



CITIZENS FOR JUSTICE

**Implementation of the Legal Aid Act in Malawi**  
**Providing Access to Justice through Prison Camp Courts**

**Citizens For Justice (CFJ)**

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## BACKGROUND TO PROJECT

In 2013, the WJP Rule of Law Index 2013/14 which is a quantitative assessment tool that examines a government's adherence to Rule of Law and Governance issues revealed four serious problems with Malawi's formal justice system. These were that cases take too long, there is lack of mechanisms to track court efficiency, court congestion and a lack of pro bono lawyers to represent poor clients. The WJP Index exposed specific challenges in both the formal and informal justice mechanisms in Malawi. In a country where many fail to attain formal justice due to excessive caseload and insufficient manpower,<sup>1</sup> such problems only exacerbate the theory most rural Malawians hold, that 'justice is for the rich' and prefer customary/informal justice systems that are riddled with their own problems. Additionally, customary/informal systems do not comply with standards of non-discrimination and equality before the law thus making the rural and per-urban populations more vulnerable to unfair decisions or decisions contrary to their human rights.

Citizens For Justice (CFJ) approached the Index problems head-on by implementing a project that aimed at increasing speedy conclusion of cases so that poor and vulnerable clients receive legal recourse quicker and reducing court congestion for all. The project specifically targets Malawi's criminal justice system and is currently operational in ten districts from Nkhotakota to Machinga,

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<sup>1</sup> Judicial officer to court user ratio in urban areas is 1.6:100,000, while in rural areas the ratio is 9:100,000. Republic of Malawi. *Building Accountable and Transparent Institutions: Democratic Governance Sector Strategy 2013-2017*. p. 102, (2012) Lilongwe: Government of Malawi.

and tackles overcrowding in prisons due to massive caseload, lack of resources and insufficient manpower. The work involves conducting camp courts with the help of CFJ's stakeholder partners such as Women Judges Association of Malawi (WOJAM), Malawi Judiciary, Paralegal Advisory Services Institute (PASI), Malawi Police Services, Malawi Prison Service and the Women Lawyers Association (WLA).

## **WHAT IS CAMP COURT AND HOW DOES IT WORK IN RELATION TO OUR PROJECT?**



*Camp Court at Maula Prison (Feb. 2015)*

A 'camp court' is a specialised ad hoc court created and instituted for a specific mission in a specific area and for a specific period. Camp courts are conducted with the purpose of bringing justice to accused persons being held in pre-trial detention. Camp courts are not trial courts per se, since the public and witnesses are not present. Facilitating these court hearings is crucial to achieving the project's objective of improving access to justice as normal court

procedures are often hampered by time delays. Camp courts resolve this by expediting the justice process by affording remandees access to justice, most of whom are being held in illegal detention as their remand periods have lapsed. The court is set like any

normal formal court and involves a Magistrate, Court Clerk, Community Service Officer, Prosecutor, Paralegal and the Accused.



As previously stated, camp courts are effective in moving cases in bulk through the justice system. For instance, we held a camp court sweep between January 21<sup>st</sup> and

*The CFJ and WOJAM Team conduct a mini-legal clinic at Ntchisi Camp Court (Jan. 2015)*

January 23<sup>rd</sup> 2015, the project conducted eight (8) camp courts in five (5) districts and 124 cases were brought before Magistrates. Sixty-one percent (61%) of the remandees were released either on bail, community service, suspended sentence, or discharged. In Dedza alone for example, 24 people were released either discharged, on bail, community service or fined. Of those 24, 11 were women who were completely discharged or fined. Those who were denied bail had their court dates set to the following week promising speedy legal resolve of their matters. But for our intervention, these cases would have either remained dormant or taken a long time to be resolved thus denying the vulnerable and poor access to justice.

In addition to speedy resolve of their cases, the remandees also gain some vital legal knowledge of their rights as remandees during mini-legal clinics also conducted on the prison grounds. They are afforded the opportunity to ask the CFJ and WOJAM team questions about the law and legal processes in Malawi, specifically, how to ask for bail during camp courts. Another added benefit of camp courts is that the prisoners experience the law in action first-hand which not only strengthens their legal knowledge but further increases their trust in the formal justice system.

### **PROJECT MILESTONES TO DATE**

At the beginning of the project, CFJ had projected that it would be bring 120 cases to a legal conclusion in two pilot districts (Ntchisi and Lilongwe) by the end of the one



*Camp Court at Dedza Prison (Jan. 2015)*

year project. However, as of March, 2015, the project has spread to ten districts throughout the Central Region and has heard 313 cases. Out of those cases, 237 cases have been brought to a legal conclusion (i.e. conviction, discharge, bail, judgment, fine, etc.) thus providing us with a 76% success rate.

## **WAY FORWARD**

Going forward, CFJ would like to expand this project and conduct more camp courts to cover districts from Nsanje to Chitipa to reach wider masses and have a bigger impact. The programme has already started strengthening the public's understanding of the Rule of Law and its relevance by raising awareness. Through the litigation of overdue cases, the rural population has taken notice and has started becoming more aware of their rights and legal options in the formal justice system instead of solely relying on the informal justice system. Beneficiaries of the project have referred other people with similar cases to the project. Vulnerable groups are speaking up more and choosing not to be silent in the face of injustice. Additionally, through conducting camp courts on location at the prisons, it gives the opportunity for fellow in-mates to experience first-hand the legal process as well as gain some legal knowledge particularly on their rights as prisoners.

The essential partnerships created with WOJAM and WLA are crucial for the project going forward as they provide the project with an influential link in the judiciary. Additionally, their results-oriented approach has allowed the project to run smoothly and quickly which would have been difficult if we did not have this link and had to go through official channels. Furthermore, there are plans to expand further than camp courts but to also include advocacy on human rights issues, civic education of the masses on newly implemented acts such as the Child Care Protection and Justice Act, 2010 and the Deceased Estates (Wills, Inheritance and Protection) Act, 2011 and introducing capacity building programmes for members of the Judiciary (e.g. a training programme for lay Magistrates at a recognised institution) to name a few.

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