, associations for female fish traders and gendered roles in the fishing industry which sees few men as fish traders. The narrative will require a holistic approach in order to change so that women and men both have business opportunities in the fishing industry without sexual and economic exploitation.

Without minimizing the inequalities that exist in resource access and control, an encouraging finding from this inquiry is the fact that women have been empowered to engage in business activities and their joint ventures to raise capital have shown an opportunity to eliminate
transactional sex for fish. This will in turn empower them and other women to have negotiation powers and take up leadership roles in the fishing industry including in the Beach Village Committees. This mindset could be an entry point for broadening and strengthening women’s control over fisheries resources.

Awareness that transactional sex for fish is a form of sexual harassment seems to be lacking and as a result, the practice is deemed normal in the fishing industry, which from the inquiry has shown it to take place in other fishing communities. This Public Inquiry has found that the capacity to address gender-based violence (GBV), being sexual exploitation, sexual harassment and verbal assault in the fisheries sector is limited, including the lack of coordination by stakeholders with the mandate to do so.

**9.4 DESERTION AND ABANDONMENT**

One of the critical issues identified during the Public Inquiry was desertion and abandonment. Normally, desertion and abandonment occur where a spouse leaves the marital residence and refuses to return without any justification for doing so, it was noted that in some circumstances some fishermen have temporal marriages which they abandon their spouse as they move to another beach location without any justification. These fishermen normally have a first marriage which they later return to after several years but still abandon their temporal marriages of which spouses in the temporal marriages are not aware sometimes that the marriage, they have entered is temporal. Desertion and abandonment are usually accompanied by failure to provide any financial support or contribution to the marital expenses. During the Public Inquiry, it was established that fishing is mostly seasonal and fishermen move from one place to another.

The Public Inquiry established that the fishermen demand sex from their female customers as a condition to buy fish. The sex for fish practice is normalized, internalized and forms part of the fishing business culture along the lakeshore districts. Narratives from the female survivors clearly indicate that women find it difficult to purchase fish if they are not in a sexual relationship with the fishermen. Women are thus forced by the prevailing situation in the fishing business to indulge in either short term or long-term sexual relationships with the fishermen. What was more revealing during the inquiry was that most women who refuse to accept the sexual demands find it difficult to conduct the fishing business. These women are
therefore, discriminated and are prevented from exercising their right to economic activity which is contrary to section 20 and 29 of the Constitution respectively.

Desertion and abandonment are usually prevalent during off seasons. During off seasons, fishermen just disappear and never return. Out of the 9 female witnesses who testified during the inquiry, 6 of them, representing 67%, reported to have been deserted and abandoned by the fishermen whom they were in a sexual relationship which is cohabitation. Listening to the narratives of the survivors one would clearly hear a tone of desperation following the desertion and abandonment. The Commission observed that desertion and abandonment is a planned and deliberate move by the perpetrators as a way of running away from responsibilities that would rise in the course of either the sexual relationships or cohabitation.

The Commission noted and observed that these seasonal fishermen hide their real identity when they arrive at the dock. Almost 90% of the female survivors who testified indicated that they did not know the real names of the fishermen as none of them reveal their surnames. It was further discovered that the seasonal fishermen do not reveal the details of their homes. The survivors indicated that the fishermen mostly mention the district they came from but fail to disclose the details of their actual place of residence. The Commission finds this practice as deliberate and calculated move to conceal their identity and in turn run away from their responsibilities on the part of the fishermen. True to this observation, the narratives of the experiences by the survivors clearly indicate that some of these sexual relationships have resulted into child birth which raises the question of child maintenance.

Child maintenance is a legal requirement in Malawi. Section 23(4) of the Constitution provides that “All children shall be entitled to reasonable maintenance from their parents, whether such parents are married, unmarried or divorced, and from their guardians...”. Building on the Constitutional provisions, section (3)(a)(ii) of Child Care Protection and Justice Act (CCPJA) imposes a duty on parents and guardians to “provide proper guidance, care, assistance and maintenance for the child to ensure his or her survival and development, including in particular adequate diet, clothing, shelter and medical attention.” The responsibility to maintain the child falls on both parents. Section 19 of the CCPJA states that “Unless the child justice court orders otherwise, the responsibility to maintain a child as between parents and guardians shall be joint and several.” Similarly, parts XIII, XIV, XV and XVI of Marriage, Divorce and Family Relations Act (MDFRA) provides for the need on the question of maintenance.
Despite having existing legal framework on maintenance as provided above, the Inquiry established that there is neglect among fishermen who father children with some of the survivors. One survivor indicated that she has an 11-year-old daughter whose father was one of the seasonal fishermen. She narrated that the fisherman deserted and abandoned her together with the child when she was only 3 years but since then, he has neither returned nor provided any support for the child and his whereabouts is unknown. Another survivor indicated that her younger sister has a 1-year and 9 months old baby boy who was fathered by a certain fisherman who also deserted and abandoned her together with the child. The whereabouts of this fisherman is not known. Failure to provide maintenance by the fishermen in particular and of course by most male parents in general raises the questions of the effectiveness of our legal framework on child maintenance. The need to criminalize child maintenance will likely make a significant change in the prevailing practice for many parents, in particular fathers, to provide for their children.

The Commission further noted and observed that the false identity practiced by the fishermen is one issue exacerbating sexual and economic exploitation of women in the fishing industry. Partly, the Commission noted laxity among duty bearers responsible for regulating the fishing industry. For example, the Commission noted and observed that despite the existence of the local structures in the docks, they are weak and do not exercise their mandate effectively. The Commission noted that seasonal fishermen are not registered and the local structures do not have details of all fishermen. This make it difficult for the fishermen to be traced once they leave the dock. The Commission’s overall observation on the issues of desertion and abandonment is institutional failures to put in place systems and procedures that would bring sanity in the fishing industry.

The Commission therefore, established that in the fishing industry, desertion and abandonment as an issue is exacerbated by institutional failures to put in place clear regulatory mechanisms, practices or procedures. As a result, women in the fishing industries have been exposed to different human rights violations which include: the right to freely engage in economic activity which is contrary to section 29 of the Constitution; the right to equality and non-discrimination contrary to section 20 of the Constitution; the right to economic development contrary to section 30 of the Constitution; and, rights of children contrary to section 23 of the Constitution.
9.5 ATTRITION

The Public Inquiry established presence of attrition as regards to the reduced access to protection services from various duty bearers. Attrition as used in criminological literatures is a process which cases fail to reach the justice system and where they to get to the system, progress and conclusion are either slow or not reached\textsuperscript{18}. In this regard, attrition includes under-reporting of practices and experiences that negatively impacts on realization of one’s human rights. Attrition is contributed by various factors that include: unwillingness to be associated with the experience; failure to attain conviction on reported complaints in the event that evidence provided is not deemed substantial to warrant conviction; technical challenges of mischarging the offense; abscondment and bolting of the suspect from arrest and court appearance; inaction by the reported offices and delays in conclusion of the cases.

The Police are responsible for investigating reported cases, ensuring the safety of victims, and collecting evidence for legal proceedings. Unfortunately, during the inquiry, the Police reported to have no data specifically related to the sex for fish practice which on its own raises some questions as to the role Police have taken in the matter. During one focus group discussion at Matumbi village, the Commission noted resentment from women participants after being informed that the Police would join the discussions. This was either attributed to fear of being arrested or ridiculed if they opened up or lack of trust in the Police. During one-on-one interview with the survivors, one survivor indicated that she never reported her case to the police because other survivors were never assisted.

The Commission notes the need for pro-activeness on the side of the Police in ensuring that the survivors open up to report, and once cases are reported they be handled with speed in a rights-based approach. The rights-based approach calls for the empowerment of people to know and claim their rights and the duty bearers take the responsibility to respect, protect and fulfil the rights of the survivors\textsuperscript{19}.

The Public Inquiry further established a resentment in reporting cases of sexual advances to authorities in fear of community ridicule when the perpetrator faces the long arm of the law.

\textsuperscript{18} Attrition in Indian rape cases that fail to reach a verdict: going beyond ‘conviction’ and ‘acquittal’https://www.law.ox.ac.uk/sites/default/files/migrated/criminal_justice_hub_proposals_garg
\textsuperscript{19} Human Rights Based Approach available at https://careaboutrights.scottishhumanrights.com/whatisahumanrightsbasedapproach.html
For example, witness number 8 explained non-reporting of the practice to any authority in fear that the perpetrator would be arrested and his family would suffer if convicted. The practice of non-reporting in fear of ridicule does not put to a stop the practice as perpetrators continues sexually exploiting women. In this regard, the inquiry established an absence of regulations to protect survivors who report cases of abuse. Despite absence of these regulations at community level, the survivors also lack knowledge on availability of other legal provisions for persons who report on cases of sexual abuse hence perpetrators are not held accountable for the offenses they commit.

The sexually exploited women at times fail to report crimes against their freedom and dignity in fear of being associated with the experience of being a sexual exploitation victim. In this regard, women fear being neglected by their husbands when it is discovered that they were sexually exploited by other men. This would likely lead to divorce leading to women’s lack of support for the children left behind contrary to section 59 (1)(ii) of the Marriage, Divorce and Family Relations Act which calls for consideration of maintaining relationship between the parties and any children affected as far as is possible in the circumstances. Similarly, section 23 (4) of the Constitution provides for the reasonable maintenance of children from their parents or guardians whether married, unmarried or divorced.

There are times when the women survivors come across duty bearers whom they can report to but still conceal their ordeals. For example, survivor 003 who got sexually transmitted infections and was treated at Lipoma Hospital only presented herself as a patient without revealing her story.

“I developed a problem, where my upper private part area was in severe pain “chinena chimapweteka”, I had stomach aches and blood was oozing from my private area. I informed EM that I needed to go back home because I was sick and I came back in 2019. I went to Likoma Hospital where I was treated and given four (4) types of medicine. After taking the medication, I recovered and I am fine and up to date”.

Failure to report the sexual exploitation cases as recorded during the inquiry was further attributed to lack of knowledge on available reporting structures. The two villages visited have Beach Village Committee (BVC) whose major role is known to be settling cases regarding the purchase of fish and this include pricing and payment matters. The inquiry revealed that the
BVC never envisaged handling cases of sexual related matters and gender-based violence. Beyond the lakeshore communities, fish selling takes place in specialized markets in the districts like Kasungu, Nkhotakota, Lilongwe, and Blantyre among others. As recalled by one witness who went to Kasungu and faced sexual harassment, the matter was never reported citing lack of knowledge on complaints handling measures available and is highlighted below:

“John was rude and refused my negotiations for payment because I made a huge loss during the sale of the fish. He asked me to escort him somewhere which I did because I was still negotiating on payment of K3000 as opposed to the K5000 he proposed. I followed him until we got to a bush where he asked me to undress to service the remaining K2000. I did as he requested and we had sex using protection (condom). I however did not know where to report this abuse at the market, because I am not aware of the reporting channels at the market”.

9.6 SRHR IMPLICATIONS

Unwanted pregnancy, is a pregnancy that occurs when no children or no more children are desired, or the pregnancy is mistimed. The adverse outcomes of unintended pregnancy include a high likelihood of unsafe abortion, abandonment, and death. This concept helps in understanding the need for contraception, also known as birth control, and family planning. Narratives from survivors from transactional sex for fish indicated that most unintended pregnancies result from not using contraception because most of the fishermen refuse to use protection.

Every year, almost half of all pregnancies are unintended. Between 2015 and 2019, there were roughly 121 million unintended pregnancies globally each year. Globally, an estimated 257 million women who want to avoid pregnancy are not using safe, modern methods of contraception. In 47 countries, about 40 percent of sexually active women were not using any contraceptive methods to avoid pregnancy.

Brooke et al (2012) explains that Malawian women in all sectors of society are suffering from social implications of unwanted pregnancy and unsafe abortion due to limited access to family

21UNFPA Report, New York, 30 March 2022
planning and safe abortion, conveniency of services and acceptability of family planning services.\textsuperscript{22} In 2015 to 2019, Malawi registered 866,000 pregnancies annually, of these, 491,000 pregnancies were unintended and 134,000 ended in abortion.\textsuperscript{23}

The Public Inquiry established that most women who experienced transactional sex for fish reported that their SRHR were not protected, as most of them were not given the liberty to use contraceptives, hence leading to unintended pregnancies. SRHR implies that people should have a satisfying and safe sexual life and that capacity should be built amongst the people to enable them to reproduce and also offer them the freedom to make informed reproductive decisions regarding frequency and appropriate time for having children.\textsuperscript{24}

It was established during the Public Inquiry that some family planning services and health workers are available whenever there is a need to help the masses requiring their services. A variety of family planning methods and programmes were reported to be available and accessible to everyone. The Public Inquiry established that some women use family planning methods including depo-provera, whilst others use condoms when indulging in sexual activities. However, it was established that transactional sex for fish has become so widespread in lakeshore areas simply because the fishermen move from one port to another, hence carrying the practice from one place to another. The practice is normalized and the prevalence of the practice coerces women to conform to the demands of the fishermen where they end up indulging in unsafe sex, resulting in unwanted pregnancies.

\textbf{9.7 POWER ANALYSIS OF SEX FOR FISH PHENOMENON}

The factor of power relations plays a huge role in transactional sex for fish. It was established that fishermen have power over these women since the practice has become a condition for one to buy fish. It was established during the focus group discussions that this practice happens to every woman even those who have enough capital to purchase fish, they are denied and only successful after accepting the fishermen’s proposals. It was stated by some witnesses that most of the fishermen refused to use protection, stating that \textquotedblleft sweet yamu pepala sikoma\textquotedblright, which

\textsuperscript{22} Brooke A. Levandowski et al., International Journal of Gynecology & Obstetrics; Investigating social consequences of unwanted pregnancy and unsafe abortion in Malawi: The role of stigma, Volume 118, Supplement 2, September 2012

\textsuperscript{23} Supra note. 13

\textsuperscript{24} 2017, The National Sexual and Reproductive Health Rights (SRHR) Policy
loosely translated means sex with a condom is not as sweet as sex without a condom. With this factor, most women are not at liberty to use protection for fear of losing their businesses.

The Commission therefore established that in the fishing industry, unwanted pregnancy is aggravated by the prevalence of transactional sex for fish in the fishing communities. As a result, women are coerced to accept the fishermen demands and indulge in unsafe sex, with the fear of losing their business and failure to feed their families. This act has exposed women to different human rights infringement which include; the right to personal liberty which contrary to Section 18 of the Constitution; human dignity and personal freedoms which is contrary to Section 19(1) of the Constitution and the right to adequate sexual reproductive health which includes the right to be protected from sexually transmitted infection, self-protection from sexually transmitted infection, to choose the number of children, and when to bear those children which is contrary to Section 19 of the Gender Equality Act.

9.8 THEFT

The Public Inquiry brought to light findings related to fishermen engaging in the theft of money intended for capital from women engaged in small scale fish business through deceptive loans for fuel expenses for boats. During the inquiry a woman testified that a fisherman asked her for a loan for fuel expenses because he was using an engine boat by demanding that if she did not give him the loan, he would not be able to catch fish, which would affect her business, therefore, she gave him a loan amounting to K70,000 so that he could buy fuel. However, the fisherman left for another port before refunding her money.

This clearly points to a calculated strategy employed by some fishermen to exploit the financial dependency of women who offer loans purportedly for their fishing activities in order to have privileged access to fish. However instead of refunding the loan, they disappear therefore, leaving the women financially strained and economically marginalized hence resorting to transactional sex for fish as a coping mechanism to have access to fish in order to be able to take care of their households.

This finding reveals a power imbalance within the fishing communities of Vinthenga and Matumbi, whereby fishermen take advantage of the economic vulnerabilities of business women. This in turn perpetuates gender inequality and contributes to a cycle of sexual
exploitation extending beyond economic realms, thereby influencing decisions that can lead to transactional sex for fish as a desperate means of survival. Addressing this issue requires not only legal safeguards against deceptive lending practices but also education and awareness programs aimed to empowering and protecting the economic rights of women engaged in the fish business.

The Public Inquiry revealed a disturbing pattern of exploitation within the fish business. Men entrusted with the responsibility of measuring fish for women traders engage in reprehensible practices, where they manipulate measurements to favor themselves and steal from the hardworking fishermen and fish traders. Then there are men and boys who steal fish which have been sold or will be sold by swooping the fish and running away. These illicit activities not only undermine the economic stability of local fisheries but also exploits vulnerable women traders who are coerced into transactional sex to secure fair measurements.

In accordance with the Penal Code of Malawi, Section 282 stipulates that If a theft is committed under any of the circumstances following, that is to say— (a) if the thing is stolen from the person of another. The taking of the MK70, 000 from the female fish trader under the guise of a loan, the false measurements and the taking of the fish and running away are unequivocally condemned as theft, warranting legal consequences for those involved. The inquiry has highlighted the urgent need for regulatory measures and social interventions to address this alarming issue, ensuring justice for the affected parties and promoting ethical practices within the local fishing industry.

While these legal frameworks provide a foundation for protecting women from economic exploitation, continuous efforts are necessary to enforce and strengthen these laws. Ongoing advocacy, awareness programs, and collaborative efforts involving governmental bodies and civil society organisations can further ensure the effective implementation of these legal safeguards, thereby, fostering an environment where women can engage in economic activities with dignity and security.
9.9 CONSEQUENCES OF SEXUAL VIOLENCE

9.9.1 CONTRACTING STI'S INCLUDING HIV AND AIDS

The Public Inquiry revealed complex socio-economic factors driving transactional sex for fish, highlighting the vulnerability of certain groups, particularly women, who engage in this practice due to economic hardship. Addressing this problem requires a multifaceted approach that includes economic empowerment and alternative livelihood opportunities.

In addition, the Public Inquiry revealed issues revolving sexual reproductive health and rights specifically the failure to use contraceptives during sexual activities with the fishermen and all those involved in the business. It was established in the focus group discussions that most men do not want to wear condoms during sex. It was also noted that most women do not use any contraceptives as they do not feel it is right according to their beliefs as such, they engage in unprotected sex.

Survivor 007 who narrated her ordeal explained that when she started her business in the fishing industry, she met a lot of fishermen who denied selling her fish as she refused to engage in any sexual activity. By the time she became very desperate, she allowed it and had unprotected sex with one of the fishermen almost two times daily that season. The fishermen refused to use any contraceptives in this case, condoms. Unfortunately, it was discovered that the fisherman was HIV and AIDS positive and she had contracted the disease in the process, with that in mind, she could buy her fish without any problems and at a cheaper price.

Another testimony from the survivor 003, explained her ordeal as well. She made it known that when she reached Kigoma in Mozambique, she was proposed by one of the fishermen to have sex with her if she wanted to purchase fish, she kept on denying but after some time, she became desperate and gave in to the proposal and engaged in unprotected sex as he did not want to use any condoms. She then went to Likoma where she met the same fate, she also slept with another fisherman for over 5 times without any condoms and this was in 2019. She

25 Refer to annex 1
26 Refer to annex 1
discovered that she had stomach pain and also her upper private part area was hurtful. When she went to the hospital, she was given treatment to cure the STI which she contracted.

In all these testimonies and the FDG’s conducted, what stood out the most was that the act affects women physically and psychologically because most of the sexual acts are done without protection. The women emphasized that most of the sex is unprotected and some end up contracting STI’s and some have children who themselves know that the father of their child is not their husband’s.

It is well known that sexually transmitted infections are a challenge in Malawi as they facilitate HIV acquisition, transmission, and progression. Prevalence of STI and HIV remain high despite efforts and investments being done to address the problems. HIV prevalence is higher among women than among men. Prevention, care, treatment and support of STI’s and HIV are key to addressing the problem. An Overview of the Current Status of HIV and AIDS and STIs have a myriad of effects on sexual and reproductive health and rights, and sexual and reproductive health services are critical for people with HIV and AIDS27. Current survey conducted by MPHIA 2020-2021 was led by the Government of Malawi through the Ministry of Health and the National AIDS Commission found that HIV prevalence among adults was 8.9 percent, indicating that approximately 946,000 adults are living with HIV in Malawi. HIV prevalence was twice as high among women compared to men in each five-year age group between ages 20 and 39. Generally, HIV prevalence increased with age until the late 40s for women and the early 50s for men28.

Looking at the present issue, the fisheries sector contributes significantly to Malawi’s national economy and to the livelihoods of the poor as certain activities in the sector have relatively low barriers to entry. Various studies have shown that the fisheries sector suffers from high HIV prevalence in many low-income countries. In Malawi, HIV prevalence as well as the causes and impact of HIV infections among fisherfolk are yet to be assessed. Participatory action research was conducted in Mangochi District, in the southern part of Lake Malawi, between December 2007 and January 2008, to identify critical HIV-risk points along the value-chain in the fishing industry. An analysis of vulnerability resulted in the formulation of mechanisms to

27 HIV and AIDS Prevention Strategy p. 9
redress HIV and AIDS prevention and mitigation at each point of vulnerability. According to the study which was conducted, the findings show that HIV and AIDS vulnerability in the fishery's market-chain is highest were fish processing and trading influence sexual relationships between fishermen and female fish traders. In the recent public inquiry, the issues which stood out amongst others revolved around the fishermen having the power to bargain for the fish in exchange for sex. In this regard, the manner in which a lot of women contracted STI’s and HIV/AIDS is so pertinent due to the underlying reasons of poverty and power.

In Malawi, fishermen are one of the groups at higher risk of contracting or transmitting HIV, with HIV prevalence among them estimated at 16.6% (GoM, 2006 and 2009). This is furthered through casual, unprotected sex of actors moving along the chain and transactional sex (in exchange for fish, cash, security or transport) which makes them highly susceptible to STI’s and HIV infection.

As seen in the literature above, complex factors that have an impact on vulnerability, with the sexual acts being done in the lakeshore area, include a lot of women being engaged in multiple and concurrent sexual partnerships; low and inconsistent condom use; suboptimal implementation of HIV prevention interventions within clinical arenas; and late initiation of HIV treatment. Other cross-cutting determinants including transactional sex related to income and other social and material benefits; gender inequalities. During the FGDs, another factor which stood out for contracting STI’s and HIV/AIDS was the issue of migration of the fishermen as they are vulnerable in contracting and spreading diseases as they keep on moving from one area to another in search for fish and as a result, they stay apart from their families and then engage in multiple relationships which in turn breeds sexually transmitted diseases.

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In line with the various policies and guidelines, the Public Inquiry established that a lot of women who are engaged in this act do not see the need of using contraceptives as it delays the process and as the men usually do not allow the women to even access the condoms. An officer at the DHO also outlined a number of interventions that are being put to help those that require help for example one stop centers “chikwanekwane” which has all facilities to manage all sexual related diseases and acts. The inquiry has also established that there is lack of information on SRHR services and actual use of contraceptives for both women and men, thus, finding a lot of women vulnerable and are at high risk of contracting STIs and HIV and AIDS.
## 10.0 RECOMMENDATIONS

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<th>No.</th>
<th>ISSUE</th>
<th>RECOMMENDATION</th>
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| 10.1 | Sexual harassment (Sexual exploitation, Economic Empowerment) | i. The Commission should conduct awareness raising in the lakeshore fishing communities on human rights in general including sexual harassment, its consequences and reporting channels.  
ii. The Inspector General and Ministry of Homeland security should strengthen the capacity of the Malawi Police Service Victim Support Unit in the provision of psycho-social support to survivors of gender-based violence.  
iii. National and community radios should develop content for sensitizing communities on gender-based violence in the fishing industry and its consequences.  
iv. The Ministry of Agriculture should implement holistic approaches in mainstreaming gender and economic empowerment programs in the fishing communities.  
v. Ministry of Agriculture through the Department of fisheries should review the fishing regulations to mainstream gender |
| 10.2 | Desertion and abandonment. | vi. Enforcement agencies to strengthen the enforcement of the Child Care Justice and Protection Act.  
vii. The Ministry of Agriculture through the Department of Fisheries should introduce a database for the registration and identification of fishermen in the fishing communities.  
viii. The Beach Village Committees should put in place gendered by-laws to regulate the fishing industry.  
ix. An assessment should be conducted to determine the extent of the implementation of the Guidelines developed by the Department of Fisheries.  |
| 10.3 | Attrition | x. Police and Court to identify sex for fish as a form of GBV. Therefore they need to be trained on the social norms  
xii. Local structures should be revamped and empowered on the |
| 10.4 | SRHR issues: Unwanted pregnancy | handling of human rights issues and cases.  
   xii. The District Councils should establish human rights committees in the communities.  
   xiii. The Ministry of Health should strengthen the provision of SRHR in the fishing communities thus Broadening the range of family planning methods offered at both health facility and community levels |
|---|---|---|
| 10.5 | Theft | xiv. The Malawi Police Service should strengthen the capacity of community policing structures along the lakeshores  
   xv. The Police to investigate cases of theft along lakeshore areas  
   xvi. Survivors should be encouraged to report cases to relevant authorities |
| 10.6 | Consequences of sexual violence | xvii. Malawi Police service should strengthen the capacity of the Victim Support Unit in the provision of psycho-social support to survivors of gender-based violence.  
   xviii. CSOs to strengthen awareness of practices that have a negative impact on reproductive health among both men and women in the community.  
   xix. CSOs to strengthen behaviors change interventions to reduce risky behaviors among men, women and young people. |
### 11.1 RECOMMENDATIONS FOR DUTY BEARERS:

**Suggested desirable behaviours for each category of relevant actors in ending sex for fish practice**

<table>
<thead>
<tr>
<th>Category</th>
<th>Desirable behaviour/suggested action</th>
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| Council Officials      | iii. Development of community model by laws for fishing communities  
                        | iv. Facilitate development of women centred community action plans                                    |
| Police                 | iv. Prosecute the offenders  
                        | v. Enforce laws related to sexual exploitation and abuse  
                        | vi. To provide awareness through VSU to the public on consequences of transactional sex             |
| Boat Owners            | iv. Enforce fair fish selling systems  
                        | v. Perceiving women as business associates and not sex objects  
                        | vi. Take responsibility in protecting female fish traders from any abuse                           |
| Crew members           | iv. Responsible in facilitating fair fish selling systems  
                        | v. Self - Control/ responsibility  
                        | vi. Considers women as business allies in the supply chain of fish selling                         |
| Male Fish Traders      | iii. Support implementation of fair-trade system  
                        | iv. Self-control and condemn, report bad behaviour                                                   |
| Female Fish Traders    | vi. Assertiveness  
                        | vii. Capacitation in group savings, marketing skills, leadership skills                             |
| Parents around the lakeshore | v. Establishment of buying groups among female fish traders.  
ix. Reject and report to relevant authorities on any advances for exploitation  
x. Have alternatives to generate incomes to finance their fishing business |
| Community Leaders | v. Guidance and control of children  
vi. Awareness on the impact of engaging in early sexual activities  
vii. Respect to child labor laws  
viii. Report on cases of child sexual abuse to relevant authorities |
| Youth around the lakeshore | iv. Abstinence  
v. Social competence  
vi. Empowerment |
| Community Members | iv. Reporting the vice to the relevant authorities, desist, dismantle  
v. Willingness to actively participate in initiatives aimed at positive change.  
vi. Recognizing and building upon this resilience is important in the development and implementation of interventions that will address the root causes of transactional sex for fish. |
12.0 LESSONS LEARNT

12.1 The inquiry underscored the need for a holistic approach in addressing the practice, recognizing that transactional sex for fish is deeply rooted in complex socio-economic and cultural factors. The lessons learned emphasize the importance of community engagement and education in addressing the issue, with an emphasis on empowering vulnerable groups to break the cycle of exploitation.

12.2 The inquiry shed light on the necessity of collaboration between governmental bodies, governance bodies, non-governmental organizations, and local communities. Sustainable solutions to eradicate transactional sex for fish require a concerted effort from all stakeholders, ensuring a comprehensive and inclusive response.

12.3 The inquiry also highlighted the critical role of legal frameworks and enforcement mechanisms in deterring sexual and economic exploitative practices, emphasizing the importance of aligning policies with the protection of human rights.

12.4 The Public Inquiry illuminated the resilience of lakeshore communities in Nkhotakota and their willingness to actively participate in initiatives aimed at positive change. Recognizing and building upon this resilience is important in the development and implementation of interventions that will address the root causes of transactional sex for fish.

12.5 The inquiry established that there is a culture of silence among people to report cases of transactional sex for fish including lack of awareness on the available structures where they can report the cases as well as negligence among the notable factors. Married women fear their marriages will break if the husband is made aware of the case.
13.0 CONCLUSION AND WAY FORWARD

There is a likelihood that transactional fish for sex is a growing practice in Malawi’s fishing communities, hence need for further probing in other lakeshore area like Mangochi, Nkhotakota and Salima. Many buyers, being women are victim to this practice due to socio-economic factors including lack of control over and access to financial resources. Sex discrimination is at the heart of this practice as men who want to enter the business sometimes are not given opportunity to purchase fish as fishermen prefer trading with women as sex is involved.

The preference of selling the fish to women over men poses a risk to sexual exploitation for women. However, the Public Inquiry established that women who are financially empowered and form joint ventures to build up their capital, have negotiation powers which do not force them to engage in transactional sex for fish. This, it would seem, awareness of laws, and the implementation and enforcement of laws including the prosecution of perpetrators of the practice, contribute towards the elimination of the practice. Therefore, socio-cultural norms, gender and power imbalance are the main drivers of the practice.

Commitments from the Commission

Whilst the Commission shall disseminate the report to stakeholders, it shall also endeavor to:

a) inform stakeholders of the recommendations put forward in the report for their action.
b) conduct investigations into alleged human rights violations in Matumbi village and surrounding fishing communities.
c) raise human rights awareness in fishing communities.
d) implement recommendations made by the panelists on the witnesses’ statements.
e) conduct in-depth research on the findings of the Public Inquiry.
REFERENCES


Torell E, et. Al (2021), Assessing and Advancing Gender Equity in Lake Malawi’s Small Scale Fisheries Sector. *Sustainability* 13(23), 13001; https://doi.org/10.3390/su132313001
