



Norwegian Embassy



THE CATHOLIC COMMISSION FOR JUSTICE AND PEACE
ARCHDIOCESE OF LILONGWE

END OF PROJECT EVALUATION REPORT FOR PROMOTING OF RESTORATIVE JUSTICE
THROUGH ADULT DIVERSION PROJECT IMPLEMENTED IN KASUNGU AND
NKHOTAKOTA

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Table of Contents

List of Tables	ii
List of Figures	ii
LIST OF ABBREVIATIONS AND ACRONYMS	iii
EXECUTIVE SUMMARY	iii
1. Contextual Background to the Criminal Justice System in Malawi	1
2. CCJP Lilongwe and the Adult Diversion Project	2
3. Project Implementation Area, Time Frame and Partners	2
4. The Concept of Restorative Justice and its link to Adult Diversion	3
5. Objectives of the Evaluation	4
6. Research Design Including Key Indicators	5
7. Methodology (Data Sources, Data Limitations and Timeline of Evaluation)	5
7.1 Data Sampling	6
7.2 Data Sources	6
7.3 Data Limitations	6
7.4 Evaluation Timeline	6
8. Study Findings	6
8.1 Reduction of the number of inmates in remand and detention and police cells and reduced backlog of cases	7
8.2 Increased Capacity of Key Criminal Justice Responders to enable Project Implementation	14
8.3 Improved Media Coverage and Raise awareness in order to Support and Promote Adult Diversion	17
8.4 Strengthening the legal framework of Adult Diversion in Malawi	19
8.5 The enhancement of Good Governance, Rule of law and Access to Justice as Pillars for CCJP and the Tilitonse Foundation	19
9. Best Practices, Lessons Learnt and Overall Conclusion	21
10. Limitations of the Evaluation	22
11. Evaluation Recommendations	23
12. Annexes	25
13. References	26

List of Tables

Table 1: A Summary of Diversion Interventions	13
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List of Figures

Figure 1: A Trend of Camp Courts	8
Figure 2: An offender who was trained in welding skills explains his satisfaction with diversion. 9	
Figure 3: Prison Capacity Analysis.....	12
Figure 4: Capacity Building	15

LIST OF ABBREVIATIONS AND ACRONYMS

CCJP	Catholic Commission for Justice and Peace
CP & EC	Criminal Procedure and Evidence Code
FGC	Family Group Conference
FGD	Focused Group Discussions
KII	Key Informant Interviews
PASI	Paralegal Advisory Service Institute
RBM	Results-Based Management
VOM	Victim Offender Mediation

EXECUTIVE SUMMARY

The Catholic Commission for Justice and Peace of the Archdiocese of Lilongwe (CCJP Lilongwe) with support from Tilitonse Foundation has been implementing a project on Promoting Restorative Justice through Adult Diversion. The Project was implemented for 13 months from the February

2019 to February 2020. The project was implemented in Kasungu and Nkhosakota districts focusing on 16 police formations, three magistrate courts and two prisons. The Project responded to the Commission's Access to Justice and Rule of Law Pillar while contributing to the Tilitonse Foundation thematic area of "Rule of Law".

The project goal was to fast track case proceedings and provide an alternative resolution platform for criminal cases by diverting petty cases out of the formal criminal system. The project specific objectives or key indicators were to achieve reduced number of inmates in remand detention and police cells and reduced backlog of cases at magistrate's courts through diversion of minor offences of adults; enhanced capacity of key criminal justice personnel; improved media coverage in order to support and promote adult diversion, and improved use of the legal framework on adult diversion.

The objectives of the evaluation included, *inter alia*, assessing the extent to which the project achieved its purpose and delivered on the intended results and outputs, drawing on lessons learnt, best practices and recommendations to inform future project design and programming; assessing the extent to which the project performed well and was good value for money, and assessing the likelihood of the Project and its activities to continue at district and community levels beyond the support received in the period of intervention.

In terms of methodology, the evaluation adopted a multi- method approach that combined both desk research and social-legal research methods. A documents review analyzed all the project related documents and the information was triangulated and complimented with key informant interviews and information obtained from focused group discussions. The evaluators adopted the purposive sampling technique and identified key informants for interviews and participants for the focus group discussions from the list of key responders and decision makers in the project implementation.

The evaluation findings were made by subjecting the project expected outputs and results to the criteria of relevance, efficiency, effectiveness, sustainability and impact. Thus each of the four project's key indicators was subjected to the five criteria. The evaluation has found that the project achieved its broader goal of reducing the number of inmates in remand detention, police cells and reduced backlog of cases at the magistrate courts by diversion of minor offences through conducting camp courts and implementation of the various diversion options. The project interventions reduced the rate of congestion by an average of 53% and further 439 suspects were diverted away from the criminal justice system representing 60% reduction in the backlog of cases.

It was also established through the findings that there was evidence showing enhanced capacity of 210 key criminal justice personnel involved in the project to carry out diversion even after the end of the project. The increased capacity of the project partners increased the knowledge on diversion to the extent that diversion is continuously implemented without difficulty.

Citizen participation in governance processes, including access to justice, was enhanced through awareness raising sessions, outreach sessions and media coverage. There were 3 newspaper articles published, 8 radio programs and documentary which demonstrated that there was improved media coverage supporting the promotion of adult diversion. However, it was established that the activities that were undertaken to achieve improved use of the legal framework on adult diversion as a key indicator did not *per se* speak to the enhancement of the legal framework as that would ordinarily have entailed lobbying for law reform or revision to clearly accommodate the issue of adult diversion in the applicable legislation.

The evaluation concluded that screening was a key intervention as it enabled the efficient and effective implementation of diversion options such as camp courts, victim offender mediation and renewal of remand warrants. It was useful to adopt different intervention to target various groups as camp court were more directly related to reducing congestion in prisons whilst mediation enable the reduction of number of suspects in police cells. The inclusion of diversion registers also enabled the tracing of results and monitoring of the kind of cases that were diverted. It was also beneficial to adopt the partnerships model in project implementation as a number of institutions working in the criminal justice system collaborated to successfully implement the project. Further, periodic monitoring and evaluation through case reviews and tracing of indicators enabled the successful implementation of the project.

The project did align to the strategic areas and objectives of the Tilitonse Foundation by directly impacting on enhancing good governance through enabling access to justice for persons in detention. The project further enhanced citizen participation in access to justice issues and broader governance through awareness raising and training of community leaders.

The evaluation has further made recommendation to inform future access to justice programming. It is recommended that the screening of cases should include a list of non-divertible offences to ensure that serious offences are not included as part of diversion. Further, the camp court can be enhanced through increasing the frequency of the courts and also collaborating with the Legal Aid Bureau to ensure that legal practitioners are available to offer representation to suspect who need representation. It has further been recommended there be mediation skills training for social workers and paralegals to enable them acquire specialized skills required in mediation. Further, skills building can be successfully conducted with partnering with community college and other entities that offer specialized training.

EVALUATION REPORT FOR PROMOTING OF RESTORATIVE JUSTICE THROUGH ADULT DIVERSION PROJECT¹

1. Contextual Background to the Criminal Justice System in Malawi

Malawi as a country attained its independence from the British in the year 1964. Two years later, in the year 1966, it became a Republic. From 1966 to 1994, the country was governed by the 1966 Republican Constitution which among other things provided for a one-party state and government. This constitutional framework allowed for the existence of two legal frameworks, the High Court System and the Traditional Courts System. The two systems operated concurrently with overlapping jurisdictions in some cases. For instance, both systems had jurisdiction over criminal matters.

However, in 1994, Malawi adopted a new constitutional order, the 1994 Republican Constitution which in essence provided for multiparty system of government. Among other things, this new constitutional order abolished the Traditional Courts System that prevailed in the old constitution and provided for the High Court System as the only legal system. Thus, all the traditional courts were abolished and fused into the High Court System. However, the inevitable result of this paradigm shift was that the new court system became overloaded with cases as all cases which were previously handled by the traditional courts were referred to these new courts. This resulted to a great surge in the number of suspects and an already stretched judiciary could not cope with the additional load.

Further, in the process of integrating the two systems into one system, there were some administrative and operational problems which also contributed to the rise in the number of suspects awaiting trial both at the prisons on remand as well in the police cells. Some of the problems were the following;

- Low number of judicial personnel relative to the volume of cases
- Some court structures were non-functional
- Rising of crime rate generally
- Some arrests are not made on merit
- Some offenders fail to apply for court bail due to ignorance of court procedures

Thus, all these inefficiencies led to high levels of congestion in the police formations and prisons, making it impossible for the country to meet minimum requirements for prisoners' accommodation, sanitation and basic hygiene. They also inadvertently resulted in the violation of the accused persons' right to fair trial which encompasses the right to be tried within a reasonable time.²

On the other hand, criminal practice in Malawi has often focused on retributive justice with an emphasis on punishing offenders for their crime. Modern day criminal law practice has shifted from this approach. It is instead focusing on restitution, restoration and reintegration. Punishment for offences must consider the impact of the punishment on both the individual and society. The

¹Implemented in Kasungu and Nkhosakota Districts

² Section 42(2)(f)(i) of the Constitution

previous approach of subjecting all cases to trial has also resulted in a serious backlog of cases. This has delayed disposing of cases which in essence is against the rule of law and an increase in the number of suspects held in custody in the course of their trial. Significant resources are expended to sustain people in custody including those unable to meet the bail terms set. These resources could be directed elsewhere if options other than prosecution are considered.

2. CCJP Lilongwe and the Adult Diversion Project

CCJP Lilongwe as an institution has an access to justice and rule of law pillar which focuses on ensuring that vulnerable groups access justice without any impediments. When the institution noted the high levels of congestion in the prisons and the police detention cells as well the huge backlog of cases in the courts, it developed a proposal aimed at addressing this problem. The proposal advocated for the tackling of the congestion and backlog issue. The resultant project aimed at enhancing the criminal justice system by reducing prison congestion through regular monitoring of remandee expired warrants, screening remandees with petty cases for camp courts, regulating case overloads through facilitating a quicker restorative justice in police formation and magistrate's courts by diverting petty cases to the informal justice system.

With funding from OSISA, they piloted the project in Lilongwe district targeting police formations and Maula Prison for possible decongestion from the year 2012 to 2017. Borrowing from the successes of the pilot project, CCJP sought and were granted funding by Tilitonse Foundation to roll out the project to Kasungu and Nkhokotakota districts targeting 16 police formations, two prisons and the three magistrate's courts. The Foundation further provided technical support, project implementation advice and disbursed the funds to CCJP Lilongwe.

3. Project Implementation Area, Time Frame and Partners

The project was implemented in Kasungu and Nkhokotakota districts, particularly focusing on 16 Police Formations.³ It also targeted three magistrate courts, Kasungu, Nkhokotakota and Nkhunga Magistrate courts, and two prisons, Kasungu and Nkhokotakota Prisons. The Project responded to the Commission's Access to Justice and Rule of Law Pillar while contributing to the Tilitonse Foundation result area of "Rule of Law". The project was implemented from February 2019 to February 2020 and it was to the tune of €100,000.

CCJP Lilongwe implemented the project in partnership with various institutions. The following institutions were direct district partners in the project implementation:

- **The Judiciary** whereby the Department of Community Service was very crucial in as far as monitoring the compliance to adult diversion sanctions were concerned. The

³ *The Police Formations in Kasungu comprising of Kasungu Police Station, Mtunthama Police Unit, Bua Police Unit, Chigodi Police Unit, Kamboni Police Unit, Shayona Police Unit, Mdonda Police Unit, Lifupa Police Unit and Chambwe Police Unit The 7 Police Formations in Nkhokotakota include Liwaladzi Police Unit, Msenjere Police Unit, Nkhunga Police Station, Nkhokotakota Police Station, Mwansambo Police Unit, Mkaika Police Unit and Benga Police Unit*

magistrates were also very crucial in the actual diversion of petty cases and conducting camp courts, prison and police cell visits.

- **Malawi Police Service:** the Officers in Charge, Station Officers, Investigators, Prosecutors, and Victim Support Units Officers played their various roles during arrest, assessment of the case docket, prosecution, and facilitating the adult diversion programmes.
- **Ministry of Gender:** the Social Welfare Department provided Social Workers to the project who were assisting in screening petty cases and facilitated the adult diversion programmes.
- **Paralegal Advisory Services Institute (PASI):** PASI is responsible for monitoring criminal justice administration and were instrumental in screening remandees' who qualified for camp courts.
- **Malawi Prison Service:** the two prisons of Kasungu and Nkhotakota provided the platform where diversion of petty cases was carried out through camp courts.

4. The Concept of Restorative Justice and its link to Adult Diversion

The concept of diversion is derived from the principles of restorative justice. Restorative justice is a different way of looking at crime and justice which works alongside the formal justice system. It creates opportunities to address the hurts and the needs of victims while holding the offender accountable in an affirming manner, so that relationships are restored, including those with the community.⁴ Restorative justice has three core concepts which make it different from other forms of justice. The core concepts of restorative justice philosophy are conflict resolution, accountability, and the active involvement of relevant stakeholders in the decision-making process.⁵ Concepts of restorative justice give priority to repairing the harm done to victims and communities, and ensure offender's accountability in terms of assuming responsibility and taking action to repair the harm. It works on the premise that the clients in the justice system include the victim, community and the offender, and that each should receive "balanced attention" and gain tangible benefits from their interactions with the system.

Since crime harms the victim, offender and the community at large, restorative justice, therefore, helps to restore an upset that is caused when a crime has been committed. It promotes the ownership of the justice process since the community is involved in deciding how the matter is to be resolved without using the formal way of resolving it (court) thereby promoting peace among agitated parties. It further offers victims, offenders and community at large a chance to work together in seeking ways of healing breaches, redressing of imbalances and restoring of broken relationships⁶. The involvement of community ensures the ownership of the justice process thereby guarantying accountability in justice process. It also makes integration process of offenders easy since the offenders interact with others freely and are not removed from their

⁴ Restorative Justice Centre, 2003, *Transforming Justice: "the restorative option"*, Sida, South Africa, p 6

⁵ IMC 1996:24; Umbreit 1994:2 in Steyn F. 2005, *Review of South African Innovation in Diversion and Reintegration of youth at Risk: Open Society Foundation for South Africa*, p 13

⁶ Restorative Justice Centre, *op cit*, p 6

community.⁷ Restorative justice defines the conflict as part of the process, it focuses on the future relationships of stakeholders, serves interests of both the victim and offender and agreements made are enforced by parties involved.⁸ Diversion is a typical manifestation of the principles of the restorative justice process.

Diversion is defined as “the channeling of prima facie cases from the formal criminal justice system on certain conditions to extra judicial programs, at the discretion of the prosecution.”⁹ The principle for the process of diversion remains making the offender accountable and responsible for his/her actions while also ensuring that he/she is provided with an opportunity to rethink his/her life without getting a criminal record in cases where the conditions for diversion are complied with. The concept is based on the theory that processing certain criminal acts through the justice system may do more harm than good. The basis for the diversion argument is that courts may inadvertently stigmatize someone for having committed relatively petty acts that might best be handled outside the formal criminal justice system.

Diversion programmes are designed to release the overburdened courts and overcrowded correction institutions so that courts and correction institutions can focus on serious offenders and offences. The offenders that are considered for diversion are supposed to undergo appropriate reintegration programmes and services. It is part of restorative justice aimed at promoting peace in the society.

Diversion may be implemented in a number of ways. It may be implemented with respect to child offenders only in which case it is referred to as child diversion. When diversion is targeted at adults, it is referred to as adult diversion. Diversion may be carried out at any stage of a case. It may be before the trial, during the trial or after the trial. As the target detainees which the CCJP wanted to benefit from this project were adult offenders, the project advocated for adult diversion.

5. Objectives of the Evaluation

The evaluation was aimed at achieving the following seven objectives:

- 5.1 To assess the extent to which the project achieved its purpose and delivered on the intended results and outputs.
- 5.2 To draw lessons learnt, best practices and recommendations to inform future Project design.
- 5.3 To independently verify record of achievement as recorded through Project progressive reports and as defined in the project’s log frame.
- 5.4 To assess the extent to which the Project performed well which includes considering how well the Project met its objectives and how well the Project applied value for money through application of the principles of effectiveness and efficiency in relation to delivery of its outcome

⁷ Steyn, et al, op cit, p 13

⁸ Abbetman, L, et al (1990), *Street Law: A Course in Practical Law* (4th Edition), p 41

⁹ Muntingh, L. M., and R. Shapiro, *NICRO Diversions – An introduction to diversion from the criminal justice system* (Cape Town: NICRO; 1997)

5.5 How well the Project aligned with CCJP Lilongwe's and Tilitonse Foundation's goals and objectives and the contribution it had to the foundation

5.6 To assess the likelihood of the Project and its activities to continue at district and community levels beyond the support received in the period of intervention.

5.7 To appraise the Project Partnership Approach (including management structures, communications and relationships).

6. Research Design Including Key Indicators

A summative evaluation was conducted at the end of the implementation of the adult diversion program using the results-based management (RBM) framework. RBM is defined as orienting all action and use of resources towards achieving clearly defined and demonstrable results. Thus, the evaluation will assess the extent to which the expected outputs and results for the project were achieved using the criteria of **relevance, efficiency, effectiveness, sustainability and impact**.

The key indicators for the project were;

- a) Reduced number of inmates in remand detention, police cells and reduced case backlogs at the magistrate courts.
- b) Enhanced capacity of key criminal justice personnel in effectively carrying out diversion
- c) Improved media coverage in order to support and promote adult diversion
- d) Improved use of the legal framework on adult diversion

7. Methodology (Data Sources, Data Limitations and Timeline of Evaluation)

The evaluation adopted a multi- method approach that combined both desk research and social-legal research methods. A documents review analyzed the records of prison and police remandee record books, diversion case registers, decisions of court during camp courts, guidelines and various tools developed for magistrates, prosecutors, social workers and all key stakeholders. The documents forming the legal frame work for Adult Diversion were similarly consulted. The 1st, 2nd and 3rd Quarterly Projects Reports and the Tilitonse Foundation Project Close-Out Report were consulted. The review enabled the consultants to obtain data and statistics on the number of cases taken through diversion, the interventions that were put in place and the outcomes of the interventions.

The data from the documents review was triangulated and complimented with Key Informant Interviews (KII) conducted with Magistrates, Police Officers-In-Charge, Prison Officers-In-Charge, Paralegals, Social workers, Police Diversion Coordinators, CCJP Field Staff, offenders and victims as well as Focused Group Discussions (FGDs). The key informants enabled the consultants to assess the extent to which the petty offenders eligible for diversion were taken through the diversion route; the screening of the suspects in the police and prison cells, the camp courts, the prison and police cell visits, the facilitation of the various diversion programs, and the impact these measures had on police and prison population and whether the efforts led to decongestion of police and prison cells.

7.1 Data Sampling

The evaluators adopted the purposive sampling technique and identified key informants from the list of key responders and decision makers in the project implementation. The purposive sampling technique was deliberately made to achieve homogeneous sample whose units share the same traits, in this case, same legal backgrounds, similar job occupations and similar exposure to the project implementation. While it is difficult to determine a definite sample size in qualitative research, data collection can be stopped when the researcher stops learning any new insights, a saturation point. Guest, Bunce, and Johnson (2006) propose that saturation often occurs around 12 participants in homogeneous groups. The consultant therefore conducted 33 qualitative interviews to cater for any possible heterogeneity across the study subjects who were, to a larger extent, homogenous. The samples consisted of the key criminal stakeholders from Judiciary, Malawi Prison Service, Malawi Police Service, PASI and others from CCJP and project beneficiaries (Refer Annex vii - Sample Units).

The Consultants further held Focused Group Discussions to gather information from beneficiaries and relevant stakeholders. The FGDs enabled the consultants to evaluate the impact that the project had on the communities and beneficiaries. Further, the discussions enabled the consultants to evaluate the extent to which there was increased capacity for the criminal justice responders and media coverage to raise awareness on adult diversion. 10 Social Workers subdivided into 2 groups; 3 Digital and Print Media Personnel; 4 Community Leaders; 4 offenders and 4 Victims and 4 Family Members were part of the FGDs.

7.2 Data Sources

The Consultant has used 5 different data sources (Refer Annex viii).

7.3 Data Limitations

The main data limitation was the increased cases of Covid-19 and the ease of spread where we have a large number of participants gathering. Without compromising on the significance of the data, we reduced the number of participants to be interviewed and engaged in FGDs. There was also poor record keeping at the Court in relation to cases handled through camp courts. Most files could not be traced and these were key data sources.

7.4 Evaluation Timeline

The evaluation was planned to be carried out within eight weeks from the 21st of February 2020. However, the Covid-19 pandemic emerged in between and disturbed the initial timeline for the carrying out of the evaluation owing to Government introduction of preventive measures. Finally, the evaluation process had to be carried out within a period of the two weeks, all the processes planned to end on the 15th of July 2020. The consultants took into account the Covid-19 prevention measures during the conduct of interviews and meeting with the purpose of protecting all participants in the evaluation process.

8. Study Findings

8.1 Reduction of the number of inmates in remand and detention and police cells and reduced backlog of cases

It was observed that there were high rates of congestion in police and prison cells before the implementation of the project. The prison capacity for Kasungu is 200 however, the number of inmates in detention, before the implementation of the project, ranged between 400 to 480 inmates depending on the season.¹⁰ Similarly, the prison capacity for Nkhonkhotakota is 250 however the number of suspects held in detention ranges from 350 to 500 suspects. Further, the 16 police formations also keep a large number of inmates at almost triple the capacity of the cells. There is also a huge backlog of criminal cases before the Court as all cases are referred to the Court to be taken through the formal criminal justice system and the Magistrates do not have adequate court rooms to seat for hearings.

A complete decongestion of the two prisons, the police cells and reduced backlog of cases will entail bringing the numbers below the capacity of the prisons and the police. However, the objective of the project on promoting restorative justice through adult diversion had the broad objective of **reducing the number of inmates** in remand detention, police cells and reduced backlog of cases at the magistrate's courts through diversion of minor offence of adult offenders. The evaluation interrogated the extent to which the objective was achieved through the criteria of relevance, effectiveness, efficiency, impact and sustainability of the diversion options¹¹.

8.1.1 The Relevance of Screening Cases, Renewal of Warrants, Camp Court, Victim-Offender Mediation, Family Group Conferencing and Skills Building towards Decongestion

A number of diversion processes and diversion options were implemented in Kasungu and Nkhonkhotakota and these include: case screening, renewal of remand warrants, camp courts, victim-offender mediation, family group conferencing and skills training. The relevance of the interventions is interrogated with aim of determining the efficacy of the interventions as well whether the project achieved its desired goals as planned.

Firstly, it is noted that about **180** cases were screened through daily screening processes, where 159 were diverted through these options: 74 suspects were given bail, 61 had their cases dismissed by the magistrates, another 24 suspects on remand had their expired remand warrants renewed and appeared before the magistrate chambers, thus a quick justice was effected on the suspects.

However, there was no set target for the cases to be screened under the project hence the difficulty in measuring whether the project had achieved the set number of cases planned to be screened. In terms of relevance, the screening of cases was very useful towards ensuring that appropriate cases were identified for diversion. A screening form was provided with guide questions on the background of the suspect and the suspected offence.¹² The form was also very

¹⁰ *There is high crime rate during the harvesting season.*

¹¹ *These include case screening, renewal of remand warrants, camp courts, victim –offender mediation, family group conferencing and skills building*

¹² *Refer to annex*

useful as it contained a section for the details of the victim and the circumstances of the offence. The social welfare officer would then choose the appropriate diversion option depending on history. Screening was done on a daily basis and this was vital. However, the screening of cases did not directly lead to decongestion but enabled the successful implementation of camp courts, mediation and family group conferencing.

Secondly, camp courts were conducted under the project with 14 camp courts undertaken against the planned number of 10 thus the project achieved its minimum number of courts planned to be held. In terms of relevance, camp courts were very useful towards decongestion of prisons as a large number of cases were held during a single hearing.¹³

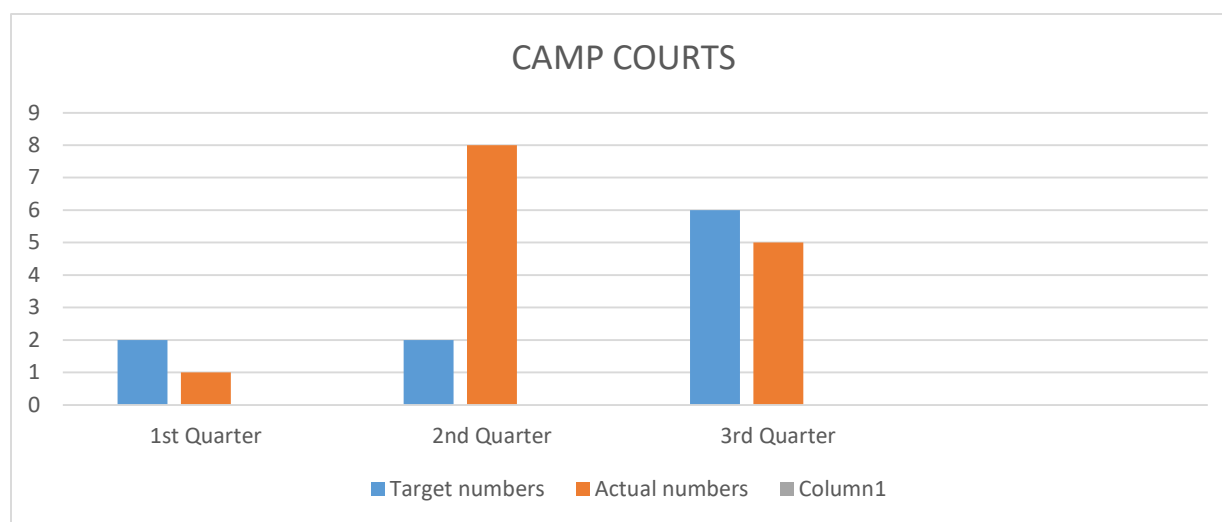


Figure 1: A Trend of Camp Courts

As already noted, 10 camp courts were planned to be undertaken during the implementation of the project however 14 camp courts were undertaken. A total of 132 suspects were released and other granted bail during the hearing of camp courts. A total of 70% of the accused persons were represented by paralegals during the hearing of their bail application. Of the 2 camp courts planned to be undertaken in the first quarter only 1 was conducted due to a sit in at Kasungu Prison. Of the 6 camp courts that were planned for the third quarter only 5 were conducted. The inclusion of a third Magistrate Court increased the number of the actual camp courts conducted in the second quarter. The project successfully implemented more camp court than planned thereby increasing the number of cases diverted through the hearings.

The release of a large number of petty offenders on bail led to decongestion of prisons and reduced backlog of cases at the Court. Further, the Court was able to successfully renew remand warrants and release suspects who had over-stayed in custody during the camp courts thereby reducing congestion.

Thirdly, Victim Offender Mediation (VOM) and Family Group Conferencing (FGC) were also useful as these were implemented at the police cells immediately after arresting a suspect. About 307 cases were diverted through the processes. That had an impact of reducing congestion as ideally

¹³ The substantive hearings were not done because there were no witnesses allowed in prisons

the 307 suspects would have been kept in custody pending the hearing of their cases. Further, the court would have been sitting and conducting criminal trials on the cases. The intervention was useful towards reduction of backlog of cases. The courts, social workers, paralegals and police officers would mediate over the case and ensure that there was an agreement between the offender and the victim and this was done within 48 hours after arrest.

Lastly, Skills building allows the offender to gain skills or engage in work so as to engage in gainful employment. It does not directly lead to decongestion of cases but enables suspects to engage in economic life thereby reducing re-offending.

Skills-Building Case Study

Wilson Mphaya 37, has been given the opportunity by the program to learn welding. He is a changed man and now lives peacefully with his mother after the intervention of the adult diversion project. He explained that he does not wish to go to prison again in his lifetime because of the hush conditions that are at prison.



Figure 2: An offender who was trained in welding skills explains his satisfaction with diversion

A picture of an offender who was taken through welding course through the life skills initiative. Skills-building is a diversion option that is available after a matter is resolved after diversion.

8.1.2 The Effectiveness and Efficiency of the Interventions towards Decongestion of Prisons and Reduction of Backlog

Firstly, the screening processes were effectively done and the detailed forms enabled the implementers to capture all the relevant details and choose appropriate diversion options. The participants were able to identify about 180 suspects who were in custody for more than 48 hours as well as those with expired remand warrants and advise the police or prison officers to take the suspects to court or consider diversion. The courts were also mindful that adjournments cannot go beyond 14 days. The training that was undertaken by CCJP Lilongwe enabled successful screening of cases. Stakeholders were able to understand the cases that were eligible for diversion. The availability of Occurrence Book Registers and CCJP Lilongwe Registers enabled the screening process to be conducted efficiently. However, it was observed that police officers

are now dependent on paralegals for screening and these require transport and other expenses as they come from outside institutions. The costs involved was good value for money as the exercise was key towards conducting successful diversion.

Secondly, the camp courts and renewal of remand warrants was effectively conducted as the procedures in the *Criminal Procedure and Evidence Code* and the *Performance Standards for the Criminal Justice System* were strictly followed. The accused person had the support of Social Welfare Officers who would assist in presenting his case before the Court. The paralegals further assisted with identification of sureties in preparation for the camp courts. In terms of costs, Camp courts were expensive to conduct. It was costly to assemble a fully constituted Court with Paralegals, Public Prosecutors and Social workers. It was observed that some offenders also needed transport after their release. However, considering the outcome and the relevance of camp courts, the expenses were justified.

Thirdly, it was observed that there is no set procedure for the conduct of mediations or family group conferencing due to the absence of guidelines. As such various approaches were adopted. Certain cases involved the accused and victim only and the processes were less complicated. There were also a number of cases that involved other parties such as chiefs and these required intermediate mediation skills. The participants in the mediation needed to have mediation skills. Further, mediation was also less costly as meetings would be held at the police or court and the mediators only required a meal allowance.

Lastly, there was an evident gap in the skills building initiative as the project did not link with many institutions that could offer free training. One offender was trained in welding for a period of 6 months and acquired skills. The intervention requires a lot of resources to run. Considering that diversion will have been completed at the time when this initiative is considered, it is not feasible for the project to spend resources on training the offenders rather partnering with other institutions that already offer skills training to offenders such as TEVET and community technical colleges will be key.

8.1.3 *The Impact and Sustainability of the Diversion Options in the Court, Police and Prisons*

There were a number of changes that were directly attributed to the project. Firstly, the diversion options led to the decongestion of police cells, prisons and reduced backlog of cases at the Magistrate Court. About 439 cases were diverted from the formal criminal justice and this was done through Camp Courts, Victim –Offender Mediation and Family Group Conferencing. This represents almost 60% decrease in the number of criminal cases taken before the Court and only about 40% cases were referred to the Court with non-divertible cases. There was an increase in the number of diverted cases from 6 in the 1st quarter, 56 in the second quarter, 90 in the third quarter and 287 in the last quarter. The diversion of cases also enabled the restoration of property through settlement agreements and relations between the offender and the victim. Deterrence of

would-be offenders was achieved as suspects were cautioned not to re-offend. Skills building also enabled offenders to engage in work to earn a living.

Secondly, the courts, police and prisons have been capacitated to include diversion in their daily work. The daily exercise of sorting of cases done by prosecutors now includes diversion of cases. The prosecutors already have a legal obligation to ensure that the remand warrants are renewed timely and the exercise is likely to continue after the project. It was noted that mediations were still continuing in the two districts and further that there was continued collaboration between the police, prisons, court, social workers and paralegals to ensure that cases were concluded. The communities have embraced the concept of diversion and the resolution of disputes within the communities is likely to continue. The skills building initiative would only be sustainable through partnership with other stakeholders.

Thirdly, the implementation of diversion project had a positive impact on both the offenders as they were able to engage in meaning economic life as a result of diversion. In the words of offender *'Ndinabweza ndalama kwa yemwe ndinakagulisako chiseko and chiseko cho eni ake anabwezeredwa choncho ndinapuluka kusakalowa ku Matchaya chifukwa banja langa likanavutika'*. Another offender reported that *'ndinapasidwa upangili oti ndizitha kupeza ndalama ndinabweza thumba la chimanga lomwe ndinaba. Pano ndikungosowa zipangizo zogwiririra ntchito koma Mtendere ndili nawo'*.

Lastly, a victim who was interviewed further narrated as follows *'Ndinabwezeredwa ndalama zomwe ndinaononga kuchipatala atandimenya nzanga wa business. Ndinapindulapo chifukwa nzangayo pano timacheza komanso ndikupeza bwino'*. Another victim also narrated as follows *'mwana wanga anakaphunzira za welding ndipo pano wasinthika. Akubanja poyamba sanakondwere kumuona kuti wabwerako koma pano anavomeleza ataona kuti wasiya kusowesa anthu Mtendere.'*

8.1.4 Study Findings on Diversion Options

Overall, the project has led to the reduced numbers of inmates in 16 police formations and 2 prisons cells as well the reduction of the backlog of cases at the 3 Magistrate Courts. The prison capacity for Nkhotakota is 250 however the number of inmates kept was almost 480. The holding of camp court and other diversion options decreased the number to almost 350. The prison capacity for Kasungu is 200 but because of congestion it keeps about 450 to 500 inmates. The congestion reduced to around 392 due to the project. Overall, the reduction of number of cases enabled the Courts, Prisons and Police to save on resources.

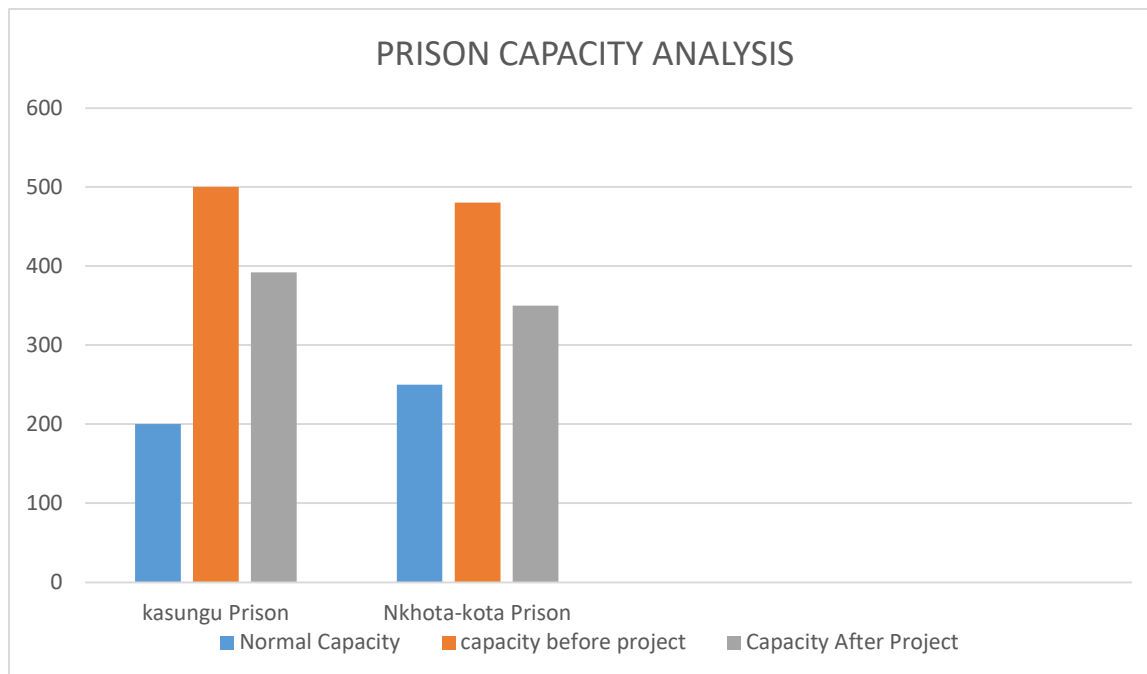


Figure 3: Prison Capacity Analysis

Although the prison capacity for Kasungu is at 250% beyond the capacity, the project reduced the congestion to 196%. Similarly, although the prison capacity for Nkhotakota is beyond capacity by 192%, the project reduced congestion to 140%. While the prisons remain congested as the numbers are above the prison capacity, there was reduced congestion through the implementation of the project. Overall, **there was an average reduction on the number of inmates across Kasungu and Nkhotakota prisons by 53% within the project period (13 months).**

To buttress the finding, Nkhotakota prison houses detainees from Nkhotakota and Salima. In comparison, it was observed that there were a fewer cases of remandees involved in petty offences coming from Nkhotakota police or courts and that most of the cases involving petty offences were from Salima. In comparison, the number of petty offenders from Nkhotakota was far much less than the number of petty offenders from Salima where the project was not implemented. Thus the interventions in Nkhotakota led to decongestion of prisons.

Furthermore, the screening exercise was a bedrock towards effective implementation of diversion options. There was multiplicity of screening exercises done at the police, prisons and courts to ensure that eligible cases were identified. However, the absence of guidelines also showed a mix of both felonies and misdemeanors being diverted. There were observed cases of, unlawful wounding, theft and arson that were diverted and the justification was that the value of property or house involved was low or that the injuries were not severe. It will be important to clearly define the parameters of petty offences as it generally implies misdemeanors, and whether felonies should be included depending on the circumstances of the offence.

The camp-courts led to decongestion of prisons and resultant reduction of the backlog of cases. The cases were resolved speedily thereby ensuring access to justice for suspects. Courts were also able to consider a large number of cases during the camp courts and this would not be possible at the Court premises. In Nkhotakota, a suspect who was on remand for 22 months was released on bail as a result of the project. The Courts, Prisons and Police also saved on resources and time as the cost of prosecuting the cases or keeping the suspects in prisons was way high compared to the value of property involved and the circumstances of the offence.

It was observed that paralegals were allowed to represent suspects during camp courts. This was done because most of the suspects were not able to represent themselves. The *Performance Standards for the Criminal Justice System 2013*,¹⁴ does allow for the dispensation with formal bail procedures where an accused person is unrepresented and allows paralegals to offer support to accused person who are not represented. It is, however, recommended that the project engages the Legal Aid Bureau so as to ensure that there is licensed legal practitioner to offer legal representation as the *Legal Education and Legal Practitioners Act*¹⁵ does not allow paralegals to represent suspects during hearings.

The victim and offender mediation is very key towards enhancing restorative justice and ensuring speedy resolution of disputes whilst directly reducing case backlog and congestion in police cells and prisons. After a case is successfully resolved through mediation, an offender is cautioned towards re-offending and they are advised that diversion is only available to first time offenders. As such, the project has also contributed towards reduction of re-offending. Further, most of the cases were resolved through mediation and the success of the exercise was ensured through the dedicated work of various stakeholders. It is therefore important that mediators be trained in mediation skills as a lot more cases were complicated requiring special skills.

With regard to settlement agreement after mediation, it was observed that some accused persons were not financially able to return property. The result was that some offenders who were taken through diversion were sent back in custody due to failure to return property. A further follow up of cases after mediation was sporadic. The social workers and paralegals did not have adequate resources to ensure follow up of cases. It is recommended that this aspect be enhanced. Further, there was a challenge with other police officers who did not appreciate adult diversion and were insisting that a matter be taken to Court. This was mostly the CID department as mediation was done by community policing officers. At police level, it would be critical to have all departments involved as only the community policing department was involved.

Skills training requires partnering with various stakeholders who offer skills training in areas such as carpentry, welding, building and other work so that offenders can be rehabilitated through skills-building. However, the project did not partner with entities beforehand. As such only a few cases were taken through skills training.

Table 1: A Summary of Diversion Interventions

Activity	Target Numbers	Actual Numbers
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¹⁴ Formed by the Court Users Committee, 2013

¹⁵ Cap 3:04 of the Laws of Malawi

Screening of cases	No baseline	180
Renewal of Warrants	No baseline	24
Camp Courts	10	14
VOM, FGC and Skills Building	No baseline	307
Total Numbers Diverted	No baseline	439

As indicated in Table 1, it is the finding of the evaluation that the project did not have set targets for cases screened, renewal of warrants, VOM, FGC and skills building. However, through daily screening, conduct of mediation and camp courts, about 439 suspects were diverted. This reduced the rate of congestion and backlog of cases. It is further finding of the evaluation that suspects who commit petty offences are not kept in custody for more than 48 hours before their cases are resolved.

8.2 Increased Capacity of Key Criminal Justice Responders to enable Project Implementation

Capacity-building is defined as the process of developing and strengthening the skills, instincts, abilities, processes and resources that organizations and communities need to survive, adapt, and thrive in a fast-changing world.¹⁶ An essential ingredient in capacity-building is transformation that is generated and sustained over time from within; transformation of this kind goes beyond performing tasks to changing mindsets and attitudes. There was a training on the concept of restorative justice and adult diversion conducted before the start of the implementation of the project. The evaluation interrogates the relevance and effectiveness of the content and the outcome of the training.

8.2.1 The Relevance and Effectiveness of the Training on Adult Diversion and Project Implementation

¹⁶<https://academicimpact.un.org/content/capacity-building#:~:text=Capacity%2Dbuilding%20is%20defined%20as,transformation%20that%20is%20generated%20and>

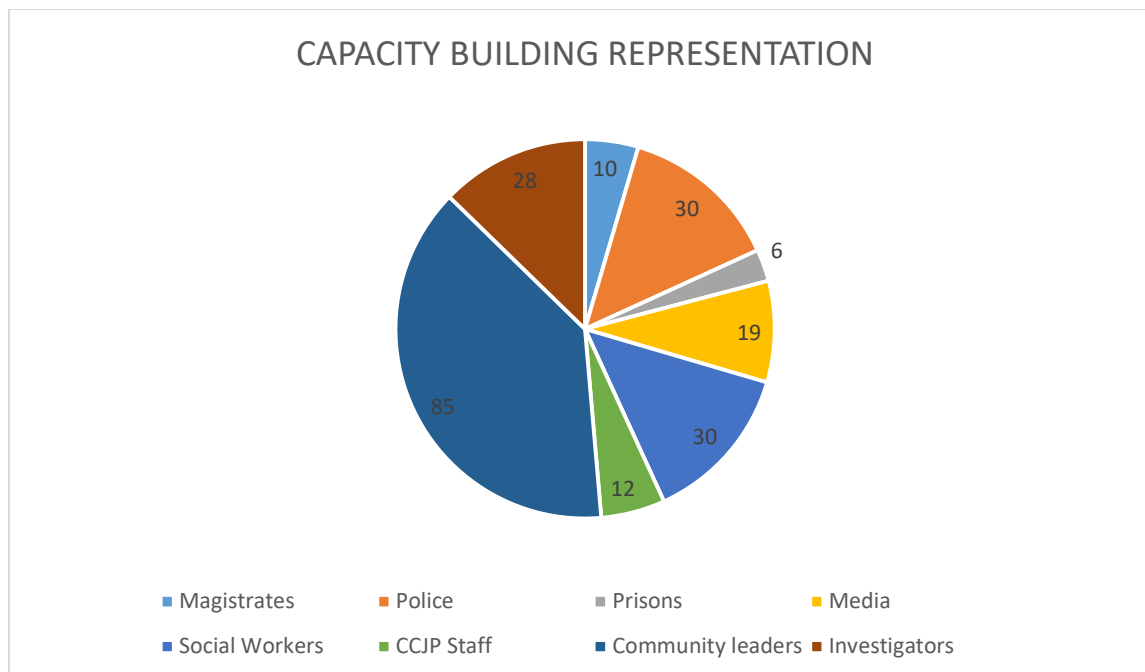


Figure 4: Capacity Building

About 210 key project implementers were trained including 10 magistrates, 30 police officers, 6 prison officers, 19 media personnel, 30 social workers, 12 CCJP field staff and Coordinators, 18 Tradition leaders, 57 Group Village Headpersons and Village Headpersons and 28 investigators and other officers. The evaluation observed an in-depth stakeholder analysis was conducted to ensure that all relevant stakeholders were identified and adequately trained on adult diversion. The prison was least represented with a lot of more community leaders trained than the actual project implementers.

All stakeholders in the project had no prior training on adult diversion or restorative justice. As such the training on adult diversion was very useful and critical towards effective and efficient project implementation. The content of the courses included PowerPoint presentations on adult diversion, guidelines on diversion and the role of the various stakeholders in the project. The content was very clear and useful as a guide towards implementation of adult diversion. The relevant stakeholders, who were mapped through stakeholder analysis, were trained and this enabled effective implementation of diversion options. There was also peer to peer training as members who did not participant in the training organized by CCJP were able to implement the project through training by others. The training was key towards successful implementation of diversion.

8.2.2 The Efficiency of the Training Methods, Content and Outcome

The trainings disaggregated participants according to their area of work. As such magistrates, prisons and police officers, paralegals, social workers and coordinators were trained in respective

categories. This enabled effective learning as the groups possess difference competencies and skills.

However, it was observed that there were a lot of facilitators during the training but the training period was limited. Further, a lot of material was shared within a short space. It would have been helpful to increase the number of days for the training and dissect the program into theory and practice on adult diversion. The future capacity building initiative should adopt the 'training of trainers approach' where a group of stakeholders are trained and tasked with the responsibility of continuously training other officers from the project implementation area.

8.2.3 *The Impact and Sustainability of the Training on Adult Diversion amongst Stakeholders*

Overall, there was increased knowledge amongst stakeholders about diversion and better management of cases within the criminal justice system. The stakeholders gained mediation and negotiation skills through the implementation of the project. There is better case management by police and prisons due to changed attitudes. About 210 key criminal justice responders, social workers, coordinator and paralegal were trained. Participants acquired necessary skills and knowledge to effectively implement the adult diversion project. All stakeholders have capacity to conduct diversion and this has enabled them to continue diverting cases beyond the project

In terms of sustainability, the police, prisons, courts and paralegals have continuous trainings that are funded by the Government. It will be key to include adult diversion as part of the training so as to target all officers. The peer to peer training/ training of trainers is key towards skills transfer within institutions.

8.2.4 *Study Findings on Trainings*

The training of project implementers was key towards effective implementation of the project. The Magistrates, Police and Prison officers have developed a new attitude towards management of cases and have embraced their role in reducing congestion through diverting cases. It was observed that the training was not adequate as it was only conducted for one day for each team. There was also a lot of material that was shared within a short space. As such, most participants did not grasp certain concepts on diversion as well as the use of materials that were provided. Further the practical tools such as case registers and screening forms were only made available after the training and stakeholders found difficulties in using them at the beginning of the project. It is recommended that the training period be increased and that they be continuous training even during the implementation of the project. It is further recommended that a number of officers be trained to ensure continuity of the project even if some officers are transferred in the institutions they represent.

It will also be key to lobby for the inclusion of diversion at the police and prison training schools so that a lot of officers are trained. Further, the training for Magistrates includes not only child diversion but also diversion to enable nationwide implementation. The continuing of training is key towards effective project implementation and participants must be adequately trained so that they possess the necessary skills to even train others.

8.3 Improved Media Coverage and Raise awareness in order to Support and Promote Adult Diversion

Awareness-raising involved dissemination of information and knowledge in order to increase knowledge about the subject, change public perception and improved the levels of citizen participation in governance issues. The project conducted 8 programs through radio and print media. There was further a documentary that was done on adult diversion and shared through the electronic media and accessible via YouTube. Dissemination of information on adult diversion was also conducted through community outreach session. The evaluation assessed the relevance, effectiveness and impact of intervention towards achieving adult diversion.

8.3.1 *The Relevance of Media Engagement and Outreach Sessions*

Firstly, it was observed that eight (8) radio programs were aired through Zodiac and Nkhotakota Community Radio Stations and the content was on restorative justice and adult diversion. The programs highlighted concept of diversion and its advantages. The programs raised community awareness on adult diversion and directly assisted in changing perceptions about adult diversion. On the planned 16 awareness raising sessions to be conducted under the project, only 8 were actually done. Thus, the project did not achieve the set targeted number of outreach sessions. The targeted audience was about 3, 611 people comprising of more women than men in both Kasungu and Nkhotakota. This represented almost 40 % of the people involved in the project implementation areas which covered 8 traditional areas. Further, 3 press articles were released through nation newspaper and the paper is in wide circulation in Malawi and hence the target audience was larger than the project implementation area. Therefore the percentage of people knowledgeable about adult diversion, restorative justice and access to justice is much higher due to wide media coverage which targets about 25,000 people.

Further, there was a documentary on restorative justice with shared perspectives on diversion from the Tilitonse Foundation, CCJP, Court, Police, Prison, Offender and Victim¹⁷. It covered all the aspects of the concept of adult diversion, its benefits and the satisfaction of stakeholders. The documentary was relevant as it provided perspectives from project funders, implementers and beneficiaries on adult diversion and its advantages towards advancing restorative justice.

The community awareness sessions were very critical towards changing attitudes and involving the community in restoring the relations between the accused and the victim. Through changed perception and attitudes, a number of cases are resolved at the community without referral to police or courts.

8.3.2 *The Effectiveness and Efficiency of the Media Coverage and Community Outreach Sessions*

The documentary was excellently done and captures lived stories of victims, offenders and personnel in the criminal justice system. It is an advocacy tool on adult diversion and can be

¹⁷ <https://youtu.be/RpqMvSFERO>

easily accessed online. The use of community radio is essential as it has a good audience from within the communities where the project was being implemented. The outreach sessions involved various stakeholders such as Magistrates, Prison and Police Officers in Charge and Chiefs. Due to the involvement of high-level officials, there was community buy-in into the concept of diversion. It was however noted that a number of traditional authority areas were not reached due to the reduced number of awareness raising sessions.

The main challenge on media coverage, especially electronic, include the high costs of running a radio program and issuing a press statement while producing a feature story in print category also proved expensive. It is hence difficult to sustain such initiatives in the absence of a project. The other challenge is that there is no direct feedback from listeners where a radio program is recorded and feedback can be obtained through a live phone-in program.

8.3.3 *The Impact and Sustainability of Media engagement and Outreach sessions*

There was information dissemination about adult diversion and restorative justice in both Kasungu and Nkhosachota. The targeted audience was also not limited to the two districts. The radio programmes on Adult Diversion were recorded and subsequently aired for approximately 6 times. Three articles on adult diversion were published in the Nation Newspaper and the newspaper targets all districts in Malawi. The media outlets do cover news on a regular basis and are constantly searching for news. It is important to provide information about the activities so that they be covered in the news. The target audience was unlimited as the national newspapers cover the whole jurisdiction. A 30-minute documentary on restorative justice and adult diversion is easily accessible on you-tube and target a wider audience. It is costly to produce a documentary and in the absence of finances, it is difficult to sustain.

In the Traditional Authorities (about 8) where diversion was conducted, there is community awareness about diversion and this facilitates the integration of the accused persons into the community after release from custody. Traditional Authorities indicated that diversion is also done at the chieftaincy level without the need for police, court, social workers or prisons. There is hence devolution of diversion to community level leadership

About 6000 posters and illustrations, in English and Chichewa were distributed in the communities. With the aid of pictures, they communicated the concept of diversion and highlighted the benefits of diversion that it provides reparation, decongests prisons and police cells and restores the relationship between the offender and victim. There a number of outreach and awareness raising initiatives that are championed by Traditional Authorities and hence integration of adult diversion in the initiatives is essential.

8.3.4 *Study Findings on Media Coverage*

It is important to raise awareness on adult diversion and restorative justice so as to inform members of the general public about the project, its aims and outcomes. The number of radio programs should have been increased and aired through the available community radio. The media is key in sharing knowledge about laws, programs and interventions. The program should also take the advocacy to social media which is frequently used by the general citizenry in Malawi.

Community awareness has led to devolution of diversion to local authorities such as community leaders, village headmen, group village headmen and Traditional Authority. This has also been

an indirect extension of authority of traditional leaders due to their ability to resolve criminal cases. Community engagement also enhances citizen participation on law implementation. However, only 8 awareness raising sessions were conducted against the planned 16. Further the awareness raising sessions were only conducted in the second quarter after the project was already in the course of implementation. It is recommended that the sessions ought to have been done in the first quarter together with the trainings so as to enhance community awareness. It is recommended that the project reaches out to more traditional areas.

8.4 Strengthening the legal framework of Adult Diversion in Malawi

Firstly, the camp courts, victim offender mediation, family group conferencing and skills building were initiatives that were undertaken to strengthen the legal framework on adult diversion. However, the intervention was not directly speaking to the legal framework which ideally would include laws, policies, guidelines and cases that govern adult diversion in Malawi.¹⁸ Considering that a draft Bill on diversion is yet to be tabled and passed in Parliament, interventions that directly impacted on that would have strengthened the legal system.

Whilst camp courts and mediations directly contribute towards enhancing decongestion of prison, police and reduction of case backlog, the initiatives do not enhance the legal framework. However, the evidence on the success of camp courts, victim-offender mediation and family group conferencing and skills building from Nkhotakota and Kasungu can be used as an advocacy strategy towards lobbying for enactment of law on diversion.

Secondly, the participants did not possess adequate knowledge about the legal framework on adult diversion, the gaps and challenges. Whilst a few participants were able to refer to section 13 (I) of the Constitution and Section 161 of the CP&EC, the availability and the guidelines on adult diversion, a lot of participants were simply not aware about the law. The current legal framework has gaps as there are no detailed procedures for adult diversion. The project should have definitely included this aspect and the further lobbying of law reform on the basis that the evidence obtained in Nkhotakota and Kasungu evidence that adult diversion is relevant and it reduces backlog of cases and congestion of police and prisons.

8.5 The enhancement of Good Governance, Rule of law and Access to Justice as Pillars for CCJP and the Tilitonse Foundation

The Tilitonse foundation supported CCJP Lilongwe as a grants partner and provided resources and technical guidance during the implementation of the project. The evaluation assessed the extent to which the program on restorative justice and adult diversion as implemented by CCJP

¹⁸ These laws will include the Republic of Malawi Constitution, the Criminal Procedure and Evidence Code, the Draft Bill on Diversion, the Rules and Guidelines on Diversion and Court Decisions on restorative justice and adult diversion amongst others.

aligned with the goals and objectives of the Foundation and the extent to which it contributed to the result areas of the Foundation.

The Tilitonse Foundation focuses on consolidating and up scaling good governance in Malawi by focusing on active citizenship, local governance, gender and social inclusion, economic governance and the rule of law. It is the pillar/ priority area on active citizenship and rule of law that aligns the most with CCJP Lilongwe's objective which is enhancing access to justice and the rule of law, a component of which was evident through the adult diversion project.

Further the broader 'Theory of Change' for the Tilitonse foundation¹⁹ includes the increasing of the capacity of non-state actors and actively promote citizen engagement in democratic governance and upholding citizen's rights by the state.' Further, the theory of change embraces the strengthening of capacities of non-state actors as well strengthening of partnerships and networks. The specific strategic objectives for the Tilitonse foundation include: promotion of accountable, responsive and inclusive governance which include a result area under 'rule of law'. The Foundation supports non-state actors working on access to justice for the vulnerable groups. Further the Foundation has a strategic objective of establishing partnerships and networks.

With regard to strengthening citizenship engagement and participation in democratic governance, the project on promoting restorative justice through adult diversion has two result area including awareness-raising on adult diversion and restorative justice to the general citizenry and capacity building for project implementer and beneficiaries. The impact and outcome of the initiative was increased knowledge on the part of the general citizenry and capacity to engage on access to justice issues with various stakeholder. The enhanced capacity of the citizenry enabled them to participate in the advocacy on access for justice for remandees and suspects in police cells. Citizen engagement and participation was also enhanced by initiating restorative justice at the community thereby positively impacting on access to justice.

With regard to the rule of law and ensuring access to justice for vulnerable groups including prisoners, the project on restorative justice and adult diversion directly contributed to this result area as there was enhanced access to justice for offenders who were released from the detention facilities and police cells through speedy resolution of their cases through camp courts, VOM, FGC and skills building. There were reported cases of offenders who were in prison with expired remand warrants and for some for a period of almost 2 years without their cases being taken before a court. These were clear cases of justice delayed being justice denied. Through the intervention of the project, 439 inmates were released thereby reducing backlog of cases and the high decongestion rates. Thus, the successful implementation of the project in Kasungu and Nkhonkhotakota enhanced the rule of law and access to justice for the detainees and prisoners.

Further, through an in-depth stakeholder analysis, the CCJP Lilongwe was able to identify potential allies towards successful implementation of the results and this is in line with the 'Political Economy Analysis' which is one of the key concepts that has been adopted by the Tilitonse Foundation. There was hence improved partnerships, collaboration and networks between the

¹⁹ That focuses on results and outcome based programming

courts, police, prisons, social welfare and paralegal advisory institution through the project. The Tilitonse foundation further enhanced the capacity of CCJP Lilongwe in areas of programming and monitoring and this is in line with the Foundation's objectives of enhancing the capacity of project partners.

CCJP Lilongwe further embraced Tilitonse Foundation's theory of change by adopting a result and outcome-based programming. There were clear results that were formulated under the project with outcomes that were measurable during project implementation.

Overall, the project on adult diversion and restorative justice contributed towards the goals and objectives of CCJP Lilongwe and Tilitonse Foundation in that there was enhancement of access to justice and good governance through project implementation.

9. Best Practices, Lessons Learnt and Overall Conclusion

Firstly, the conduct of camp courts, victim-offender mediation and family group conferencing was key towards decongesting police and prison cells as 439 cases were diverted from the criminal justice system. The success of the diversion options was preceded by thorough case screening and the use of diversion tools such as screening forms and diversion registers. It is highlighted that screening was a best practice that ought to be enhanced as it enables the successful implementation of all the other diversion options. Screening forms, a list of non-divertible cases and diversion registers should be part and parcel of the training so as to allow effective use of resources. After screening, there was victim- offender mediation or the conduct of camp courts. The two interventions were the direct factors that contributed towards decongestions. In future programming, it will be critical to allocate more resources to the two interventions.

Overall, the project on promoting restorative justice through adult diversion achieved its broader goal of reducing the number of inmates in remand detention, police cells and reduced backlog of cases at the magistrate courts through diversion of minor offences. Further, key stakeholders such as Magistrates, Prosecutors and Prison Officers-in Charge were satisfied with the results. The reduction of the number of suspects in detention and police cells enabled the saving of resources for the institutions.

Secondly, the capacity of key justice responders was further enhanced through the capacity building training that targeted 210 stakeholders who were directly responsible for project implementation. Training materials were provided and enabled all stakeholders to have an understanding on adult diversion and restorative justice. Stake-holders obtained the relevant skills and knowledge to conduct diversion and the skills were useful after the project was phased out. The lesson learnt from the training is that adequate time needs to be given and that there must be an inclusion of both practical and theoretical sessions to enhance the learning.

Thirdly, initiative such as training, media advocacy and outreach sessions are key towards the successful implementation of the project as well ensuring sustainability of diversion beyond the project. There is also diversion that is conducted at the chieftaincy level and this is key and a direct result of community engagement and training of traditional leaders.

Fourthly, the interventions that were undertaken towards enhancing the legal framework on adult diversion did not directly impact on this objective. It is key the finding of the evaluation that this objective was not met. However, the findings on adult diversion as implemented in Kasungu and Nkhosakota can be an advocacy tool towards lobbying for law reform.

Fifthly, it was further noted that the process of skills-building did not directly contribute towards decongestion but rather the broader concept of restorative justice. However, the process of skills-building is essential but can only be effectively implemented through partnering with government institutions such as TEVET or Community Technical Colleges so that skills training can be enhanced for a period longer than the project life.

Overall, there was great coordination amongst the project partnerships and this positively contributed towards achieving results. The various expertise of social workers and paralegal together with prosecutors and magistrates directly contributed towards effective screening and conduct of camp courts, VOM and FGC. The partnership was made possible through the excellent facilitation by CCJP Lilongwe as well CCJP field staff.

Sixthly, it was also observed that they were a number of case review meetings and monitoring that was done through the duration of the project. The availability of continuous monitoring and evaluation through the project implementation was key towards successful implementation of initiatives.

With regard to costs, it was the finding of the evaluation that there was effective management of resources and the project was good value for money. The screening, camp courts, VOM, FGC and skills building required resources including transport expenses for all stakeholders, meal allowances, stationery and other equipment.

Finally, with regard to sustainability, we observed that diversion options such as screening of cases, camp courts, VOM and FGC are still being implemented through the partnership of the Courts, Police, Prisons, paralegals and social workers. The only observable difference is that the partners have reduced the frequency of these initiatives due to the absence of resources. It is hence recommended that there needs to be a balance between supporting the initiatives through provisions of allowances and also empowering the institution to embrace diversion as part of their day to day work. Stakeholders must be made aware that although the project has a lifespan, the initiatives that have been introduced must be incorporated in the institutional strategic plans and budgets so that there is continued implementation and management of cases through diversion.

10. Limitations of the Evaluation

The evaluation was conducted between 30th of June to the 10th of July, 2020. However, the project was phased out in February, 2020. Due to the lapse of time, it was difficult for most respondents to recall and ably respond to interview questions and this was exacerbated by poor record keeping in the police formations as well as prisons. There was a transfer of key informants such as Magistrates and police officers-in-charge. However, we managed to trace all 3 Magistrates who were not present at their duty stations and conduct interviews.

11. Evaluation Recommendations

- There should be a review of the guidelines on diversion as the focus on petty offences/ misdemeanors excludes a number of cases that were diverted under the project including theft, arson, unlawful wounding and grievous harm. The definition should hence include felonies but where the value of property lost is low or where a victim has recovered from injuries. A list of non-divertible cases should be shared to all project implementers as lack of clarity can lead to abuse and misuse of diversion.
- The police and courts should also include diversion in their daily work so as to avoid the over reliance on paralegals or social welfare officers to conduct screening of cases, mediations and following up of cases. All police departments should be involved in the diversion of cases so that the community policing department is not overburdened with work.
- It will be key to disseminate information to all stakeholders including community members that diversion, just like police bail, is free and beneficiaries should not pay money to be taken through the diversion route. Without adequate checks and balances, the processes can be abused.
- Camp courts will be effectively done with the cooperation of all stakeholders including the police. The police officers should not tamper with the list of cases that is brought before the court for consideration for camp courts. There should be lawyers from the Legal Aid Bureau during camp court so as to ensure effective legal representation during bail hearings.
- It is recommended that a health personnel and social worker be present during the camp courts to assist with health issues.
- With regard to mediations, a specialized mediation training should be conducted for the benefit of social welfare officers and coordinators who are involved in mediation. Mediations should also include other remedies such as 'apologies' as the undertaking to return property has proved to be difficult.
- It is further recommended that awareness-raising sessions include all traditional authorities within the catchment area and that more resources should be allocated to this initiative.
- The project has a short life span in that the initiative requires continuity as prisons offenders are continually brought before the criminal justice system and hence there is need for a longer duration of the project to sustain the results.
- It is recommended in future programming, partnering with institutions that provide skills training is key so as to effectively use the project funds for the direct interventions such as camp-courts and mediations.
- The project should include implementation in all districts that use one prison facility e.g. Nkhotakota and Salima, Mulanje and Phalombe so that the result on decongestion are not overshadowed by the absence of a similar initiative in an area which is not targeted.
- It is recommended that the project considers partnering with other stakeholder such as TEVET and other NGO's that work on integrating offenders back into the community to offer skills training.

12. Annexes

- i. Data Evaluation Tools
- ii. Analysis Tool and Findings
- iii. Sample of police register
- iv. Sample of diversion register
- v. Extracts of Media Publications
- vi. Case Study
- vii. Sample Units
- viii. Data Sources

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