

**REVIEW OF THE FUNCTIONS AND
PURPOSES OF REFORMATORY SCHOOLS IN
MALAWI**

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EXECUTIVE SUMMARY

The aim of this study is to review the purposes and functions of the two reformatory institutions. The terms of reference were to assess the present situation of the institutions, to assess what support or resistance to change actually exists in the country, and to make suggestions for best practice. This review has been commissioned by UNICEF.

Chilwa Approved School was founded in 1947 to reform juveniles through detention and punishment; Mpemba Boys was established in 1963 with the aim of providing a home for street children in need of care, as well as for those remanded for trial or committed after a finding of guilty was made against them. This process was further embodied in the Children and Young Persons Act, which was passed in 1969, and is the law applicable today. These institutions were functioning under the Prisons Act until 1973 when they were transferred to the Ministry of Community, Development and Social Welfare. The main effect of the change was to move from punishment to reform through behaviour change, education and acquisition of skills.

The new purpose of the reformatory institutions has not been fully achieved because the education of the juveniles has been jeopardised by sporadic funding, inadequately trained staff, insufficient teaching and training materials. In addition, the juveniles are cut off from their relatives and communities, making readjustment and reintegration difficult. Compounded with this, the Board of Visitors has not been meeting regularly in order to review juvenile cases.

In order to improve the quality of education, it is recommended that responsibility be given to the Ministry of Education. In order to ensure that allocated funds reach the reformatory institutions in a timely manner, the Treasury Department should transfer funds directly to accounts belonging to the institutions. A wider involvement of the community in training, teaching and counselling can be attained through the setting up of structures that can call upon the services of volunteers and part time professionals.

There is resistance to change in the Ministry of Gender, Youth and Community Services on funding and ceding responsibility to the Ministry of Education. The Courts are also reluctant to use alternatives to institutionalisation. The Police are unable to effect innovative measures until they get directives from their most senior officers. NGOs are unable to influence policy because they are not involved in juvenile matters after trial. The community itself often stigmatises the juveniles upon release.

There is a surprising amount of support for change. Those who support change include the State President himself, as well as the Minister of Gender, Youth and Community Services. The Courts of Resident Magistrates are already putting into place innovative measures, supported by the police. Other positive developments include the NJJF that will oversee matters relating to juvenile justice, which include post trial measures.

1 REVIEW OF FUNCTIONS AND PURPOSE OF THE REFORMATORY INSTITUTIONS

1.1 INTRODUCTION

There has been significant progress in lobbying for change in the delivery system of juvenile justice in Malawi. Research has been carried out¹, with recommendations on what ought to be done to improve the delivery of juvenile justice. The Government and those who influence policy have shown good will, but this has not yet been tested in implementing the recommendations. In November 1999 a draft model for juvenile justice in Malawi was agreed upon and stakeholders in the delivery of juvenile justice committed themselves to its implementation².

Following up on these commitments, a juvenile justice forum was established in Zomba in March 2000. The Forum follows a four-pronged approach, which looks at prevention, pre-trial, trial and post-trial. This approach involves all stakeholders, as well as the community in issues regarding the delivery of juvenile justice.

An assessment meeting, which was funded by UNICEF and Penal Reform International, was held in October 2000 at KuChawe Inn. It became apparent in the meeting that there was need to develop procedures, functions and structures, as well as provide training, with the view of effecting change and implementing the juvenile justice delivery system. It was also agreed that a review of functions and purposes of the two reformatory institutions be carried out.

There are two reformatory institutions in Malawi, Mpemba Boys' Home and Chilwa Approved School, where children in conflict with

¹ Jolofani, D.A. The state of juvenile justice in Malawi; December 1996 – March 1997: CEYCA, A study on juvenile offenders in Malawi Prisons; January 1999: CARER & Other NGOs, Time for reform; Para-legal Case Review of Juveniles in Prison, September 1999: DeGabriele and Jolofani, HIV/AIDS in Malawi Prisons; PRI September, 1999.

² Juvenile Justice – Time for Reform Seminar Report, at 38-43

the law are sent for institutional care. There is a worldwide move against keeping children in conflict with the law in any institution. Both international³ and national laws⁴ provide that custodial measures should be should be used “*as a measure of last resort*”, and “*for the shortest time possible*”. In 1991, Malawi ratified the Convention on the Rights of the Child (CRC). Some provisions of the CRC regarding children in conflict with the law have been incorporated in section 42(g) of the Constitution of the Republic of Malawi, 1995. It is in view of the foregoing that a review of the reformatory institutions is essential.

Previous research reports have emphasised on problems encountered at arrest, up to post trial detention at prison or reformatory institutions. Little has been said about these institutions, save that the conditions under which juveniles are held are in contravention of the provisions of the Constitution and the CRC. The situation of the reformatory institutions has to be analysed to provide a better understanding of their function and purpose, with the view of influencing effective change.

The terms of reference of this review are,

1. To assess the present situation of the two reformatory institutions
2. To assess what support for change exists in the country, and what obstacles to its implementation
3. To conduct interviews with the Ministry of Gender, Youth and Community Services (MGYCS), Ministry of Health, Ministry of Labour, Police, Judges, Magistrates, Prison Inspectorate, Prison Services Committees, Youth NGOs and human rights groups
4. To study via internet best practice models from elsewhere that are relevant to Malawi’s context

³ Article 37(b) of the Convention on the Rights of a Child

⁴ Section 42(2)(g)(ii)

5. To prepare a report on the “Review of functions and purposes of the reformatory schools” in which recommendations for best practice are discussed.

The overall objective of the review is therefore to provide a better understanding of the daily work of the institutions and present informed recommendations for change where necessary. These recommendations will therefore be discussed at a forum that will be attended by all major stakeholders in matters of the delivery of juvenile justice.

1.2 DEFINITIONS AND USAGE OF WORDS

There are two institutions, Mpemba Boys’ Home, Chilwa Approved School. One referred to as a ‘home’, while the other is referred to as a ‘school’. For consistency in presentation, the words ‘reformatory institutions’, or ‘institutions’ will be used. The two institutions may sometimes be referred to as ‘schools’ as they are managed and run under the same principles governing full-board primary schools in this country.

A ‘juvenile’ is defined as including a child and a young person. A child is defined as a person who is under the age of 14, while a young person is one who is under the age of 18 years⁵.

The word ‘juvenile’ is commonly used to refer to children who are in conflict with the law and have been incarcerated in prison or in an institution. To maintain consistency, and for want of a better word, the word ‘juvenile offender’ will be used in this review. However, non-offending juveniles at the institutions are referred to as “care and protection juveniles”.

1.3 METHODOLOGY

The terms of reference allowed for a wide range of interviews. These were carried out with stakeholders as well as children in the two

⁵ Section 2 of the Children and Young Persons Act of 1969, (Cap. 26:03) Laws of Malawi

institutions. To allow for comparisons and wide application of the information, juveniles who are in prisons were also interviewed.

There were hurdles faced in the research for this review. First, most of the staff at the institutions and the Ministry Headquarters felt that not much was being done, and hence they were free to criticise. However, they opted for anonymity for fear of losing their jobs or positions. It is clear that such information is difficult to check for its accuracy. This was overcome by the use of the same fact obtained in confidence as a sounding board with a new person. In this way, it was easier to verify or otherwise reject some of the information.

Secondly, there is very little written down on the institutions, in terms of historical background and daily work. Any changes which have occurred since their establishment has not been well documented. Record keeping of events is so bad that one has to rely on verbal accounts that are sometimes contradictory in their presentation. Where records were available, most were not accurate. For example, one document stated that Mpemba Boys' Home was established in 1963 and another stated that it was established in 1950. This has caused problems in trying to follow historical events.

The situation analysis goes back to 1994. This is the time the country changed its political system and its budget system. Furthermore, the new Constitution came into force in that year. Government undertook to improve general human rights as well as the rights of marginalized and needy persons. This includes juveniles in the two reformatory institutions.

A review of both local and international published and non-published documents has been carried out. This has been done to facilitate the proposal for a best practice model relevant to Malawi.

2 THE PRESENT SITUATION OF THE INSTITUTIONS

2.1 HISTORICAL BACKGROUND OF THE REFORMATORY INSTITUTIONS

The Children and Young Person Ordinance was passed in 1946. This was based on the English Act of 1933. Under the English Act, Borstal centres were established. Borstal centres were institutions that provided residential training to youth delinquents and offenders. The objectives of the centres were to reform such young offenders by equipping them with skills. The centres were also used as places of control. Their priority was ‘treatment’ of the offender. They treated the offenders of their past misconduct with the view of making them better for the future. These institutions were named after the first institution, which was established at Borstal in Kent in the United Kingdom. The two institutions in Malawi were later established were designed in the same way as the Borstal centres, since Malawi was colonised by Britain and its legal system and policies were inherited from Britain.

There were no existing reformatory institutions 1946 when the Ordinance was passed. In recommending the establishment of such institutions, the then Chief Justice of Nyasaland wrote that,

“The Children and young Persons Ordinance, 1946 is based on the English Act of 1933. It is designed to keep children (under the age of 12) and young persons (age 12 to 16) who have offended out of prison as far as possible and out of association with adult offenders. These juvenile offenders are required to be tried in a juvenile court which should be in a different building or room from that of the Magistrate’s ordinary court; special investigation is made into the home life of the offender; and special punishments, alternative to imprisonment which latter should be used only as a last resort, are set out in the Ordinance. Probation and detention in an approved school are important forms of punishment, both having reform as their object. No

approved schools have yet been established or declared... I therefore recommend that approved schools be declared under section 26 of the Ordinance. The Commissioner of prisons who has collaborated with various missions in this matter in the past will know what schools may be prepared to take such juveniles.”⁶

In this memo, he had outlined the need to have a different system established for juveniles. The same year the Commissioner for Prisons, stated that the school to be established under the ordinance “will accommodate both the convicts and the not yet caught...”⁷ In that statement he meant that even those juveniles who roamed the streets and were likely to offend had to be admitted into the institution. The declaration was fulfilled in 1947 when Chilwa Approved School was established.

Chilwa Approved School and Mpemba Boys’ Home were established in the Southern Region of the Country. Chilwa Approved School is situated some 15 km North-East of Zomba Township on the Lake Chilwa plain, while Mpemba Boys’ Home is situated about 10 km, South of Blantyre City on the Chikwawa Road.

Reasons for the geographically placing the two institutions in Southern Region may not be clear, but it seems that since Zomba was the Capital, and Blantyre was the commercial city, there were more problems of street children and a high rate of juvenile delinquency in these areas. This necessitated the building of the two institutions.

There were no institutions established for girls. It was argued that girls did not readily offend. If they did so, they would go home and be looked after by their parents, or get married to a husband who will control them. It was stated further that,

⁶ Malawi National Archives File: S49/1/1/2 Social Welfare in the colonies; Memo from the Chief Justice, 1946

⁷ Malawi National Archives; Pol/2/15/2 Approved School: July 1946. The Commissioner for Prisons was responding to a proposal by the Commissioner for Police to establish an approved school.

“...very few girls get into trouble, and if they go to the towns, they do not have to beg or pilfer as is the case with many young boys. They merely marry or form loose associations with a man. In addition girls are useful workers in the villages and comparatively speaking very few make their way to the towns.”⁸

Chilwa Approved School was established in 1946. It was gazetted in General Notice Number 162 of 1946. It was opened in October 1947 and had nine juveniles as its first inhabitants. The school catered for boys from the age of 15-18 years. It is not clear what the capacity of Chilwa Approved School was at the beginning, but currently it has a capacity of 60 boys. However, those who have worked at the institution, and those who have observed the way it was run, have concluded that the institution was not intended for juvenile offenders. It was run as a prison. It was not intended for care and protection juveniles. This was verified by a retired staff member who worked as a warder in the early years of the institution. Care and protection juveniles were admitted to the institution after 1973 when it was taken over by the Ministry of Community Services, Development and Social Welfare.⁹

Mpemba Boys' Home was established in 1963 as a National reformatory school for young male offenders from the age of 7-14 years, with a capacity of 150 boys. In some documents, it has been recorded that this institution was established in 1950, and was meant to cater for juveniles from the age of 9-15 years. The status of Mpemba Boys' Home is very clear; it was established as an alternative placement institution for juvenile offenders who were remanded, convicted and as well as those who needed care and protection. Street children in Blantyre who had nowhere else to go were admitted under the last category, hence reference to the institution as a 'home'.

⁸ Malawi National Archive File: S44/01/02 Chilwa Approved School

⁹ This is an example of discrepancies between the institutions as it was meant to be, and what its practice has been. No written documents were available to enable the making of a conclusive statement either way.

The Commissioner of Prisons was initially responsible for the day-to-day running and administration of both institutions, as well as disciplining all juveniles. In 1973, both institutions were handed over to the then Ministry of Community, Development and Social Welfare. This ministry was responsible for staff recruitment and budgetary needs. Juveniles awaiting trial and those in need of care and protection were to be placed together in each institution. It was felt that this was the best way of dealing with juveniles as the institutions were not punitive in nature.

Few documents that have been written state that both institutions were designated “open institutions”; they did not aim to punish but to provide juveniles with time to reflect and reform. This contradicts the remarks of the then Chief justice that detention in the institutions was a form of punishment. The institutions provided relief and a way to self-reliance through training in different trades, as it was widely believed that some juveniles offended, and others roamed the streets because of poverty. Skills were offered in the following trades, Agriculture, Bricklaying, Tailoring, Carpentry and Joinery, and Leatherwork.

The institutions concentrated more on moral talks, prayers and trade trainings. This approach changed and concentrated more on academic matters as well as issues leaning more towards reintegration. Furthermore, prior to 1987, the title of superintendent was used in reference to the Principal. The title was carried over from the time Chilwa Approved School and Mpemba Boys’ Home were under Prison Administration. The change was necessitated due to the focus of the institutions as ‘schools’, not as mere places for reform. The title of principal gives more credence to the purposes of the institution.

The approach and emphasis of the institutions shifted in 1969, when the Children and Young Persons Act (CYPA) was passed. The Bill introducing the CYPA was introduced in Parliament by the then Minister of Transport and Communications¹⁰. The new law

¹⁰ See *Appendix A* for the full introduction.

consolidated various provisions of the Children and Young Persons Ordinance of 1946, and emphasised,

- The protection, rehabilitation and reform of juveniles
- Abolition of automatic committals to institutions
- Introduction of probation services
- Extension of alternatives to institutionalisation by introducing extended family or 'fit' persons to supervise juveniles in need of care and protection as well as those who have offended
- The creation of the Board of Visitors, an statutory body that reviewed matters of juveniles
- The authorisation of private institutions to care for juveniles

Outlined above is the basic historical introduction to the two institutions. Some problems faced by the institutions today are rooted in its history. The major problem is the misconception by the public at large that the two institutions are prisons for young offenders. Juveniles who are released back into the community find it difficult to reintegrate as they are constantly reminded that they are ex-convicts. Whatever changes have occurred over the years in programmes and the outlook of the institutions has not been properly documented.

It has been difficult to map out a comprehensive historical background and functions of the institutions because of insufficient or inaccurate information. What is outlined above has been accumulated through various reports, as well as interviews with different people. This negligence or carelessness in keeping records comes up repeatedly, and it is a contributing factor to some of the problems faced by the institutions today. For example, a very important policy change from 'treatment of offenders' to a more rehabilitative system with the view of reintegration of offenders is not well documented. The staff in both institutions seems not to be aware when such changes occurred, but they know some changes were made.

2.2 PURPOSE AND FUNCTION OF THE REFORMATORY INSTITUTIONS

The Chief Justice's memo of 1946, provides some of the reasons for setting up the institutions,

- Keeping juveniles out of prison
- Keeping them out of association with adult offenders
- Detention as a form of punishment, leading to reform

These were some of the historical functions of the institutions. In 1969 some changes occurred and the institutions' main objective is to provide character reform of juvenile offenders through counselling, acquisition of vocational skills, education, socialization and recreational activities with the view of making them useful, self-reliant and responsible citizens of Malawi, who can be reintegrated back into society. However, those who manage and administer the two institutions claim that the aim is not to punish but,

“...[to] encourage behavioural treatment and correction through formal education and vocational training in trades intended for returning the juveniles to the family and community as good citizens capable of participating in the activities of the community”.¹¹

This is still the official position, and it has become more reinforced by the handing over of the institutions to the Ministry of Community, Development and Social Welfare in 1973.

The purpose of the institutions is to take the place of parents and the community for a short period, in raising juveniles who have offended and those who need care and protection, into respected and responsible citizen. The result is that a well-balanced and developed human being is sent back to the community.

The institutions aim to re-educate and re-socialise juveniles on norms of behaviour acceptable to society, as well as prepare them for productive and independent lives after discharge. The two institutions also provide homes for non-offending juveniles who are victims of

¹¹ Malawi Yearbook 1972, Blantyre, Department of information and Broadcasting, 1973, at p.113

circumstances and are in need of care and protection, or those in need of supervision and control, such as orphans street children and abandoned children.

The institutions follow a non-discrimination policy, in that all juveniles are to be treated alike without favour, regardless of why they are in the institutions. Discrimination or separation of treatment and programmes is not favoured as it may cause superior and inferior classes. If juveniles are not treated equally, the message conveyed will be that the institutions have a punitive role.

The institutions care aims to provide a focussed programme and intensive training that is beneficial to juveniles, such as education and vocational trainings. Institutional care is widely accepted under the Ministry of Gender Youth and Community Services, and it is supposed to ensure that maximum output is achieved from the programmes on offer, as well as providing maximum use of the skills and materials available.

Commitment to the institutions was to be done as a sanction of last resort. The CYPA provides for alternative measures, such as a fine, probation order, supervision by guardians, bonding for good behaviour, or absolute or conditional discharge, before institutionalisation.

At present, the function and purpose of the institutions have not been adhered to. A number of problems have arisen in their implementation, such as;

- **Overuse of the institutions.** Juveniles have been sent to the institutions, not as a measure of the last resort, but sometimes as a convenient way of concluding a case by residing magistrates. Alternative measures provided for in the CYPA are not pursued. Juveniles sent to the institutions for remand remain there for a long period, as they seem to be forgotten by those who are responsible for them. Furthermore, it seems the courts and the institutions' staff, as well as social welfare do not follow-up on those remanded. The aim that institutionalisation

should be a measure of the last resort, and for a shortest period is not enforced.

- **Insufficient use of the institutions.** There are many juveniles in the prisons of Malawi, on both remand and ‘convicted’¹². None of the institutions is occupied to full capacity¹³. The police are assailed with problems of vehicles for transportation and it is easy for to remand juveniles at prison as they can collect them with other prisoners. It is also easy for court to pass a ‘prison sentence’ than to wait for a court social report, which may take a long time in coming. One juvenile said that;

“Being at the institutions is better than being at the prison. Here we eat three times per day, the hostels are not overcrowded, and we can go for walks and visit friends in the community. At prison, we had only one meal and the cells were congested. Many juveniles would like to be at the institutions instead of the prisons.”

Juveniles who are in prison do not understand why they are not sent to the institutions, since the institutions were established for them. Sometimes a court order will be made for a juvenile to be sent to one of the institutions, but the order is not carried out. An example is the case of Patrick Machilika who is now 15 years old. He has been charged with the offence of murder, which he is purported to have committed when he was 11 years old. An order made to send him to Mpemba Boys’ Home has not been fulfilled since early 1999 and he is still at Chichiri Prison Juvenile wing.

- **Basic human rights violations.** There has been serious infringement of basic rights of the juveniles in these institutions. The present condition of the institutions contravenes the provisions of Article 40 of the CRC, and

¹² According to Section 3 of the CYPA, the words ‘convicted’ and ‘sentenced’ should not be used in respect of juveniles, as the words stigmatise them. The court must make a ‘finding of guilty’, and must make a necessary ‘order’ accordingly.

¹³ See paragraph 3.2 under ‘Building additional reformatory institutions’.

section 42(2)(g)(iv & v) of the Constitution. Both provide that a child in conflict with the law has a right to treatment, which promote the child's sense of dignity and worth, which takes into account the age of the child, and which ultimately aims for reintegration into society. Lack of educational, training materials, understaffing, etc., has impeded the enforcement and the respect of the rights of juveniles. The institutions fail to meet its objectives fully because of inadequate funding.

- **Delays in the justice delivery system.** Such delays have resulted in juveniles staying at the institutions beyond the age of 18 years, especially those remanded for murder. This has caused some of the juveniles to abscond from the schools, hoping that once they are rearrested, they may be given a definite prison sentence, and they will be released at the expiry of their sentence. Juveniles who overstay at the institutions see themselves as unjustly punished, and the institutions are no longer temporary 'homes' for them. Juveniles in the institutions form their own small community, which has no influence from the community at large. This is dangerous because lack of interaction with the outside world does not facilitate a proper environment for reintegration into society.
- **Irregular meetings of the Board of Visitors.** The Board of Visitors releases reformed juveniles. Recently the Board has not been meeting to review and release juveniles who have reformed successful, and some have seen no hope and absconded. Failure of the Board to meet means that no-one can enforce the requirements of law, that juveniles should be kept in the institutions for a shortest period of time.
- **Focus on reform.** The previous regime was very strict with juveniles. Both institutions focussed more on reform and behavioural treatment than the need to have juveniles reintegrated back into society. Care and protection juveniles are subjected to the same behavioural treatment given to juvenile offenders. Mixing the two groups has caused inadequate

provision for the needs of each group. The institutions' programmes emphasise more on behavioural treatment of offenders.

Faced with the above problems it has been difficult for the institutions to fully implementing and realise these objectives and functions. However, this does not mean that the institutions have failed completely, as they are some success stories, like the following:

“I was at Chilwa Approved School for 5 years. I went there when I was 15 years old. I was released at the age of 19 years. I had no interest in academic studies but I very much wanted to be a carpenter. I completed my grade 3 carpentry and joinery studies. Once I left the school, I worked with a certain man in my village for 4 years. I moved villages and got married. Now I have my own workshop. It is small, but I survive with my family of three.”

2.3 REFERAL PROCEDURES

Juveniles may be sent to the institutions in three ways.

1. **Court order.** A juvenile court may order that a juvenile be sent to one of the institutions where he will be held until he has been reformed and the Board of Visitors releases him. Such an order is made at the conclusion of a trial, on recommendation by Social Welfare and must be signed by the presiding magistrate.
2. **Remand order.** A juvenile court or any other court may remand a juvenile to the institutions pending trial or the Court Social report.
3. **Remand warrant by the police.** Where the police are not able to bring a juvenile to court immediately after arrest, the juvenile may be given a provisional remand warrant to be remanded at the institution.

- 4. Court order at the request of parent or guardian.** Under section 21 of the CYPA, the court may make an order sending a juvenile to an institution at the request of the parent or guardian, where the parent or guardian has failed to control and supervise the juvenile.

When a trial has been concluded and a finding of guilt has been made, presiding magistrates are not to give a definite period at which the juvenile stays at the institution. If the juvenile is 16 years old, then he has to stay at Chilwa Approved School for a period of 2 years. In most cases, juveniles are released on the success of their behaviour modification. It is argued that putting a period of stay at the institutions defeats the need for systematic counselling and vocational training of the juvenile concerned.

Where a finding of guilt is made against a juvenile in the case of murder, he is supposed to be detained at the pleasure of the President, and only the President can sanction his release.¹⁴ This is an infringement of the rights of such juveniles because often juveniles are forgotten by the justice delivery system, and can end up being in prison for a long time.

The requirement that a juvenile be released after being reformed may act as an impediment for proper reform. It means the juvenile offender has to stay in the institutions for a long time and may be sent to prison on attaining the age of 18, if he has not reformed. Lengthy stays in institutions adversely affect the chances of the juvenile to reintegrate into his original community.

Some parents and guardians send their children to the institutions because they have failed to control and turn them into responsible citizens. Juveniles who are perceived to be disrespectful and uncontrollable are sent to the institutions at the parents request. Such parents see the institutions as punishment centres. Juveniles feel betrayed and disowned by their parents and guardians. An example is accorded by the Peter's story,

¹⁴ Section 11(1) of the Children and Young Persons Act, 1969

“I used to come from school very hungry every day. So I started supplementing my food. Some days I would steal some sugar, others relish from the pot. My mother and father were church people and they were very angry because of what I was doing. I told them that I was just hungry all the time, even though I ate the same amount of food as my brothers and sisters. I was growing very quickly and I was bigger than my three elder brothers. I was taken to court and I was sent here. I am still angry with them because they had me punished for being hungry and being big in size. When I am out, I will also punish them.”

The practice of parents sending juveniles to the institutions is not recommendable. If parents have failed to communicate with and provide care for their child, they should not expect the government to do so for them. Through interviews with court personnel, social welfare and staff at the institutions it was established that at least three quarters of the juveniles brought to the court by parents have committed minor offences. It is more practical to have counselling sessions between the parents and the juvenile, supervision of the juvenile, and if everything has failed, the juvenile may be sent to the institutions. The resulting bitterness can lead to the seeking of revenge and re-offending, even the commission of a serious offence.

2.4 LIFE IN THE REFORMATORY INSTITUTIONS

This section will provide a brief outline of the life in the reformatory institutions. A full outline can be found in *Appendix B*.

When a juvenile offender or one in need of care and protection is brought to the institutions, teachers and other staff members must be friendly towards him to dispel any fears of having been brought to ‘prison’. On admission, juveniles are issued with school uniform. A property book is opened in which details of his personal property and clothing are recorded. Lice-infested clothes are burnt, and noted in the property book. New uniforms are to be issued twice per year.

Juveniles are allowed to keep their combs, pencils, etc. No knives are allowed in the institution. If a juvenile has money on him, a canteen account will be opened in his name for that amount. No student is allowed to possess cash on his person, to avoid theft as well as the creation of dominant classes.

Juveniles are housed in dormitories according to their age and level of maturity. To allow for a closer interaction between juveniles and the staff members, a system of dormitory fathers was put in place. These are teachers and staff members who were responsible for each dormitory to have a closer feel for the needs of the children. Their duty is to look into affairs of juveniles, including general cleanliness, holiday application by juveniles, attending to complaints and other household issues.

A record file is opened for committed juveniles, and their personal details, including monthly weight and particulars for home leave are recorded. Lose of weight of more than 3 lbs a month must be reported to the Principal who may call for a medical examination to establish the cause. Lose of weight may be due to inadequate diet or anxiety and the Principal must address the situation. Remanded juveniles have a remand sheet opened to record their details. A punishment book is also opened to record all punishments. This is used to indicate how a juvenile is coping with his surroundings, and how he is conforming to the behavioural change programmes, and how ready he is for leave or release.

Juveniles are informed of leave, payment privileges, education levels, trades and recreational facilities. Knowledge of the possibility of going home will enable the juvenile to feel confident that he is not fully ostracised. The purpose of going on holiday or leave is to ensure that the process of reform is widely accepted by the parents and members of the community. It is an opportunity for the parents and the community to influence behavioural adjustment, and point out if there is need to change or maintain the approach taken on that particular juvenile. Leave may be granted every six months, but with

the discretion of the Principal. Going on leave emphasises the fact that the institutions are temporary homes for juveniles.

Each juvenile is entitled to grade pay, the amount of which depends on the length of his stay in the school, his behaviour, academic and trade accomplishments and extra duties. Juveniles use this money to buy authorised articles or extra food.

The school routine involves academic classes and moral talks in the morning, trade training, counselling in mid-afternoon, organised sports in the late afternoon, bathing parade and meals at the end of the day. In the evenings there may be indoor games, drama, songs, radio and record playing and lights out is at 8:00 p.m. (*see appendix B*)

The reformatory schools follow a defined programme including;

- Counselling (both individual and group)
- Academic education in Primary School education, following the regular school curriculum
- Vocational training
- Recreational activities

Vocational training includes acquisition of skills in trades such as;

- Bricklaying
- Carpentry and joinery
- Tailoring
- Leatherwork
- Agriculture

Counselling is one of the tools for reaching out to the juveniles. It has to be done everyday in groups as well as individually. The institution must provide individual as well as group counselling. It is required that all counsellors should read the court social report in order to understand a juvenile's background and problems and they must be available as and when the troubled juveniles need them.

Trade training choices are made depending on the mental, physical and educational capabilities of the juvenile concerned. Staff members must help juveniles make proper choices that will be of future

benefit to them. Furthermore, recreation is necessary to encourage juveniles to learn reciprocity and interaction with others.

Vocational training and acquisition of skill is the most important aspect of the institutions' training programmes. Juveniles choose their trades after being in the school for two months and staff must guide them in choosing a trade most suited to their capabilities. Furthermore, the choice of trade is limited to what needs are prevalent in their areas. The Principal is in charge of the workshops and must ensure that tools are checked and well stored at the end of the day. However, it is imperative that juveniles below the age of 16, who were at school, must be given a chance to continue with their education.

Cleanliness is essential, therefore clothes must be washed at least once per week and soap is provided for that purpose. Clothes are also inspected once per week. Juveniles must take a bath every day and their dormitories must be kept clean. Juveniles are to keep their hair short and tidy. Food is not allowed in the dormitories to avoid rat infestation, and to maintain a health atmosphere. School grounds, classroom, dining hall and the school hall must be kept tidy at all times.

Diet is essential to the growth of a human being, both physically and intellectually. Juveniles are supposed to eat high protein diet because of their growing bodies. Meat dishes are to be served three times per week. Porridge is served for breakfast. It is made of maize flour porridge or from rice. There is tea at 10:00 a.m. and at 4:00 p.m. Nutritious food, such as groundnut flour, meat, vegetables, as well as fruit in season must be given to juveniles. Juveniles in need of medical attention are taken to Mpemba Health Centre and Makwapala Health Centre for treatment.

Family relationships are encouraged through correspondence, visitations by both parents and juveniles. Parents are encouraged to visit the boys at the school. The reforming programme is two faced. It is essential that parents visit frequently to see how their children are

being helped. Input from parents or guardians are encouraged so that the reintegration of the juvenile will not be difficult and traumatic.

A juvenile is released once his behaviour has changed and he has acquired some skills in a trade of his choice. If a juvenile reaches the age of 15 and he still needs character reform, or care and protection, he will be transferred to Chilwa Approved School, where he will remain until he is 18 years old.

Juveniles must attempt Government Trade tests for grade 3 before discharge and a set of tools is to be given to successful juveniles, as well as a pair of Khaki uniform, some money to help him begin a new life at home and anything he may have come with to the institution.

The success in the institutions is evident when juveniles are “released, and go home to become productive members of their communities through employment or self-employment”. The District Social Welfare Officer must visit the juvenile’s home just before his release to see if there is any resistance regarding his return. If there is resistance, he may recommend that the juvenile be sent to some other relative. He must further visit the released juvenile to ensure that he has been accepted in his community, he is adjusting well to social life, and he is involved in economic ventures and social activities to avoid retraction.

Both juveniles and staff members allege that sometimes juveniles are made to work for staff members, contrary to the school’s regulations. In a letter dated 18th November 1988, it was made clear that any staff member who contravenes regulations and uses the boys as ‘slaves’ will be punished by suspension from duty.

The Permanent Secretary to the MGYCS manages the institutions, and the Principal of the each institution is answerable to the manager, and is in charge of the institution and its day-to-day business. The MGYCS is responsible for staffing and the welfare of all the staff at the institutions. Regulations and rules for running both institutions stipulate that staff must be alert and energetic persons, as slack staff

will lead to lack of discipline. However, the regulations do not emphasize the need for trained and professional staff.

The institutions are supposed to run as outlined above. However, it is clear that this is not what happens. Some of the shortfalls are stated below;

- **Uniforms.** Juveniles are no longer issued with uniform, as the institutions have no money to purchase either uniforms or material to make uniforms. Juveniles are staying at the institutions in the clothes they came wearing. Most juveniles at both institutions are wearing rags, as there is no replacement of clothes.
- **Diet.** The practice of weighing juveniles is no longer followed. Those who loose weight have no supplementary diet. There is inadequate food and it is difficult for the Principal to order a special diet for one juvenile. Meals are now comprised of *nsima* and beans or pigeon peas. Breakfast is dispensed with most days because of lack of sugar, or maize flour. Supply of fruit is not maintained and both institutions have no orchards of their own. There are few fruit trees and banana trees around the institutions, but the fruit seldom matures because juveniles try to eat it as soon as possible. Some days, juveniles have one meal.
- **Holidays.** These are not frequently given because of lack of money for transport. This is also true for the pocket money payments they are supposed to receive. Coupled with the indefinite periods of stay at the institutions, there is little room for the input of parents and communities on the reform programme for the juvenile offenders.
- **Academic classes.** There is lack of teachers and instructors for the trades at both institutions, each institutions having only two teachers each. These double as counsellors and instructors in some of the trades. At Chilwa Approved School, there were no academic classes for some time because there were no teaching

materials. Both institutions have no desks and chairs for classrooms. There has been changes made in the teaching syllabus of primary schools, but the institutions still follow the old syllabus. A juvenile from Chilwa Approved School goes to a Secondary School at Naisi in Zomba. He said that he was finding some of the teaching methods and materials confusing. He said that he would do better at school if he had been adequately prepared in his primary school education, which he completed at the institution.

- **Training in Trades.** These have suffered the same way as academic classes. Some trades have no instructors and there are no materials for almost all the trades. Juveniles are not being trained in trades of their choice. Since this is an essential part of the institutions, the inability to provide for proper is an indication of the inability to fulfil the function of the institutions. Vocational training is meant to combat idleness that may lead to re-offending. However, the institutions do not provide for apprenticeship facilities. A released juvenile who has acquired a skill has no prior experience in a working environment at all. Most of the would-be employers are not willing to employ juveniles mainly because of the type of offences they committed. In particular, those who committed thefts are frowned upon as persons who want to make money quickly. Employers are slow to accept them until they are satisfied that their tendency to steal has been done away with.

Vocational skill and training is concentrated to market trades and jobs. These are expensive to set up and they require the ownership of a toolkit. The institutions do not provide toolkits and juveniles just released will not have money to buy them. They will have the knowledge, but no means of applying it to earn a living. However, mat and basket making, which are common to most parts of Malawi, are not included in the courses. These are more self-reliant as the materials are naturally found and the juvenile can work by himself.

At present, vocational training is not being carried out because of lack of materials and shortage of instructors. This is another reason why juveniles abscond because they see that at the end of their stay at the institutions they would not have acquired any skills. If they leave the institutions, they may get a better chance of training themselves or finding work.

- **Recreation.** There are no facilities and materials for recreation. To alleviate boredom, juveniles make their own footballs from rags.
- **Cleanliness.** It is difficult to maintain a clean body when there is no soap. Juveniles are not issued with soap anymore, and in most cases, they are very dirty. Their clothes are in tatters and they are unwashed and unkempt.
- **Infrastructure.** Buildings at both institutions are in need of maintenance. At Mpemba Boys' home termites are attacking one of the blocks. There are no indoor toilets at Chilwa Approved School and makeshift pit latrines with grass fencing are used. They are very unhygienic especially when they are just built as temporary toilets. The hostels or dormitories in both institutions have broken windows; no curtains and the walls are very dirty. Juveniles sleep on the floor, or on very thin and torn mattresses, and they have no blankets. The dining halls have no chairs. Boilers in the kitchens are broken down and pots cemented to the floors are used; these pots leak and are very difficult to clean.
- **Temporary Home.** Juveniles sent to the institutions are meant to be there temporarily, as they are to be reintegrated back into society. However, some stay there for longer periods than is necessary. Some have been recommended for release by the principal, but the Board of Visitors has not been meeting regularly to review their cases. Staff members at the institutions are sympathetic to these juveniles, but they have no power to release them. Juveniles sent to the institutions on remand for the offence of murder stay there for a long time. The longest

staying juvenile came to Mpemba Boys' Home when he was 10, and has been transferred to Chilwa Approved School, and is now 19 years old. He has not been committed for trial, nor has he been taken to court during that time. There are no special programmes for juveniles who have stayed for a long period. The principal sometimes allow them to help in teaching trades to new juveniles, as a way of giving them incentive and keeping them busy.

- **Counselling.** There are no professional or trained counsellors at the institutions. Every staff member is assumed a counsellor. This does not adequately provide for the welfare and needs of juveniles. Some members of staff are so far behind developing theories that they focus on religion only talk as a form of counselling. Others are convinced that giving advice on acceptable standards of living is sufficient counselling. The result is that juveniles are not given a challenge to realise who they are, why they had offended, what their victims may have felt, why they are at the institutions, and what is expected of them in their community. The content of counselling does not address the rights and interest of the victim nor how the juvenile can relate to such victims once he is sent back home.
- **Parental visits.** These are rare. The institutions lack materials to enable correspondence between juveniles and their parents or guardians. In some cases informing parents on the institutionalisation of a juvenile takes far too long. The result is that the juvenile feels rejected and unwanted, and the parents are convinced he is in prison.
- **Aftercare services.** Because of understaffing in the Department of Social Welfare, aftercare services are non-existent. The provision of a toolkit after release has not been possible because there is no money to buy toolkits. The social welfare officers should still visit the juvenile to see how he is adapting, to avoid adverse effects of stigmatisation.

Furthermore, aftercare services are essential for a proper and full reintegration of the juvenile in the community.

- **Absconding.** While the institutions are purportedly lenient in their treatment of juveniles than prison, juveniles still abscond from the institutions. The juveniles themselves gave a number of reasons for absconding.
 - Idleness
 - Lack of training and teaching materials
 - No recreation
 - Monotonous diet and if they escape they can look after themselves better
 - Clothes they came with were in tatters and they need replacement
 - Indefinite period of incarceration is painful. Most prefer to be at the prison where they can serve a sentence, conclude it and go home.

Those who have been transferred from prison are wiser as the conditions at the institutions are better than the prisons, where they eat one meal per day, cells are congested and they are prone to abuse by adult prisoners. Some juveniles think that those who abscond are the guilty ones who are used to a life of crime and they simply want to go back and continue. Bullying by the older or the prefects is common and it is one of the reasons some juveniles abscond. Staff members at both institutions are not aware of how serious this is because they are understaffed and they cannot manage to oversee the juveniles properly.

On apprehension, these juveniles are given punishments and sometimes they are beaten at the orders of the principal. While research for the review was in progress, four juveniles escaped from Chilwa Approved School. The prefects and other juveniles went after them. One was caught and beaten up by the juveniles themselves as he had disturbed their lunch. Juveniles themselves think that those who abscond must be sent to prison

so that they can learn a lesson. However, it is evident that the institutions are ill equipped to deal with those who abscond.

There is a high rate of absconding. In January 2000, 28 juveniles from Mpemba Boys' Home were recommended for release in absentia, compared to only five juveniles recommended for release from the institutions. (*see appendix D*) Three juveniles were recommended for transfer to Chilwa Approved School from Mpemba Boys' Home. Although no statistics were obtained from Chilwa Approved School, the number is equally high.

The present situation of the two institutions does not promote proper development of juveniles. They are kept in conditions that are inhumane and degrading contrary to sections 19, 23 and 42 of the Constitution. Furthermore, these institutions do not adhere to international standards as stated in the Convention on the Rights of Children, and other international instruments. The institutions have failed in providing a distinct programme for care and protection juveniles because of their history as detention centres, the fact that they were originally run by prisons, and the strictness of the previous regime on juvenile offenders. Their needs are overshadowed by those of juvenile offenders. There is room for change and this will be explored later.

3 SUPPORT FOR CHANGE AND OBSTACLES TO IMPLIMENTATION

3.1 INSTITUTIONS DEALING WITH JUVENILE JUSTICE

Social Welfare. The Department of Social Welfare is established under the Ministry of Gender, Youth and Community Services (MGYCS) and it aims to ensure that "available resources are directed as efficiently as possible to provide economic and social support to those suffering and those most at risk of serious deprivation, among

these, young offenders”¹⁵. Its strategy is to improve the effectiveness of behavioural reform programmes for young offenders by involving the community more, and relating training programmes more closely to the needs of labour markets. The department is responsible for the welfare of juveniles in institutions, and it takes the role of a parent to these juveniles.

The question that may be asked is how far has the social services in this country realised this aim and how has it incorporated traditional means of supporting and integration of young offenders in their communities? The department has been assailed by lack of funding that it has not fully succeeded to play the role of a parent, or to effectively direct its available resources to alleviate the suffering of juveniles. Despite provisions that any decision made must take into account the best interest of the child, juveniles seem not to be considered as a priority in the MGYCS. Behavioural reform programmes have not been closely monitored or reviewed to ensure their conformity constitutional and international requirements, nor have they been changed to reflect the present socio-economic status of the country.

In its 1987-89 policy statement, the department undertook to establish an autonomous professional probation service, as well as rehabilitating and improving the existing reformatory institutions, build one reformatory institution in the central region, and provide a tool kit for every juvenile who is released. None of these undertakings has been fulfilled, and if any attempts to initiate them were made, none were sustainable. This is one area where the community or families of juveniles who are to be released should take part. The undertaking to take up and provide for everything, bearing in mind the limited resources of the department, has in part contributed to the failure of some programmes.

The department of social welfare has to provide social welfare officers as well as probation officers. These officers have similar functions of

¹⁵ Ministry of Women, Children and Community Services: Statement on Development Policies, Chapter 17, 1987-96.

writing reports, presenting recommendations to the court, and investigating the background of the juvenile, and ensuring that the juvenile is well reintegrated into society. Probation services involve community adjustment programme for young offenders and first offenders or those who commit minor offences, and are found guilty by a court of law. Probation officers are to supervise such offenders for a period not exceeding 3 years. The time for supervision is varied according to the needs of the particular offender and what support he has in his family as well as the community.

Probation and social services are understaffed, each having a staff of not more than 30 officers in the country. The services are weak because of lack of funding and transportation to the field. These officers are not based in the community, but they have to work from the district office. Most have gone through inadequate or only introductory training; hence, court social reports are not professionally done and there is scanty information that could be used in making an informed decision. The content of the court social reports does not help the court make a proper decision as to the future of the juvenile.

In some reports, the age of the juvenile is not stated clearly, and the probation officer records what he has been told by parents and guardians. This causes a problem as most of the people do not have birth certificates and they may not know how old they are. Almost invariably, such reports recommend the sending of the juvenile to Chilwa Approved School, or to Mpemba Boys' Home.

Court social reports lack the view of the victim of the offence, or the offender's story. There is no indication of whether mediation was attempted, and if not, whether it was considered. Court social reports are analytically poor, and they are superficial in most cases. Probation officers are unable to engage in constructive follow-up and systematic data collection.

Delays in producing court social reports are caused by inadequate staff and lack of transport to different areas and this causes delay in the court process. Meanwhile the juvenile has to either wait at the institutions or the prisons. For example, at Zomba Magistrate Court a

juvenile case initiated and heard in January 2001 is still awaiting determination based on the Court social report.

Once probation officers have dealt with a case, they often feel that it is concluded and it is no longer their responsibility. There is a weak link between probation officers in the institutions, those in the field, as well as between them and the courts, the police and other criminal justice agencies. The probation officers in the field must contribute to the reform of a juvenile in the institutions.

Probation services are essential in three ways: they are cost effective as the juvenile is reformed in his own community; they are in the best interest of the child as they do not remove him from his community; and the family and community are involved in the process, instilling a sense of belonging. However, there is the possibility of stigma, but this is short-lived, as the child has not actually been sent to the 'juvenile prison'.

The department of social welfare and its managers, as well as staff at the institutions maintain that the management of the institutions remain in their domain, regardless of the problems they face. They all agree that it is now time to review some of their practices with the view to changing them.

Even though reformatory institutions are an essential part in the reform of juvenile, probation officers working in and with local communities must take the major part in the reform process. They are in essence the first persons to have an understanding of the juvenile. They must collect sufficient information for courts to work on, and they must prepare the local community on the return of the juvenile. Probation officers' training must cover counselling in re-adjusting to community life, concepts in self-surviving and self-preservation and assertiveness. This will help juveniles to reintegrate well into a community that may still put social, psychological pressure, or stigmatise the juvenile. There is great need for training those who work with juveniles at all levels.

The Courts of Law. The Court' role is perhaps paramount as it is the final arbiter in matters concerning juveniles. It is the court that makes orders for committal and remands juveniles to institutions. Furthermore, the chairmanship of the Board of Visitors is vested in the judiciary.

Courts must help a juvenile present his case and cross-examine prosecution witnesses. Juveniles are to be tried *in camera*, and their parents must be present. If they are not present, the court must order the prosecution to bring them to court on the date of next hearing, or order that a social welfare officer be present. The presence of the parent or guardian makes it possible for the court to interview them if need arises, hence may facilitate the consideration of orders other than institutional orders.

Courts are defenders and interpreters of the Constitution, but in most cases they have not adhered to section 42(g)(ii) of the Constitution, which requires that children should be imprisoned only as a *measure of the last resort*, and for the *shortest period of time*. This does not only apply to juveniles against whom a finding of guilt has been made, but also those who are also on remand. Presiding magistrates have sent juveniles to the institutions without full assessment because of delays and the inadequacy of court social reports, Furthermore, few magistrates visit both the institutions and the prison as visiting justices, as required by the law. Such visits would allow them to check whether the law is being followed. Once remand orders are issued, magistrates do not follow-up the case and seem content with any excuse given by the police and the prosecution for not having brought the case before the court.

Most magistrates do not impose and sometimes they ignore alternative measures provided for in the CPYA, such as supervision orders, fines, conditional or absolute discharge, bond order, etc¹⁶. However, suspended sentences may not be ideal for juveniles as the juvenile runs a risk of re-offending and being imprisoned.

¹⁶ See section 16 of the Children and Young Persons Act, 1969.

Some magistrates feel their role is to adjudicate a case before them, and not to get involved with how the juvenile is brought to court, or what happens once a trial is over. They see this as interfering in the work of the police, prison or institutions. While it is true that, they adjudicate cases before them, the Constitution calls for them to ensure that children in conflict with the law must be ‘treated in a manner which takes into account his or her age and the desirability of promoting his or her reintegration into society to assume a constructive role’. This provision enables them to extend their role in matters of juvenile offenders, because they are immature and are in need of special care.

Malawi follows a penal system that is retributive in nature. It seems courts are placing great reliance on control of juveniles through punishment and the law. Sending a juvenile to the institutions or to prison is arguably less work for courts than it is for them to consider applying alternative measures to institutionalisation and having them properly supervised.

Delays by the High Court in trying homicide cases have caused a lot of suffering to many juveniles. At both institutions, one finds juveniles arrested as far back as 1993 and are still waiting for trial. Listening to their stories one finds that the majority of alleged offences of murder or manslaughter happened as accidents. This erodes constitutional safeguards provided for in section 42 of the Constitution; that a juvenile be tried within reasonable time and be presumed innocent until proven guilty. The result has been that juveniles may stay in the institutions beyond 18 years and if they were tried within reasonable time, they may not have stayed there at all.

There is need to train magistrates in using alternatives provided by the CYPA as well as explore other diversionary options. Magistrates should strikeout juvenile cases that have not been concluded in reasonable time. They must endeavour to present and sit in a child-friendly court. There is need for a special juvenile court at the High Court that can expediently deal with homicide cases for juveniles.

The Police. The police's role is mostly that of arresting, investigating and prosecuting juvenile offenders. In most cases they do not follow the procedures that are provided for them when dealing with juveniles. The police are not allowed to act without express orders from their superiors and it is difficult for them to implement changes in their approach, both at arrest and at prosecution.

Within 48 hours of his arrest, a juvenile has to be brought before the court. If not the juvenile has to be kept at a safe place until he can be brought to court. Station officers should allocate a cell for arrested juveniles to avoid mixing them together with other arrested persons. Specific investigators and prosecutors are to be assigned for juvenile offenders and juvenile cases must be investigated speedily. All formalities and formal attire must be dispensed with when dealing with juveniles.

However, in practice, there are no special prosecutors or investigators. When arresting, testifying in court, escorting juveniles to institutions, or prosecuting, the police wear their uniform attire. This intimidates the juvenile offender. Once a juvenile is brought to court, they still return him to prison for remand. Very few, except those who have committed murder are remanded at the institutions. The police allege that the institutions are very far away from court centres and therefore it is difficult to transport juveniles to court on time.

The 48-hour rule is seldom respected by police officers as regards juveniles, even for those who are in prison. A number of police officer said that the 48-hour rule did not apply to juveniles because they are not treated like adults and they are supposed to be at the institutions. Their understanding of the 48-hour rule is that it was established to ensure that remanded and convicted persons do not beat up recently arrested persons. Such a misunderstanding of the most important human right safeguard is a cause for worry. There is need for proper training of a section of police that will deal with juveniles, as well as trainings for those who command others.

The police may be encouraged to use some restorative principles, which support taking responsibility of the consequences of the crime

committed by the offender. They must initiate more prevention of crime programmes in the community as well as schools around the country. Prevention is in the best interest of all concerned in juvenile justice and it ought to be a priority. In conformity with the requirements of the Constitution, a juvenile cell must be available at each police station.

Non-Governmental Organisations. Most NGOs deal with the needs of women and children. Very few are into the rights of children in conflict with the law. Most have embarked on *ad hoc* juvenile justice programmes, which are not sustainable because there is lack of focus and most programmes are not well coordinated.

The role they may play would be of sensitising the communities on restorative justice principles, lobby for law reform, facilitate in implementation of pre-trial and post-trial diversion options as well as take up test cases on the abuse of children rights, in particular of juveniles in the institutions. Most NGOs have focussed on short-term solutions. For example, CARER donated blankets and some kitchenware to both institutions, but there has been no follow-up by them on matters concerning the conditions under which juveniles are living. NGOs may also play an essential role in providing training for parents and guardians in parental skills, as parents are primary care giver to their children.

The community. Most communities from where the juvenile comes from, as well as those surrounding the both institutions have taken an impartial role in the administration of juvenile justice. As far as they are concerned, they have no role to play since the whole show belongs to the government. They are supposed to administer informal justice, but seldom get the chance to do so once a juvenile has been arrested by the police. The result has been that community dispute resolution measures have not been explored.

Traditional means of dealing with juveniles are the ways communities have dealt with young people time immemorial. Young offenders were confronted and asked to repay the damage, they were given tasks to complete in a fixed period of time, village gossip put them back on

track and the chiefs and elders of the village took time to help young people integrate in their communities. The communities are willing and have shown interest to support alternative measures imposed on juveniles. They feel it is time to act, as they perceive that government has failed in its duty.

Little has been done to expel the misconception that the institutions are prisons for young offenders. Furthermore, every aspect is provided for, or is purportedly provided for by the department of social services, leading the communities to believe that the juveniles are the sole responsibility of the government. This goes further to strengthen their views that the two institutions are indeed prisons for young offenders, because of the history of the institutions.

No definite plans or programmes are set that map out the involvement of the community in the reformatory institutions, except perhaps in accepting the juveniles upon release, and the role of religious leaders in spiritual counselling while at the institutions. There is need to incorporate some of the traditional means of dealing with juveniles in the reformatory programmes. Other community involvement, through sporting activities is passive. There is nothing initiated by the community in matters concerning juveniles' reform and their need for reintegration.

In concluding this section, it has to be accepted that most young people begin offending at a very young age, but there are no supporting statistics. One retired headmaster said that if all young people who offend or commit minor offences were to be arrested and sent to the institutions or prison, then about 90% of the population would have gone through the system. This statement is indicative of the fact that young people find themselves in conflict with law, but not all of them have a criminal disposition. Some will continue to offend in their adult lives and consequently harm their lives, as well as cause disruption, harm and distress to others. Others make a mistake and once they are given a chance, they change. Still others commit an offence under peer pressure, and do not necessarily have a criminal mind.

There is potential for change in offending young persons. The courts, police, NGOs and communities must therefore be more sympathetic to such potential and endeavour to use all the alternative measures to institutionalisation as provided for in the CYPA. Most institutions in criminal justice fear change and departure from norms that are best known and used. Change may mean reduced funding, removing control or increased workload, loss of jobs etc. In view of all these, there are those who are willing to initiate change. Such persons or institutions must be fully harnessed to implement change before they lose interest.

3.2 BOARD OF VISITORS

This is one of the institutions dealing with juveniles. However, because of its importance and its role as overseer and final arbiter, it is essential to discuss it in its own section. The Board of Visitors was established under section 24 of the Children and Young Persons' Act.

The chairman of the Board of Visitors is a judge or resident magistrate appointed by the Chief Justice. The Minister (MGYCS) appoint four other members and each represent the Ministries of Health, Labour, Education and Department of Social Welfare. The chairman holds office at the Pleasure of The Chief Justice, while the other four members hold office at the pleasure of the Minister. Currently, the membership is comprised of Justice Mtambo as the Chairman, who will be relieved by Justice Twea, Mr Kalirani from the Ministry of Labour, Mr Ntchowa from the Ministry of Health, Mr Sakanda from the Ministry of Education and Messers Mhango, Khonje and Kilembe from the Department of Social Welfare in the Ministry of Gender, Youth and Community Services.

The Board of Visitors is mandated to hold meetings as regularly as possible and at the time and place the chairman sets up. The quorum of the board is made up of any three members available. Decisions are passed according to vote of the majority of members present and voting. The Board of Visitors has three functions,

1. To promote the development as good citizens of all juveniles in institutions as well as those detained in prisons
2. To consult with and advise administrators of the institutions
3. To carry out duties, such as,
 - a. Specify which institution a juvenile will go to once an order has been made
 - b. Cancel approved school orders and discharge and release a juvenile conditionally or absolutely
 - c. Cancel order of discharge if juvenile does not fulfil conditions set out
 - d. Order transfer of juveniles from one institution to another
 - e. Order transfer of juvenile on recommendation from principals of the institutions from the institutions to prison for a period not exceeding 6 months
 - f. Order transfer of juveniles from prison to institution to complete his detention. If 6 months have expired and the juvenile has not changed, a further order will be made for him to remain at the prison for a further period not exceeding 12 months. If there is no change, such juvenile may be ordered to stay in prison for an indefinite period.

The Board of Visitors was meant to monitor the institutions. It is a safeguard against any abuse, hence the involvement of ministries which are directly involved in matters concerning children. These ministries have underlying objectives that support, and advocate for the principle of the 'best interest of the child'. Such membership is meant to guarantee an equal voice in matters concerning children at large.

The Board of Visitors has not been meeting as often as it should. The last meeting was held in 1999. The meeting scheduled for the year 2000 failed because of lack of funds. Another meeting was scheduled to take place in January 2001, but it failed because of lack of funds. The budget for a 2-day meeting was said to exceed **K80000**¹⁷. One of

¹⁷ While researching for materials the Deputy Director of Social Welfare made available minutes from a planning session for the Board of Visitors' meetings

the members of the Board of Visitors said that there are competing demands, between feeding the juveniles and having the Board of Visitors meet. He accepted that long stays at the institutions were the violation of children's rights and were an impediment to their reintegration.

Long serving members of the institutions said that meetings were held three times a year on average prior to 1994. The chairman of the Board of Visitors used to call for meetings to be convened at the institutions, after carrying out a thorough inspection of the institutions, as well as juvenile sections in prisons. At present, staff members of institutions do not even know who the members of the Board of Visitors are, and what posts they hold in their respective ministries. The position such members hold in their ministries is essential to allow them to better influence policy in matters concerning juvenile justice.

Delays and failure in holding meetings have added to the plight of juveniles in a number of ways,

- **Absconding:** Juveniles who have been at the institutions for too long, and are convinced that they should be released abscond from the institutions. Other juveniles who have been there on minor offences are convinced that they have been unjustly detained or committed to the institutions also abscond. Others still abscond because there is nothing to do at the institutions. At present, both institutions report an average of three absconding juveniles per week. If the Board of Visitors was meeting regularly, the number of absconding juveniles may be reduced. The principals are unable to effectively deal with absconding juveniles.
- **Releases:** There are juveniles who are due for release and the staff members at the institutions are helpless. They fear that delays in releasing juveniles will lead to bitterness that may lead to re-offending. They counter the need for change by appointing such juveniles prefects who will be in charge of

others. However, such juveniles feel that they are staying there permanently.

- **Funding:** The Board of Visitors is responsible to the Ministry, and if the ministry has no funds, the Board of Visitors cannot meet. The duties of the Board of Visitors are not carried out. The result has been non-existent inspections and monitoring of conditions under which juveniles are kept, as well as delayed releases of the reformed juveniles.
- **Tenure of the Board of Visitors:** This may also contribute to the problem. The members may remain in their position for too long before they are replaced. So long as they satisfy the Minister or the Chief Justice, the office bearers will remain. In reality, such lengthy stay may be counter-productive as far as their competence and commitment to the functions of the Board of Visitors are concerned.
- **Juveniles remanded at the institutions:** On the face of it, section 28 of the Children and Young Persons' Act seem to suggest that the Board of Visitors deals with juveniles who have already been committed to go to the institutions. However, the Board of Visitors has power remanded juveniles and care and protection juveniles. It is understood by staff members at the institutions that the Board of Visitors emphasises more on matters of committed juveniles who are to be released. The Board of Visitors is responsible for all juveniles regardless of how and why they are at the institutions.

The Board of Visitors is an essential part in the delivery of juvenile justice, more so at post-trial stage. If it was fully functioning, as it should, and as it used to prior to 1994, half the problems faced by the institutions would not have been persisted. Some advocate for doing away with the Board of Visitors. In its place must be placed a council which is not statutory, but which encompasses in it stakeholders in criminal justice. The council will enjoy the flexibility of implementing change as new alternatives are being pursued than a statutory body.

In its role as a monitor, the Board of Visitors must ensure or put forward recommendations for trial or bail for those juveniles who have overstayed on remand, failing which the Board of Visitors must release them.

Others have supported this idea, but have proposed that the council should work together with the Board of Visitors and act as an advisory council. Still others have not accepted any changes. The Board of Visitors was the best idea there was and it should continue as it is, albeit that it has to perform its duties regularly. All these are laudable arguments and are worthy to be pursued. What has to be borne in mind is that whatever board or council may be established, whoever its members may be; its overall objective must be;

“The establishment of a fair and humane juvenile justice system in Malawi, based on principles of restorative justice, which puts the best interest of the child first and makes custody a sanction of last resort and for the shortest possible time while taking into account the interests of the victim.”¹⁸

3.3 BUILDING OF ADDITIONAL REFORMATORY INSTITUTIONS

It has been argued repeatedly that there is need to build more institutions in the Central and Northern Regions of the country. The argument is extended to provide for at least three schools for girl offenders in each region. The ‘need’ arises because the two institutions are in the southern region, and are not strategically located. Their location poses many problems for juveniles who have to go home for leave, for parents who wish to visit, especially those from the Northern Region. Furthermore, juveniles from these far off places are uprooted from their own culture and are placed far away from their immediate community.

¹⁸ UNICEF & PRI, *Juvenile Justice In Malawi: Assessing Progress In A Time For Reform*, 20th October 2000, Zomba, p.57

While these are laudable reasons for building extra institutions, they are not practical now. The department of social services, as well as the MGYCS, are assailed by lack of funds. They cannot run the present institutions adequately. Building or opening other institutions will compound the existing problems of funding and management of the institutions.

Some observations have been outlined below in an attempt to argue against the building of new schools.

- **The present institutions are under-utilised.** This is evidenced by the numbers of juveniles in prison; Maula: 157, Chichiri: 69, Zomba: 45, Mzuzu: 12 in the month of June 2001. In the same month, Chilwa Approved School had 42 juveniles, and Mpemba Boys home had 38 juveniles. Both institutions have the capacity of 60 and 150 juveniles respectively. Courts and police seem to send juveniles to prison rather than to the institutions. New institutions may be built but they may not be fully utilised. Needed funds will be taken up to maintain them as well as pay for staff members and other utilities. The two institutions are operating under capacity. *(See Appendix C; Tables for Remand and Committals for Chilwa Approved School and Mpemba Boys' Home from 1994-2001)*

In both cases, the number of remanded juveniles exceeds that of committed juveniles. This is so because juveniles stay on remand for a long time, especially those remanded for murder. There are no committals on the offence of murder, which is the most serious offence. The numbers of those committing offences and ordered to go to the institutions are also decreasing by each year. One may be tempted to conclude that the commission of crimes by young persons is declining. However, this is not so, as more juveniles are found in prisons than in the institutions.

- **The infrastructure at the institutions is in very bad condition.** Mpemba Boys' Home has just had toilet blocks added to hostels by UNICEF. Prior to this, juveniles were

using outside toilets. They had to call for the guards to escort them outside. Lock up is at 6:00 p.m. and because of understaffing, juveniles had to wait for a long period before relieving themselves. Chilwa Approved School juveniles still use external toilets, as their internal ones are unusable.

General maintenance at the institutions is extremely poor and most of the buildings are of sub-human standards. Some of the staff-members houses at Chilwa Approved School were condemned in 1986 as inhabitable. Kitchens in both institutions are non functional. They are relying on ancient heavy still pots that were made by a company, which has long ceased to do business. Both are equipped with electric pots that cannot be fixed, some have no heating oil which can be purchased at K4000 only; the other has a malfunctioning element which need repairing or replacing.

- **Staff and their qualifications.** There is a lack of qualified personnel who can help the juveniles in a professional way. One of the teachers at Mpemba Boys' Home told me that;

“I applied for the post of an academic teacher. I succeeded in the interviews and I came here to teach English and Mathematics. When I came here, the Principal informed me that I had to counsel and teach trades to juveniles, both individually and in a group. I have never been trained in counselling, especially for persons with special needs. I had to learn on the job and hoped that I would have a refresher course in the subject. Up to now, I have no training and I still counsel juveniles. I am of the view that counselling is done haphazardly and it does not produce the results expected”.

- **Inconsistent and sporadic funding.** As will be explained later, funding is a very sensitive issue and a sore point that has caused numerous injustices. Due to inadequate and sporadic funding, there is a monotonous diet (*nsima* and beans or pigeon peas), inadequate teaching materials, tool-kits, training

materials, etc. The institutions are running on credits, and suppliers are refusing to continue supplying. While the research was in progress, suppliers for Chilwa Approved School came and threatened to beat up the staff and forfeit a pick-up truck belonging to the institution.

Unless the condition of the existing institutions is improved, it is difficult to see the sense of building extra institutions.

3.4 SEPARATION OF JUVENILES

There are opinions that there must be different institutions for juveniles with problems and those without problems. Juveniles with problems are those who have offended and are committed to the institutions, or are remanded awaiting their trial. Juveniles without problems are those who are victims of circumstances, who have been admitted to the institutions because they need care and protection. One of the Superintendents of the institutions stated that,

“There is need to establish institutions for problem juveniles and juveniles without problems. Experience has shown that it is not good socially and psychologically for the groups to live together. Offenders have naturally criminal tendencies that would be imported to others.”¹⁹

It has been argued that problems can arise in dealing with these two groups if they are put together. Care and protection juveniles may become delinquent under the influence of the others, as the offenders can be aggressive and dominate the care and protection juveniles. The approach to counselling is different, in terms of both content and intensity. Furthermore, the approach of the teachers as well as the community only takes into consideration offending juveniles and their need to be rehabilitated.

¹⁹ Observed by the then Principall Mpemba Boys’ Home Superintendent Kaferaanthu, in his letter dated 27th July 1997, Ref. No. SOC/B/9/139

There is need to physically separate the two groups even though they may follow the same programme. A situation like that which occurred in South Africa recently must be avoided; a ten-year-old boy was found murdered by fellow boys in a cell. Some children are very violent and ought to be kept away from others. Again we may gain from the experience of Zimbabwe's reformatory schools where juveniles only mix during classes, meal times, and at any other time they are supervised by the staff. During free time, they are always separated. Those in need of care and supervision are placed together with remanded juveniles, as remanded juveniles are presumed innocent until proven guilty by a competent court of law.

Another view is that the two schools must be separated according to offences committed and not according to age. Minor and first offenders may be put together with care and protection boys. Serious offenders may be kept at the other institution. While some people accept this idea, others are sceptical. They argue that separating juveniles according to age and not offence is more appropriate, because age defines a person. There may be juveniles of different ages, but with similar thoughts and tendency to offend. Separation by offence committed is tantamount to making a statement that the other juveniles are 'very criminal', hence defeating the policy of non-discrimination. Furthermore, they argue that such separation does not have an inbuilt mechanism to gauge the degree of involvement and the seriousness of the offence. For example, some offences are committed accidentally while others are planned. Those in the first category will not be given adequate chance for reform, as they will be branded serious offenders.

Those who support separation by seriousness of offence base their argument on the fact that mental aptitude differs. Some will be young in years but are well advanced in the way they think. Others will be old in years but have developed slowly. Furthermore, they accept that positive discrimination is necessary in achieving the objective of proper reform and reintegration. Separation by age does not allow juveniles to take full responsibility of the consequences of crime. They are shielded from facing such consequences. Furthermore,

separation by offence is essential especially in cases where there are very serious offences committed, and there is need for strict security to be imposed. If juveniles are separated by offence, then Chilwa Approved School will be for serious offenders and Mpemba Boys home for non-serious offenders and those in need of care and protection.

While institutional care is necessary, it will not achieve much if it is not supported by other services. The treatment of juvenile offenders is generalised, programmes for prevention are not well articulated, even though they may exist. There is much emphasis in vocational skill and very little effort to provide an emotional and character build-up programme that brings awareness of the interest of the victim of the offence.

3.5 FUNDING FOR THE REFORMATORY INSTITUTIONS

The institutions face problems that are caused by inadequate and sporadic funding. To implement their functions and fulfil their objectives, the institutions need to be adequately funded. The principals of both institutions cannot provide juveniles services they deserve. They receive very little money.

The funding procedure is that Treasury pays a sum of money into the Ministry's account twice per month. The Ministry apportions the money to the different departments under it. An example is shown by the month of August 2000. The expected funding for the whole Ministry was K2465490.00. This amount was divided to provide 2 funding periods. On the first funding, K1232747.00 was received by the Ministry. The Ministry had commitments amounting to K378750. What was left for distribution was K853995. Out of that sum, K26997.77 was allocated to Mpemba Boys' Home and K26121.30 was allocated to Chilwa Approved School. On the second funding, K1232745 was received by the Ministry. Commitments amounted to K498250.00, and K734495.00 was available for distribution. A sum of K23219.00 was allocated to Mpemba Boys' Home and K22466.13

was allocated to Chilwa Approved School. (*see Appendix E; Funding for the institutions for the year 2000-200.1*)

Both institutions allege that they did not receive any funds in the month of August and they do not know what happened to the money allocated to them. The institutions were only funded in December 2000; Chilwa Approved School was paid K50000, and then K20000 in June 2001.

The principals and staff members allege that the Ministry headquarters does not have the institutions as its priority. Funds, which are meant for the institutions, are used up for something else at the headquarters. When there are international visitors at the Ministry, the juveniles suffer as their funds are used to look after the visitors. They also allege that their funds are intercepted as soon as any difficulties arise at the Ministry.

The Ministry headquarters allege that they have passed on what little money they have received to the institutions. They also said that most times they have to pay suppliers straight from their offices. The principals allege that this does not happen, only once in the case of Mpemba Boys' Home when there was no food at all for a few days and ADMARC provided some bags of maize and beans. Chilwa Approved School needs at least K200000.00 per month to run on its best, while Mpemba Boys' Home requires K250000.00 per month.

An example of misdirection of funds was given by the principal of Mpemba Boys' Home. Blantyre Water Board had disconnected water to the institution because of a dept of K380000.00. The Minister directed that a cheque of K62000.00 be given to Mpemba Boys' Home for part payment on the water bill. However, the money was directed to other matters and it was not given to Mpemba Boys' Home. In reaction to the allegation of mismanagement of funds by the institutions, the institutions state that they do not get enough money and it is impossible for them to mismanage that which is not given. Auditors check books at the institutions every year and they do not find anything wrong.

The institutions are operating on debts. Chilwa Approved School owed up to K438417.97 as of the month of May 2001. Mpemba Boys' Home did not give an exact figure but they owed more than K300000.00 by the end of July 2001. Staff members at both institutions feel that their lives, and that of the juveniles are in danger because some suppliers are resorting to threatening behaviour, even though others are considerate. One accountant said,

“It is like the suppliers expect us to pay from our own pockets. Suppliers want their money to allow them to purchase or grow more food. Sometimes they feel sorry for the juveniles and continue to supply. What worries them is that they are not paid any interest on their credits. They do not believe we do not get enough money for ourselves. Some are owed money for more than one year and they have been patient, but such patience will not last forever.”

One supplier who supplied beans worth K8600 to Chilwa Approved School went to court to sue the principal for non-payment. However, he was told at the court that he could not sue the principal because he purchased the beans for the juveniles. He was advised to write a letter to the Director of Social Welfare Services and make his claim known. The principals himself said that he was so desperate as the juveniles had gone a day and a half without food.

Failure of the Board of Visitors meetings is also blamed on the Ministry's lack of prioritising their use of money. There have been only two meetings in the last three years. The majority of staff at the institutions advocates that the institutions must be privatised on run by NGOs, and maybe the basis rights of juveniles will be respected.

The problems of funding are alleged to have started with the cash budget system. Before 1994, the institutions used to get supplies on providing Long Purchase Orders (LPO). They got supplies at once and government paid later. The advantage was that the institutions were properly supplied with food, training materials, and other services. The disadvantage was that LPOs were abused at all sectors of government, that the government was paying more than the

services or supplies it received or consumed. This system was discontinued and a cash budget system was put in place.

It is very difficult to get things properly running under the new system because it is alleged that government has no money. However, staff members from both institutions allege that their Ministry has money but it is unable to set its priorities down. The result is that money for institutions is used to pay for international travel or host international functions, all of which are purported to be for the best interest of children in Malawi.

There is a lot of bitterness once the subject of funding is brought up. Some ways of solving this issue have been proposed.

- The money allocated for the institutions must go straight from Treasury to their accounts. At present, the institutions do not have accounts of their own. Any money that donated to them or allocated to them goes to the Ministry's account. Sending money to institutions directly will reduce the incidences of re-allocating the money for other uses. The institutions will be able to plan better for the use of the money. However, this used to be resisted by the Ministry Headquarters. Recently, it has been accepted and it may be implemented soon.
- Unless the Ministry respect the needs of the institutions, and refrain from redirecting funds meant for the institutions to other programmes, must be run and managed by NGOs. They have less bureaucracy and they can better protect, defend and implement the rights of juveniles.
- The Ministry should cede some of its responsibilities to other Ministries better equipped to deal with such responsibilities. For example, the education of the juveniles must be left entirely in the hands of the Ministry of education. This Ministry must send its teachers on secondment to the institutions; provide books and teaching aids, etc. This will allow juveniles to enjoy the benefits of free primary education like ordinary children of Malawi. This move was well

supported by all sectors. The issue of Vocational training must also be left in the hands of the Ministry of Labour who can provide some of the training materials and toolkits.

- The Ministry must work in partnership with parents, communities, NGOs, Religious leaders, etc., in providing a better juvenile justice delivery system. The Ministry can no longer take all the responsibilities, especially with its present economic status.

These measures are not exhaustive. Whatever ideas emerge, and whatever funding procedures are to be put in place, the aim should be to ensure that the institutions are efficiently and effectively running, and that the rights of juveniles are respected and protected.

3.6 STAFFING

Both institutions are badly understaffed. They lack professional staff who are conversant with matters of juvenile justice and who can deal with difficult adolescents.

At Chilwa Approved School there are 22 members of staff; this includes 2 teachers, 2 social workers, 2 tailoring instructors, 1 agriculture instructor, 1 bricklaying instructor, 1 accounts clerk, 2 cooks, 3 watchmen, 5 labourers and others. The school has no an instructor in carpentry and joinery since 1998. This is an easily marketable trade but it is not offered at present. There is need for additional teachers to cater for Secondary education. There are four juveniles currently doing their secondary education at Naisi Community Day Secondary School, which is situated about 6 km away from Chilwa Approved School.

The juveniles need a lot of support in homework, as their primary school education at the institution did not adequately prepare them for secondary education. The institution is currently organizing a night school, which is run by from the nearby Katamba Primary School. Six juveniles attend the night school and their fees are paid by their parents whose response was described being good.

Mpemba Boys' Home has about 30 staff members. There are two academic teachers, three instructors in tailoring, bricklaying, and carpentry and joinery. There are two social welfare officers and the rest is made up of supporting staff. There are no instructors for agriculture, tinsmith and leatherwork.

Most of the teaching staff undergoes introductory training in the courses they are to teach; these courses are organised by the Ministry of Gender. Those teachers coming from the Ministry of Education do not have any training to help them through the transition; such training is strongly recommended. There is also a need to have refresher courses to help teachers be familiar with newly introduced teaching methods.

Staff members at both institutions said that they do not feel encouraged because they are not promoted. Some of them have been working at the same post and grade for the past 20 years. While they agree that it is true that staff members must be creative in their duties, they do not have enough incentive from their employer, and they lack proper environment for creativeness.

Problems of understaffing may be addressed if the Ministry of Education seconds its teachers to the institutions and is responsible for training, promotion, and providing opportunities for creativeness. The institutions may also open themselves up to the services of part time qualified counsellors, instructors and other teachers who wish to work there. So far, the needs of remanded juveniles and those ordered to stay at the institutions for indeterminate periods are neglected, hence the need for external help. There is insufficient training in the institutions for juveniles. Staff at the institutions does not have adequate training in the needs of adolescent children.

4 A WAY FORWARD

The topic of juvenile justice is a complex one. It involves many issues such as delinquency, prevention, law enforcement and adjudication, and rehabilitation. One cannot make recommendations in an individual aspect as all these are tied in together. While this research focuses on post-trial matters, other stages will be mentioned and discussed to better come up with an effective system of the delivery of juvenile justice.

Malawi inherited its current legal system from the colonial era, whose criminal justice systems were retributive and punitive in nature. At the beginning of the 20th Century, emphasis was placed on the welfare approach that focused on re-education and reform through institutionalisation. Under the welfare approach to juvenile justice, the presumption of innocence was not relevant because there was no intent to prove the guilt of the juvenile, nor to punish him. The intention was to help and treat a juvenile; hence, there was no need to emphasise on some trial procedure, e.g. the right to defence.

This was re-assessed in 1967 when the case of **Re Gault**²⁰ was decided. This case involved a juvenile who committed an offence in the United States of America in 1967. A United States Supreme Court judge, Justice Fortas, stated that,

“There is evidence in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children”.

It was established that young offenders were treated as criminals in reality but they were not accorded the advantages that the law accords to those who are accused of crime. It was held in this case that juveniles were entitled to basic constitutional guarantees such as the

²⁰ 387 US 1 (1967).

right to remain silent, right to counsel, right to be presumed innocent until proved guilty, etc. This is referred to as the due process of law.

The adverse effect of such a welfare approach is that juveniles will be institutionalised under the pretext of prevention or assistance, without them taking the full responsibility of their crime. However, the immaturity of children and the best interest of the child still have to play a major role on any decision, which may be passed concerning a juvenile.

Many countries in the developing world had just acquired their independence at that time and therefore missed the importance of the due process of law. The result has been the continued use of both retributive and welfare approach. The young offenders are not found guilty of an offence but there are sent to institutions and prisons that treat them as criminals. However, the welfare approach has weakened, resulting in ‘over-institutionalisation of juveniles in under-resourced facilities’²¹. A child-rights approach to juvenile justice has emerged strongly in the past 20 years. This has laid down a foundation for reform. Time has come that the welfare and retributive systems be examined and alternatives to the formal justice system as well as institutionalisation must be explored and, where possible, implemented.

Some developed countries have come up with innovative ideas such as diversion and have reverted to restorative justice. Although the implementation of the CRC and the administration of juvenile justice has remained slow around the world, some countries have managed to move forward. A successful move in incorporating principles of restorative justice in juvenile justice systems has been made in New Zealand. New Zealand passed the Children, Young Persons and Families Act that involves families and communities in helping juvenile offenders through negotiation. The mechanism used is known as the ‘family group conference’, which is used as an alternative to taking children through the criminal justice system.

²¹Juvenile Justice: International Standards and Overview of Main Issues, excerpted from PRI Juvenile Justice Literature Review, June 2000

The Children, Young Persons and their Families Act of New Zealand is characterised by an emphasis on accountability and responsibility for crimes committed, as well as a preference for diversion from formal procedures and non-institutionalisation and community based penalties. Parents, victims and other persons are involved and the decision taken is agreed upon by all present.

The New Zealand experience has been met with a lot of international approval and some countries (such as Australia, Canada, the United Kingdom, Florida, Namibia and South Africa) have adopted the approach with developments and stages of implementation at different levels.

This section proposes areas that are to be taken into account in establishing a juvenile justice system in this country. The challenge facing the criminal justice delivery system in Malawi is that it has to work within the UN guidelines and at the same time develop a system that is appropriate to Malawi, and which reflects its local values, culture, traditions and its economy. To adequately face the challenge, a commitment in revising laws in order that they reflect the Constitution and other international instruments, as well as commitment to their implementation must be established. A broad approach in revising laws and practices is essential to allow for fuller cooperation in the delivery of juvenile justice.

4.1 THE BEST INTEREST OF THE CHILD

Article 3 of the Convention on the Rights of Children (CRC) establishes the basic condition of the CRC, with the principle that all actions and decisions concerning children shall take full account of his or her best interest. When a court of law considers a juvenile for an institutional order, it has to have in mind the purpose of such an order, and what it will actually achieve. In providing court social reports probation officers must ensure that their recommendations are made with the best interest of the juvenile in mind. However, the court and probation officers must not lose sight of the rights and interest of the victim. There must be a balance made between the rights and interest

of a juvenile and those of the victim. Such balance is achieved if principles of restorative justice are implemented.

Juveniles should not be sent to the reformatory institutions without being accused of a crime, or for prevention, supervision and control. Being disrespectful, disobedient and engaging in anti-social behaviour does not mean that the juvenile is a criminal. Section 22 of the CYPA must be repealed. If need be there should be different institutions to take up care and protection juveniles.

There is need for more challenges and responsibilities to be given to both institutionalised juveniles and those at risk in order that they may be adequately prepared for adulthood. This may require adopting programmes from other countries such as South Africa. Some programmes that may be useful are,

- Youth empowerment schemes aimed at providing an opportunity for young offenders to reflect on their behaviour and consequences of their actions. There are taught means of taking responsibility of their lives, positive decision-making and the importance of behaving within acceptable norms.
- The Journey programmes aimed at providing children at risk with challenges that enable them to understand the passage into adulthood and responsible citizens.

Restorative justice principles, which are supportive of the best interest of the child, must be pursued. One of the principles of the CRC is that participation in decision-making is essential for young people. Subjecting them to constant authority does not help develop them into responsible citizens.

4.2 CRIME PREVENTION

Each criminal agency must have a component of crime prevention. This will ensure that few children go through the criminal justice process, and if so, they will have had known the consequences of their offending. Resolution 30 of 1997 of the Economic and Social Council stated that:

“...Long term change is brought about not only when symptoms are treated but also when root causes are addressed. For example, excessive use of juvenile detention will be dealt with adequately only by applying a comprehensive approach, which involves both organisational and managerial structures at all levels of investigation, prosecution and the judiciary, as well as the penitentiary system. This requires communication, inter alia, with and among police, prosecutors, judges, magistrates, authorities of local communities, administration authorities and with relevant authorities of detention centres. In addition, it requires the will and ability to cooperate closely with each other.”²²

According to the Riyadh Guidelines, an effective prevention programme must be done on three levels. Primary prevention involves general measures to promote social justice and equal opportunity, thus tackling root causes of offending such as poverty. Secondary prevention involves specific measures to assist children who are at risk such as those with non-caring parents. Tertiary prevention involves schemes to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending ²³. Prevention and reintegration are linked and must be considered together. The juvenile justice system in Malawi has focused more on reintegration by providing for counselling and vocational training.

To implement such an all-inclusive approach, community based and family focused initiatives must be developed. This must include giving children positive values through education and adequate standards of living, and enhancing the family’s responsibility for the welfare, protection and upbringing of their children. There must be avoidance of recourse to formal proceedings and focus on community based remedies and penalties.

²² Economic Social Council Resolution, 1997/30, at the 36th Plenary Session held on 21st July 1997.

²³ Innocenti Digest at p15

One crime prevention scheme has been put into practice in England where the Prison Service, together with the Police and Probation Services visit schools in those areas where young people are considered as being at high risk of being offenders. This programme consists of having a reconstruction of a prison cell or a room at an institution at where juveniles are incarcerated. The reason for the reconstruction is to help would-be offenders know what would happen to them and how they would live. This has succeeded in reducing the numbers of offending juveniles from those at high risk.

Another programme that is in place in one prison, HM Prison The Mount, in Hemel Hempstead, is KOOP – Keep them Out Of Prison. Although this programme has not yet been approved by the Home Office, it may be of interest to Malawi. If a juvenile having committed a minor offence and having been diverted, re-offends again on a minor offence, he will be treated to a taste of prison life for one day. He experiences the indignities of being registered, kitted out, lock up and eating prison food for one day before being discharged in the evening. This “shock treatment” is reported to have a good impact in de-romanticising prison life and exposing the juveniles to harsh realities of the consequences of crime.

4.3 CRIMINAL RESPONSIBILITY

The age at which juveniles are able to take full responsibility of their criminal actions is the one when juveniles understand the social consequences of their dangerous conduct, and the significance of the punishment applied to such unsociable behaviour. Mere understanding of wrong does not satisfy this definition. Merely doing an act that is against the law does not necessarily mean that a person is guilty of an offence. If such a person acts with intent that is required by law, without duress or undue influence, then he is guilty of the offence. It has to be born in mind that in cases involving children this is often more important than what the child did. Understanding this basic concept will facilitate a proper delivery of juvenile justice by all concerned. Fewer juveniles will be going through the formal system.

There is need for training of professionals in this particular area at the conceptual level as well as for implementation.

Currently the age of criminal responsibility is 7 years. A proposal was put forward to increase the age to 10 years at the Time for Reform Seminar in November 1999. This has not yet been done. It is essential that the minimum age of criminal responsibility be changed, as the age of seven is far too young for taking up full criminal responsibility. The law must be repealed as soon as it is practical to do so.

4.4 UNDERSTANDING THE RIGHTS OF CHILDREN

Understanding the rights and needs of children is a very important factor. While there is a degree of understanding of these rights among those who work with children, more should be done to fill the gap between knowledge and actual practice, e.g. training special magistrates, police officers, probation officers and prosecutors. These will then implement the law with due regard to international norms and standards and constitutional requirements, particularly in cases of children in conflict with the law.

4.5 INTER-AGENCY CO-OPERATION

Efficient and effective delivery of juvenile justice can be achieved by an approach that is inclusive of all stakeholders. An Inter-agency co-operation (IAC) can be established. Inter-agency co-operation is a way in which various agencies involved in the criminal justice process can explore and develop ways to work together, to maintain and improve the effectiveness and efficiency of both the separate agencies as well as the administration of criminal justice as a whole. Some of these agencies are the police, local authorities, offenders and victims, NGOs, the judiciary, prisons, social welfare office, lawyers associations, the Director of Public Prosecutions, etc.

The IAC members must meet regularly and visit prisons and reformatory institutions together. This will enhance communication and partnership, hence avoiding the pointing of fingers, and allowing constructive criticism. The objectives of such meetings include; to reduce delays in the administration of justice, improve case

management and transfer and retrieval of information, improve adherence to constitutional standards, develop measures for crime prevention and community participation, clear misunderstandings and encourage the discussion of strengths and weaknesses in the administration of justice.

Criminal justice agencies have their own role and agendas, but they should all work towards the same goal: the administration of justice for all. Most criminal agencies are inter-dependent, and they cannot exist without each other. IAC should not be of a temporary measure, but must be a part of the daily work of the agencies. This should not require external funding. For example, Court Users' Committee meetings are a type of IAC. Court Users' Committees are made up of all those who are involved with the daily work of the courts in regions or districts.

Informal agencies like the 'chief's court' may be co-opted in these meetings to ensure that the voice of local leaders is heard. A chief's court is a forum that has the chief as its arbiter, and they hear cases with the help of village elders. These 'courts' follow the principles of restorative justice, as they aim to minimise the damage done and encourage the juvenile offender to take responsibility of the consequences of his crime. This is essential especially in cases where diversionary options are to be initiated.

4.6 FAST-TRACK PROCEEDINGS

There is need to streamline and accelerate the process between the commission of a crime and the final order by the court, or the completion of the determination or trial process.

There is further need to overcome fragmentation between community based youth programmes, such as the probation and social programmes, thus facilitating their incorporation in a well co-ordinated comprehensive programme of juvenile justice with a wider application. Reduced delays will enhance the rights of juveniles in institutions. Again there is need to train special police, prosecutors and magistrates.

4.7 POLITICAL WILL

There has been a lot of emphasis on use of imprisonment as a last resort, and for a short period. The Minister of Gender, Youth and Community Services also said that these institutions are temporary, they should not be permanent. However, political will, though it is necessary does not cover thorough planning and implementing. It is temporary because it is affected by the attitude of the public. Through inter-agency cooperation, politicians must be held to the commitments they have made. Furthermore, political will must be utilised while it is still fresh in the minds of those concerned.

4.8 PUBLIC ATTITUDE

It is essential to change attitudes towards children in conflict with the law. In the field of juvenile justice, public opinion plays an important part. Therefore, it is essential to positively influence such opinion to properly gain support for any changes that may be implemented.

Judicial officers, law enforcement agencies and the community have to understand and accept that the majority of the juveniles offenders sent to institutions or prison are best dealt with in their communities. The purposes of punishment need to be understood by all stakeholders in the criminal justice system. Such understanding will lead to the acceptance of restorative justice principles, and therefore fewer juveniles will end up in the institutions.

Conflict of interest has always been there between the interests of the victim and that of the public, against the interest of the juvenile offender. This conflict can best be dealt with by taking firm action in dealing with juveniles, while their the rights of the juvenile are respected. The use of restorative principles will enable a balance between conflicting interests to be achieved.

Public opinion can be tackled in the following manner,

- Visits by magistrates to the institutions in order to sensitise them to the reality of the conditions in which juveniles they have sent there are kept. This may then encourage them not to readily make approved school orders.

- Regular visits by NGOs and other associations in order to sensitise the community, provide services and act as informal mediators between the juveniles and the administration.
- Use the IAC to devise a public campaign, which involves sensitising the community and seeking support for innovative measures that are being implemented²⁴.
- Utilising the findings of researches that have been conducted in the area of juvenile justice, at both national and international levels.

Such initiatives can help to establish a wider understanding of juvenile justice, thus enabling the implementation of change. Furthermore, it will help refocus the approach to juvenile justice from fighting the rise in juvenile crimes, to promoting the delivery of juvenile justice.

4.9 REGULAR INSPECTION OF INSTITUTIONS

The needs for offending children in housing, health and education services must be revisited. There must be systematic inspections by Health, Housing and Education inspectors. NGOs and the community may act as independent inspectors and must report on the conditions of the institutions.

4.10 THE ROLE OF THE COMMUNITY

There must be a close and well co-ordinated approach between the community and custodial centres. Communities can be categorised in three groups; victim community, relatives and guardians of juveniles, and communities surrounding the institutions. All these have different needs and expectations and therefore their roles must correspond to those needs and expectations.

A well co-ordinated approach must include information circulation prior to the institutions, and once placement has been made, the community must be involved in the design and implementation of some of the training plans, and the community must be involved fully

²⁴ UNICEF is currently running a Juvenile Justice Campaign through radio debates. This is being produced by The Story Workshop, an NGO which focuses on civic education through mass media.

in the preparation and the reintegration of the offender back into the community.

4.11 THE ROLE OF SOCIAL WELFARE

While social welfare services are essential to the development of this country, there has been much emphasis on remedial and short-term approaches to those in need or in distress. The result of such an approach has caused social welfare services to neglect its responsibilities in terms of systematic and institutional change, as well as the positive integration of all people in overall development. It has been stated that,

“One of the basic premises of Developmental social welfare is that anticipatory and preventive measures should constitute a major aspect of all developmental planning and that the preservation and enhancement of the quality of life should be the foremost criterion of all development”²⁵

Social welfare services are expected to solve any problems and provide relief where it is needed. The public are just there as onlookers.

However, social welfare services must achieve more, by adopting the some of the following measures;

- Remedial, as well as preventative measures should be part of its overall approach.
- It must work in partnership with the population at large, and strong emphasis must be put on the population solving its own problems. Furthermore, it must promote and advocate for activities by the nation, for the nation.
- It must acquire the optimum utilization of available resources, including the participation of the people who are beneficiaries to its programmes. For instance, people must work towards proper functioning of social institutions as well as work

²⁵ From an Abstract filed in Mpemba Boys' Home Social Policy File

towards change and modification of such institutions where need arise.

- Use professional persons available and have a wide selection of persons with knowledge, values and skills in the activities in which it is engaged.

It must be emphasised that developmental social welfare emphasises on change, partnership, justice and development of human potential instead of condescension, passive provision, segregation and negative labelling of marginal and needy people.

4.12 THE ESTABLISHMENT OF A NATIONAL JUVENILE JUSTICE FORUM

This body must oversee and co-ordinate the work of the new multi-professional system in matters concerning juvenile justice. The body must be responsible for setting up standards and monitor the implementation of the juvenile justice delivery system. This should not be statutory body to allow for flexibility in its work. To better have an impact in influencing law reform and policy formulation the judiciary must take a leading role. This should work together with the Board of Visitors and members of IAC. The NJJF must oversee trainings in areas where it is lacking, and co-ordinate prevention programmes²⁶.

4.13 REFORMATORY INSTITUTIONS

It must be accepted that a small proportion of young people will offend persistently. In that case, the institutions will best cater for those who seem to re-offend, with the hope of giving them a better chance to grow into responsible adults. Serious and persistent offenders may be placed in institutions. This should be a way of making the juvenile realise the seriousness of his offence, and encourage him to change his ways.

Good quality institutions supported by community-based programmes are essential to a successful juvenile justice system. Placing juvenile

²⁶ A National Juvenile Justice forum has already been formed, but has yet to start its functions.

offenders in an environment that provides discipline, structure, education and training, as well as programmes aimed at tackling offending behaviour and reducing offending, may give that particular juvenile a chance to break the offending cycle and regain control of his life.

4.14 LAW REFORM

The CYPA has to be amended to reflect a balance between the rights of juveniles and the rights of the victim and the community, age of criminal responsibility and preventive measures should be added into the CYPA. An effective justice system must ensure that justice is delivered for all concerned and that the best interests of all are served. This is the ideal. However, in reality, there must be a balance between interest of young offenders and victims or potential victims. That balance must be articulated in the form of an Act of Parliament.

4.15 APPROPRIATE RESPONSE TO JUVENILE OFFENDERS

There is need for constructive and appropriate response to an offending juvenile. Whether intervention is based on community or custodial measures, emphasis must be on taking firm action to prevent re-offending and allow for effective reintegration of the juvenile into society. Many juvenile offenders can be dealt with effectively in the community since they do not commit very serious offence.

As seen earlier juveniles offend because of different reasons and not all the reasons can be addressed at the institutions, prison or in the community. A balance must be reached at the individual offender as well as his background, to allow for an effective programme for that particular juvenile. Community orders are available and more could be introduced and supported by statutes. However, the effectiveness of such response lies in the ability to apply and enforce these orders.

4.16 SPECIFIC INTERVENTION

Intervention targeting such factors as the family, personal issues, social, health and education must be available in the community as well as in the institutions. The way of dealing with offenders will vary according to their needs. The offender must be encouraged to use his

time and opportunities positively. The primary aim is to facilitate the integration of the juvenile back into society.

4.17 THE ROLE OF PARENTS

Poor parenting is one of the contributing factors to offending by juveniles. Parents and guardians have a primary role in preventing offending and re-offending, supporting juveniles going through a trial process or reforming in the community and encouraging them to look at life positively. Such support will ensure that the juvenile does not feel neglected and that he has the full support of his parents/guardians even if he has offended. This may go to preventing them from going to institutions as well as avoiding re-offending.

4.18 ATTENDANCE CENTRES

An attendance centre is a place where offenders under the age of 18 may be required to attend and be given appropriate occupation or instruction under supervision, in pursuance of orders made by a magistrate's court or the High Court. Attendance orders will apply to those who have been previously sentenced to prison or detention centre, or those who have committed minor offences and ought to be diverted. This is part of community sentence, which, while respecting the right of the juvenile, it also shows that firm action has been taken. The attendance order can be performed to a number of hours, minimum hours are 12 and maximum for those below 16 is 24, and those above 16 is 34 hours. This order is meant to deprive the juvenile of leisure time, and is usually carried out at weekends or after school. The youth offices in each district may be used as the centres.

4.19 SUPPORT FROM OTHER SERVICES

In order to have a successful juvenile justice system, there is need for full support from other services, e.g. probation and social services, education, and NGOs dealing with children. Principles of restorative justice are better pursued and implemented with the help of probation services. The State must be committed to provide adequate funding for the administration of juvenile justice.

A successful juvenile justice system has to be supported fully by a strong education and social welfare system. Reaching the goal for reform of young people who are in conflict with the law is best done outside the formal criminal justice system as far as possible. Parents, social welfare officers, teachers, religious leaders and psychologists are to be at the forefront of the struggle. Courts, police and prisons must assume a secondary role.

In diversion programmes, it is the parents, teachers, social welfare officers and the community who are needed to carry out diversionary options. Ideal age for placement into institutions must be an age not lower than 14 years of age.²⁷ Decision for placement must be balanced with the need to maintain family contacts. Education and rehabilitation must be the main priorities. Such facilities should be small and with minimal security measures.

4.20 CONSULTATIVE WORKING GROUP MEETING

There is need to have a consultative group meeting that will discuss and use the findings of this research to map out a plan of action, and prioritise what areas ought to be tackled first. The meeting must be attended by all the stakeholders in the delivery of juvenile justice. This is designed to maximise participation and engagement by stakeholders so that the ownership of the process is promoted among all concerned.

²⁷ UNICEF & PRI Juvenile Justice in Malawi; Time for reform Seminar Report, November 1999.

5 CONCLUSION

To effect change in the way the two reformatory institutions are run, there is need to involve all stakeholders in the system. A four pronged approach; prevention, pre-trial, trial and post trial has to be closely coordinated to ensure that changes at any of these stages will not upset progress on the other. It is not possible to address problems faced by the institutions singly but to include all the stages of the system.

In dealing with problems in the institutions, it is necessary to look for and use creative and alternative approaches provided in the CYPA. The inadequacy of resources should not be used to detract attention from the real opportunities offered by the law. The law has been established to better deliver juvenile justice. Economic hardships should not be a justification for non-compliance with both national and international responsibilities.

On introducing new ideas and practices there will always be resistance to change as those who are affected by the changes are afraid of losing control in financial matters, in policy formulation, in the leading role, as well as fearing that the changes may not work. Whatever causes of resistance to change may be established, it should be borne in mind that the aim of such change is enhance performance and increase effectiveness of the delivery of juvenile justice.

There is need to reform the law, but having laws or reforming the same without commitment to implementation delays the system further, and does not achieve anything. Before a wholesome condemnation of the present situation is made, it is essential to explore and implement the laws on the statute book. This calls for intensive training for all those who are concerned, as well as training for special professionals in the police, judiciary, NGO community, legal practitioners, social welfare officers, prosecutions and community leaders.

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INTERNET AND WEB SITES VISITED

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APPENDIX A: INTRODUCTORY SPEECH TO THE CHILDREN AND YOUNG PERSON BILL, 1969 (Hansard Malawi Parliament, 6th Session of 1969, at p269-271)

The then Minister of Transport and Communications and Labour read the Bill. His speech is reproduced below.

“You will appreciate, Mr Speaker, that there is nothing new to Malawi in the concept of giving a high degree of legal protection to children and young persons; the present Bill merely consolidates the various provisions of the existing law. Whilst reinforcing those parts of it which experience has shown to be inadequate.

“I think it is important to stress that the spirit and fundamental principle of the Bill is that any restrictive or disciplinary measures it contains are of a reformative and protective, as opposed to a punitive character. The spirit is reinforced by Clause 4 which directs that every case must be handled with a proper regard to the best interest of the welfare of the individual concerned, that he must be removed from undesirable surroundings and that proper provision must be made for his education and training.

“The Bill repeats those provisions of the present Ordinance, which seek to keep children away from contact with undesirables and adult offenders, and to keep all, but the most unruly juveniles out of prison. As a consequence, all legal proceedings will be heard by a juvenile court convened under the special procedures of the Bill and not in ordinary criminal courts.

“I would draw your particular attention to the fact that any appeals against judgements, sentences, and orders made by the juvenile courts may be made by the juvenile, his parent or guardian to the High Court. Equally important is the provision that only the High Court may order corporal punishment.

“The provision creating a Board of Visitors, consisting of members (of whom one will be a judge or resident magistrate and the others will be representatives of the Ministries of Health, Labour, Education) is an important departure from previous practice. The Board of Visitors will have wide powers of control over juveniles admitted to approved schools once a juvenile court has exercised its powers. The Board of Visitors may, for example, cancel an approved school order or terminate it at an early date or revive a cancelled order if need be, and in rare cases it may order the imprisonment of unruly juveniles for a period of up to six months in the first instance. The overall effect of the Board of Visitors’ operations will be to enable matters concerning the welfare of juvenile offender, subsequent to the verdicts of the courts, to be taken out of the court and to be given the specialised and rapid attention, which is obviously necessary.

“The Bill continues the present distinction between juvenile offenders and those in need of care and supervision, but it provides an alternative to automatic committal to an approved school or home. It will now be possible, for example, to place a juvenile offender under the supervision of a probation officer, or a similar person appointed by the court while parents continue to bear the cost of his maintenance.

“Again, it will be possible for juveniles in need of care, control and supervision to be committed to the care of a ‘fit’ person who is willing to accept the responsibility. It is intended, therefore, to supplement the efforts of professional staff of the Social Welfare Department by enlisting the help of those who are able and willing to participate in probation and foster care service. In achieving this I look forward with confidence to getting willing support of religious, welfare and charitable organisations.

“The Bill also authorises some private institutions to care for juveniles. This provision may be of little immediate practical value, though it is possible that some institutions might care for a few girls and boys who in need of care, control and supervision. In short, the Bill provides a sound basis on which the probation and foster care

services of Malawi may be developed in the foreseeable future and I believe that it needs the support of all the members.

“Leader of the nominated members, Mr Blackwood, welcomed the Bill and supported it, and assured the Honourable Minister that he will get the necessary support to make it a success.”

**APPENDIX B: REGULATIONS AND RULES FOR
APPROVED SCHOOLS (Section 61(2) of the Children and
Young Persons Act, 1969)**

**APPENDIX C: TABLES FOR REMAND AND COMMITTALS
FOR CHILWA APPROVED SCHOOL AND MPEMBA BOYS'
HOME FROM 1994 TO 2001. Tables A and B**

**APPENDIX D: AN APPLICATION FOR INSTITUTIONAL
RELEASE IN ABSENTIA, 26TH January 2000.**

**APPENDIX E: FUNDING FOR THE INSTITUTIONS FOR THE
YEAR 2000-2001**