

UNIVERSITY OF ZIMBABWE



**‘THE DEVIL IN THE DETAIL’:
ENVISIONING AN ENGENDERED LEGAL AND POLICY FRAMEWORK
GOVERNING WOMEN’S VILLAGE SAVINGS AND LOAN SCHEMES (WVSLs)
IN MALAWI:
A CASE STUDY OF THE KAPULA AND TAKONDWERA WVSLs**

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Abstract

Using the unique grounded women's law approach, this research reveals how the gender-insensitive and essentially identical World Bank inspired rules and regulations of the growing number of unregulated, self-governing Women's Village Savings and Loan Schemes (WVSLs) in Malawi are collapsing because they are defeating rather than achieving their avowed objective of economically empowering their women members to engage in businesses to help lift themselves, their families and communities out of poverty. Using case studies of Kapula and Takondwera WVSLs (operating in a patrilineal and matrilineal community, respectively), the researcher focuses on a few crucial rules which, taken together and at face value, seem to set these Schemes up for failure before they even start. They include punishing rules against their women members on: joining the Schemes; the compulsory weekly repayment of small loans (usually too inadequate for most decent business investments) at illegal and crippling high interest rates; the provision and unregulated confiscation of collateral property and the compulsory weekly purchase of shares or 'savings'. They are enforced through a system of merciless mandatory fines and a culture which refuse to take into account women's multiple roles in their family and community and their extremely limited ownership, control and access to property. While the women members, who apparently run these Schemes, complain bitterly about them, the researcher finds that their only winners are the men of the villages who seem totally oblivious to the plight of their women members who regularly default on their obligations plunging them into further misery, debt and poverty. Further investigation uncovers how these oppressive rules are vulnerable to abuse at the hands of the women members' husbands and the male village leadership through which they ambush the Schemes from within through their already existing web of cultural, social, religious and economic control of their wives and hijack them for their own purposes. Effectively, they use these Schemes as an elaborate ploy not only to turn their wives into proxies to work for them, but also through whom they plunder one another's property beyond the reach and protection of the law. These Schemes thrive on the abuse of what could be considered to be the weaknesses of its women members, especially their lack of literacy, their integrity to keep on trying to comply with what they fail to realise are the Schemes' impossible rules and their reluctance to report abuses to the police. Continuing to blind them to the truth, the real 'schemers' behind these groups keep luring, ensnaring and holding their unsuspecting victims in bondage. The researcher concludes that these Schemes will never accomplish their intended purposes unless their rules are fully and truly engendered *and* the male members of their communities are encouraged, educated and sensitised to co-operate with their members.

Declaration

I declare that this paper, “The Devil in the Detail”: Envisioning An Engendered Policy and Legal Framework Governing Women Village Savings And Loan Schemes In Malawi-The Case Study Of Kapula & Takondwera Schemes” is my own and original work and it has not been submitted at any other institution of higher learning for the award of certificates or any other form of assessment.

Signed:.....

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Date.....

Signed:.....

Professor Julie Stewart

Date.....

Dedication

To my wife, Vhai, and my sons, Gabriel and Ungweru, this work is a culmination of your sacrifices. Thanks for hanging in there.

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List abbreviations and acronyms

ACHPR	African Charter on Human and Peoples' Rights
ASCA	Accumulated Savings and Credit Association
CARE	Cooperative for Assistance and Relief Everywhere
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
FGD	Focus group discussion
ICESCR	International Covenant on Economic, Social and Cultural Rights
Maputo Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women
MGCDSW	Ministry of Gender, Children, Disability and Social Welfare
RBM	Reserve Bank of Malawi
ROSCA	Rotating Savings and Credit Association
SDG	Sustainable Development Goal
SEARCWL	Southern and Eastern African Regional Centre for Women's Law, University of Zimbabwe
UN	United Nations
VSLA	Village Savings and Loan Association
VSLS	Village Savings and Loans Scheme
WAD	Women and Development
WID	Women in Development
WVSLS	Women's Village Savings and Loans Scheme

Currency Exchange Rate

US\$1 to MK714,672 (Malawi Kwacha) (<https://www.oanda.com/currency/converter/>)

List of international human rights and policy instruments

Beijing Platform of Action

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women
(Maputo Protocol)

SADC Protocol on Gender and Development (2008)

Sustainable Development Goals (2017)

List of local legislation

Constitution, 2010

Microfinance Act, 2010

Gender Equality Act, 2013

Sheriff's Act, 1967

List of local policies

Gender Equality Policy (2015)

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Executive summary

While some considerable progress has been made in the championing of women's civil and political rights, promotion of their social and economic rights still lags behind weighed down by a myriad of structural, policy and legal challenges. Over the years, however, strategies designed and trumpeted by governments, civil society organizations and development partners aimed at realizing, strengthening, protecting and promoting women's social and economic rights have mushroomed. While many strategies have petered out and failed along the way, there are some, such as Village Savings and Loans Schemes (VSLs), which having weathered the rough cultural, structural, policy and legal storms, offer the great potential of strengthening and safeguarding women's social and economic rights provided they are well conceptualized, nurtured, managed and regulated.

It has to be noted, however, from the onset, that studies examining the impact of Women's Village Savings and Loans Schemes (WVSLs) on women's social and economic rights has birthed two schools of thought, being the 'contestation' and 'consensus' schools of thought. The former questions while the latter praises the concept. Both schools of thought do however agree that if well managed and regulated, WVSL is the magic wand which can socially and economically empower women.

While many studies have been conducted on this subject, little is known of how the rules and regulations establishing and governing these self-regulating schemes affect women. This study is based on the assumption that the rules and regulations that govern Village Savings and Loans Schemes (VSLs) are gendered and therefore disadvantage and disempower women.

This study therefore does not only problematize the gendered rules and regulations that establish and govern these schemes but also provides some viable options on how some of the problematic provisions within these rules and regulations can be engendered and speak to the interests, needs, challenges, expectations and aspirations of women whom they seek to assist.

This study acknowledges that WVSLs are heterogenous and hence that each scheme has its own slightly unique set of rules and regulations. It also has to be mentioned that while these

schemes are established and govern by slightly different set of rules and regulations, the framework of these rules are similar as they all draw their inspiration from the Village Savings and Loans Scheme Training Manual.

This study focuses on and examines two WVSLs as case studies and these are the Kapula and Takondwera WVSLs in Malawi. Built on the overarching assumption that the rules and regulations that establish and govern these schemes are gendered, this study discusses specific provisions within the rules and regulations that need to be engendered as in their formulation and/or application they conflict with the interests, needs and aspiration of women.

Take for instance the article in the rules and regulations governing both the Kapula and Takondwera WVSLs that require women to seek permission from their husbands before they can join and eventually access loans from the schemes. This provision militates against their right to participate in economic enterprises as enshrined in the Malawi Constitution. Men hold the fate of women in their hands and their right to participate in these schemes. While most women have found their way into these schemes, the mere presence of such provisions in written or unwritten form points to the fact that women are still regarded as perpetual minors incapable of making sound economic decisions. In some extreme but not uncommon cases, husbands have used this provision to deny their spouses the right to join these schemes.

This paper also discusses how the usurious interest regime of these schemes negatively affects women. Both the schemes under discussion charge 20% monthly compound interest on loans members get from the scheme. This has made it difficult for women to service their loans as most women do not only use the loans for investment but also for their daily living expenses. The little that women keep to invest spare for investment is usually put into small scale businesses that often do not generate enough profits to service the loan.

It is not uncommon that most of these businesses fail before the loan is fully serviced. Often women are driven into a corner and end up being forced to engage in '*maganyu*' (piece work) to raise money to buy the schemes mandatory weekly shares and service their loan. Others have lost their property to the schemes just to pay off their loans. Other women have been divorced by their husbands apparently for not 'getting their consent before getting the loan.'

This study also discusses how the property collateral prerequisite for women to access loans prejudices them. In view of the fact that women rarely own, have limited access to or control of property, asking them to provide property as collateral in the form of land and livestock is in essence asking their husbands not only to make the decision as to how these loans should be used, but also letting men make decisions that control the schemes from behind the scenes. Property is usually owned by men, therefore expecting women to provide property as collateral is in principle asking women to take a backseat in what is supposed to be their own enterprise.

Lastly, this study also demonstrates how some monetary sanctions that are imposed on women for, say, reporting late at or being absent from weekly meetings and failing to buy weekly shares are not only gender insensitive but also capitalist in nature. This is due to the fact that the controllers of such schemes are only interested in making profits at every opportunity without considering the multiple roles women must fulfil before they can comply with the rules of these schemes and that they prejudice the economic interests of most women in communities under consideration.

Essentially having conducted some research into the issue, this study suggests that a more in-depth study should be conducted into engendering these schemes through statutory policy and legal framework. It finds that there is a need for engendering the rule and regulations that govern these schemes be it at statutory or individual scheme level.

While the debate on whether Malawi should formalize these schemes through statutory policy and legal framework continues, the study also suggests government, civil society organizations, development partners and women themselves should partner to review and engender the training manuals that inform the rules and regulations that govern these schemes.

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CHAPTER ONE

1.0 INTRODUCTION, BACKGROUND AND RESEARCH DESIGN

1.1 Introduction and motivation

This research interrogates how the gendered nature of the rules and regulations that establish and govern self-regulating Women's Village Savings and Loans Schemes (WVSLs) in Malawi militates against and negatively affect the effectiveness of these schemes.

The impression world over is that microfinance including, WVSLs, is a successful tool to emancipate women from the jaws of poverty (Rothberg & Holm-Müller, 2007: 4). Not only have they allowed women to enjoy financial inclusion that has eluded them for far too long, but they have also enabled some of their members to build homes and buy livestock from the proceeds of these schemes.

However, my family's experience with WVSLs has taught me that they still suffer some teething problems, stemming mostly from the gendered nature of their governing constitutions that prevent these schemes from attaining their full potential.

Having resigned my job to pursue a Masters' in Social Legal Studies, I agreed with my wife to venture into business to complement her salary and keep the family going in my absence. Our first point of call, owing to its popularity, was the WVSL. We were attracted by the superficially easy requirements for a member to join and access a loan. In no time at all, my wife bought her shares and accessed a loan. Owing to the formal employment she has, she could not engage in full time business and therefore we opted that she enters into a partnership with another female member in the same scheme.

However, before my wife could formally be accepted into the scheme and access a loan, she was required to meet some conditions including obtaining my consent. I saw no need for me to do this. In addition, she was also asked to provide collateral to secure the loan. She gave our family car as collateral. She eventually got a loan worth MK1, 000,000 (USD 1,399.24)¹ at 20% bi-monthly compound interest rate. She put all the money into the business and let her

¹ US\$1 to MK714,672 (Malawi Kwacha) (<https://www.oanda.com/currency/converter/>).

associate run a cross border shoes business. She also told me that monetary fines are imposed on all those who fail to attend or arrive late for weekly meetings.

During the initial period, business seemed to do well. Little did we know that our business associate was apparently involved in different schemes and was servicing a number of active loans from different schemes. She kept on giving us excuses each time we were supposed to service the loan. We learnt later that she used our money to service her loans from the different schemes. By then our loan plus accrued interest had shot through the roof. For fear of losing our car as collateral to pay off the loan we got into further debt to service the loan.

It was as a result of this personal experience together with media reports on the subject and my interest in women's social and economic rights that aroused my interest and made me decide to undertake this study and investigate the issue further.

1.2 Problem statement

WVSLs have been touted as not only the solution to the problem of women's financial exclusion that has eluded them for far too long but also the key to improving and strengthening their social and economic standing. Numerous studies on their effectiveness have indicated that various challenges stand in the way of these schemes (Molloy *et al.*, 2016). Inadequate policy and legal frameworks governing these schemes is one of such challenges (Meerendonk & Juergens, 2016). This study problematizes and discusses how the gendered construction of the rules of engagement establishing and governing WVSLs have contributed to their slow growth and made it difficult for women to fully realize their social and economic rights through these schemes.

1.3 Overall research objective

The overall research objective is to assess the extent to which the gendered rules and regulations establishing and governing WVSLs affect women's social and economic rights.

1.4 Specific objectives

The following are the specific objectives that guided this research study:

1. To assess how the requirement that women obtain the prior consent/permission of their husbands to join and access loans from these schemes affects their right to financial inclusion and their social and economic rights.
2. To assess the how exorbitant compound interest rates charged on loans affect women's social and economic rights.
3. To find out how the requirement that women provide property as collateral in order to secure loans from the schemes prejudices them and disregards their limited ownership of, access to and control over property and resources.
4. To find out to what extent certain sanctions contained in rules and regulations governing these schemes disregard the multiple roles that women play at family, village and community levels.
5. To discuss how cultural norms and practices disempower women in these schemes.
6. To discuss how an engendered legal and policy regime can improve WVSLs.

1.5 Research assumptions

The overarching assumption of this research is that the gendered and capitalist inspired rules and regulations that establish and govern Women's Village Savings and Loans Schemes (WVSLs) undermine the schemes and violate the women members' rights to financial inclusion as well as their social and economic rights. The sub-assumptions of this research are as follows:

1. That the WVSLs' rules and regulatory provisions requiring women to obtain the permission or consent of their spouses to join and access loans are discriminatory and violate their economic rights to engage in economic enterprises.
2. That the exorbitant compound interest rates that the WVSLs charge for their loans prejudice women in their quest to enjoy their social and economic rights.

3. That the WVSLs' requirement that women provide property as collateral in order to secure loans prejudices them and disregards their limited ownership of, access to and control over property and resources.
4. That some sanctions contained in the rules and regulations establishing and governing the WVSLs disregard the multiple roles of women.
5. That an engendered regulatory regime for WVSLs can cushion women from the violations and exploitation to which they are subjected.

1.6 Research questions

1. How do the WVSLs' rules and regulatory provisions requiring women to obtain the permission or consent of their spouses to join and access loans discriminate and violate their economic rights to engage in economic enterprises?
2. Do the exorbitant compound interest rates that the WVSLs charge for their loans prejudice women in their quest to enjoy their social and economic rights?
3. How does the WVSLs' requirement that women provide property as collateral in order to secure loans prejudice them and disregard their limited ownership of, access to and control over property and resources?
4. How do some sanctions contained in the rules and regulations that establish and govern the WVSLs disregard the multiple roles of women?
5. How can an engendered regulatory regime for WVSLs cushion women from the violations and exploitation to which they are subjected?

1.7 Study justification

Much has been written in the relevant literature about microfinance including how VSLs have filled the void left by the formal financial system. Informal microfinance has provided an alternative and innovative financial services platform to the unbanked especially poor women (UN, 2009). In Malawi, studies that have been conducted on this subject have

established that WVSLs have helped women a great deal to realize and enjoy their right to financial inclusion and to enjoy their social and economic rights and status (Mwalughali, 2015: 46).

While most of these studies have hailed WVSLs as an innovative way to emancipate women from poverty, the schemes still remain dogged by a number of constraints, especially, legal constraints (Mwalughali, 2015: 46). These studies have not, however, gone further and interrogated why and how their rules and regulations that establish and govern these schemes impact women, their rights and interests.

This study does not intend to detract from the innovation of VSLs but rather it seeks to bring in a new perspective into the discourse, especially on how the gendered rules and regulations which govern them prejudice women. This study puts under the spotlight the ignored and overlooked gendered perspective of the rules and regulations governing women's village banks and discusses how they can be engendered for the benefit of their women clients.

1.8 Demarcation of the study

This research is confined to two cases studies namely the Takondwera and Kapula Women's Village Savings and Loans Schemes (WVSLs) located in Malawi's Dowa and Rumphi Districts, respectively (Figure 1 at the end of the chapter).

1.8.1 The Takondwera Women's Village Savings and Loans Scheme (WVSL)

The Takondwera Women's Savings and Loans Scheme (WVSL) is located on the periphery of Mponela Rural Growth Centre. Specifically the scheme is based in Village Headman Kashingula's area, Traditional Authority Mponela in Dowa District. Mponela is about 55 kilometres north of Lilongwe, the capital of Malawi.

The Takondwera Women's Savings and Loan Scheme (WVSL) was established in 2011 and has a current membership of 23 women. I chose this scheme as a case study for three reasons. Firstly, it is closer to where I am based, Lilongwe, and hence it was easier and affordable for me to reach. Secondly it is located in a rural area and I wanted to understand how women in rural areas interact with the rules and regulations of these schemes. Thirdly, I wanted to

understand how matrilineal societies interact with the rules and regulations governing these schemes and Kashingula Village is a matrilineal community.

1.8.2. The Kapula Women's Village Savings and Loans Scheme (WVSLs)

The Kapula WVSLs is located in the area of Group Village Headman Malinda, Sub Traditional Authority Chisovya in Rumphu District, in the Northern region of Malawi. It is located about 75 kilometres north of Mzuzu city, the regional administrative capital of Northern Malawi. It is a typical rural area. I chose this area because I wanted to appreciate how the rules and regulations establishing and governing WVSLs interact with and affect women in a typical rural setting. Besides, I also wanted to understand how these rules and regulations are influenced by the patrilineal background of this society. This scheme was established in 2012 and has a membership of 20. All of them are women.

1.9 Limitations of the study

There are two limitations to this study. Firstly, while the framework of rules and regulations that establish and govern WVSLs are more or less identical, this research is only a reflection of two schemes namely those in Kapula and Takondwera and not necessarily a reflection of all similar schemes in Malawi.

Secondly, this research would have gained some invaluable insights from the Reserve Bank of Malawi (RBM) had its personnel responded to my numerous requests for information on their plans pertaining to the statutory legal regime regulating schemes.

Figure 1: Map of Malawi showing the research areas, the Kapula and Takondwera WVSLs in Rumphu and Dowa Districts, respectively.
(Map courtesy: http://d-maps.com/carte.php?num_car=4780&lang=en)



CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

This chapter examines similar studies that have been conducted on this subject and focuses on their gaps from the point of view of this research. Specifically, apart from defining Women's Village Savings and Loans Schemes (WVSLs) and their different strands, this section discusses the 'contestation and consensus' schools of thought on the impact of WVSLs on their social and economic rights.

2.2 Informal micro-financing defined

Microfinance is defined as the provision of microcredit (small loans), saving facilities and other financial services to the very poor, usually those who do not have 'collateral' as defined by formal financial sector (Lindé and Spencer, 2015). The United Nations (2016) notes that microfinance is a heterogeneous sector replete with different strands. Microfinance can either be informal or formal.

Under the informal microfinance strand, Robinson (2001) coined two 'ideal types':

'The 'poverty lending' approach is characterized as donor-subsidized lending for the poor, including the very poorest, often linked to a variety of other support services. It is not seen as a financially sustainable approach in the long run because donor funds cannot be relied on in the indefinite future.

The 'financial systems' approach stresses financial sustainability, offering a minimal, commercially oriented package of financial services targeted to the 'bankable poor'. It eschews subsidies, stresses cost recovery and seeks to promote small and medium-sized enterprises (UN, 2016).'

The 'informal financial system' strand boasts of different approaches and these include but are not limited to Village Savings and Loans Schemes, Savings Clubs, Rotating Savings and Credit Associations (ROSCAs), Accumulated Savings and Credit Associations (ASCAs) and others' (Mutesasira *et al.*, 1999: 20).

This paper zeroes in on Women's Village Savings and Loans Approach. A Village Savings and Loan Association (VSLA) entails a group of people who pool their savings together and

take turns to give each other small loans at interest. Usually the activities of the group run in annual cycles in which they start saving in January and in about December members share the accumulated savings and profits made on loans during the year (VSL Associates, 2018).

The United Nations (2016) note that Village Savings and Loans Schemes (VSLs) have been dominated by women, thanks largely to their high rates of loan repayment. Globally, in 2009, women made up 83.4% of VSL membership (Daley, 2009).

Munthali (2015) notes that the Village Savings and Loans concept was first introduced in 1991 by Cooperative for Assistance and Relief Everywhere (CARE) with the sole purpose of providing simple savings and loan facilities in a community that does not have easy access to formal financial services. Village Savings and Loans Schemes provide members with steady, timely, diversified and affordable source of financial services.

In the case of both the Kapula and Takondwera WVSLs, the women established the schemes for the purpose of pooling their resources in return for which they provide each other with small loans to either invest in small scale businesses or to pay for daily living expenses or both. To start with members of the Kapula and Takondwera Schemes are required to buy a share worth at least MK250 and MK300, respectively. In both schemes, each member is required to buy up to a maximum of 5 shares per week. These savings then provide a pool for the members to give each other loans. At the end of year the members share all the money they have collected from the purchase of shares, interest on loans and fines and they do so in proportion to the number of shares each member has accumulated.

2.3 The impact of WVSLs: The consensus and contestation schools of thought

Literature on the impact of WVSLs refers to two contrasting schools of thought, namely, the consensus and contestation schools of thought.

2.3.1 The consensus school of thought

At international level that microfinance including WVSLs goes beyond benefiting a family and benefits the community at large (Khandler, 2006). In Malawi, studies have shown that VSLs have empowered communities and women economically (Lindé and Spencer, 2015).

The United Nations (2016) notes that WVSLs are an effective tool for strengthening women's decision making power at household and community level. They have also led to a decline in domestic violence and have helped members and their families escape from the bondage of moneylenders. The loans and dividends that women get from these schemes have saved them from having to engage in perpetual and demeaning forms of wage labour. Women have also used such dividends to finance the education of their children including their daughters. In addition women are accorded increased respect from their husbands and the community. These schemes also act as a platform for social networking for women which enables them to help each other in times of bereavement, weddings and sickness.

2.3.2 The contestation school of thought

At the opposite side of the spectrum, the contestation narrative questions the efficacy or effectiveness of microfinance as a poverty reduction strategy, arguing that the component of debt which is the mainstay of these ventures is not the most effective strategy to help the ultra-poor (Hashim and Dodo, 2015). Mayoux (2002) is of the view that debt for women is 'suicidal' because of the gender relations that exist in society which dictate the uses to which loans are put. The predicament typically reduces poor women to perpetual borrowers who end up being highly indebted. Ghatak *et al.* (1999) believe that poor households are likely to be forced to use credit loans to cover daily living expenses as opposed to investing in income generating projects. To make matters worse, the loan repayments rates of these schemes are usually higher than those of formal financial institutions.

In my interaction with women I noted that since women usually secure the money to buy shares from their spouses, the final decision on how to use the loan and the dividends rests with their husbands. This sometimes led to increased domestic tension and violence between couples. The workload of women already overburdened fulfilling multiple roles was increased in contrast to husbands who chose to literally just sit back and force their wives to take on the whole responsibility of fending for the family from the proceeds of the scheme.

2.4 Locating WVSLs in the international and domestic legal framework

As noted earlier, WVSLs remain informal and therefore fall outside the confines of statutory legal regulation. While international and domestic policy and legal framework do not explicitly provide for WVSLs, a closer look at them reveals that they are replete with

provisions that speak to the need to promote, protect and safeguard women's financial inclusion, non-discrimination, and guarantee women's social and economic rights.

At international level, article 3 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 13(e) of the Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol) all echo each other in calling upon state parties to put in place measures including legislation aimed at advancing the social and economic rights of women.

Furthermore, article 19(d) of the Maputo Protocol is explicit in specifically calling for state parties to put in place an environment that enables the full participation and enjoyment of women in sustainable development:

'Promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women.'

Furthermore, United Nations Sustainable Development Goal (SDG) No. 5 (Gender Equality) challenges members states to undertake reforms to give women equal rights to financial inclusion.

At the domestic level, WWSLs despite being popular remain informal and self-regulated. However the Malawi legal regime has some legislation that speaks to the need for and guarantee of women's social and economic rights by way of allowing them to engage in economic enterprises without discrimination. For instance, section 29 of the Malawi Constitution, 2010 provides:

'Every person shall have the right to freely engage in economic activity, to work and to pursue a livelihood anywhere in Malawi.'

In addition, section 24 of the Constitution further provides:

'Any law that discriminates against women on the basis of gender or marital status shall be invalid and legislation shall be passed to eliminate customs and practices that discriminate against women.'

The Malawi Microfinance Act, 2010 is a statutory legal framework that regulates the microfinance sector. Section 4 of that Act clearly excludes informal microfinance enterprises including WVSLs.

At policy and program implementation level, Malawi's Gender Policy (2015) is built around the objective to reduce gender inequalities and enhance participation of women, men, girls and boys in socio-economic development processes.

At the micro level, this study questions how far the Constitution, customs, norms, practices and policies governing Malawi's VSLs not only speak to the prevailing statutory laws on gender and economic empowerment but also how they can be improved.

2.5 Conclusion

This chapter, has not only, drawing from different literature, demonstrated the heterogeneous nature of the concept of microfinance but it has also discussed the international and domestic legal framework which governs it. While the informal microfinance option of the Women's Village Savings and Loans Scheme remains unregulated at national level, it has clearly emerged as a viable option for all stakeholders to help women realise their right to enjoy financial inclusion.

CHAPTER THREE

3.0 RESEARCH METHODOLOGIES AND METHODS

3.1 Introduction

This chapter delves into and discusses the methodologies that shaped, informed and guided this study. It also discusses the data collection methods that were employed. A number of methodologies and methods came into play in carrying out this study. The methodologies were meticulously selected to shape and guide the research framework by giving due regard to the nature of the subject matter and the types of sources of information which needed to be collected to investigate it. This section discusses why and how the selected methodologies and methods were selected and used in not only shaping the study but how they influenced the whole iterative process of gathering and analysing data in answer to research questions, determining their impact on them and identifying respondents, emerging issues (if any) and then determining the next step, usually the next question to ask, in the research journey.

3.2 Methodological approaches

3.2.1 *Women's law approach*

Bentzon *et al.* (1998) describe the women's law approach as a woman-centred legal school of thought which focuses on women's actual lived experiences and through them interrogates how legal regimes or lack thereof play out in the lives of women. This approach informed the design of the study and helped me to draft the research assumptions and their corresponding questions; questions that interrogate how the rules and regulations establishing and governing WVSLs affect, shape, interact, improve or frustrate the day to day lived experiences, expectations and aspirations of women.

For instance, using this approach I was able to learn that while the rules and regulations of WVSLs clearly stipulate on their face that their women members are the managers of the schemes, the reality is that as a result of the influence of culture and religion it is their husbands who invisibly control them from behind the scenes. I discovered that men have the final say in determining whether or not their spouses join these schemes as well as when and how much their wives can secure loans from them.

In addition to appreciating how the rules and regulations establishing and governing these schemes affect their women members, I also used their experiences, frustrations and aspirations as the main reference point in all my discussions with other stakeholders and respondents including their spouses, traditional and faith leaders, government officials and development partners. For instance, as a result of this approach I learnt that men do not see any problem with the schemes' regulations that require their spouses to seek permission from them because this provision consolidates their grip and power over women.

This approach guided me in interrogating the rules and regulations through a gender lens which required me to ask 'the woman question.' For instance, I was able to interrogate how the interest rate charged for loans from the schemes prejudiced women more than men. I learnt that men were of the view that the 20% per month interest charged on loans was manageable because they had more time to devote to and were more likely to be involved in more lucrative businesses; whereas as a result of carrying out their multiple roles at family and community level, women had less time to dedicate to and were involved in less lucrative businesses.

3.2.2 Human rights approach

The human rights approach involves not only identifying what human rights violations and abuses are taking place but it also takes into consideration, on a continuum, the capacity of rights holders to defend and claim their rights, on the one hand, and the duty bearers' accountability to respect, protect and promote/fulfil the same rights on the other.

As discussed earlier, women's access to, inclusion and involvement in financial enterprises without discrimination is a human rights issue. International and domestic legal provisions do not only guarantee women's social and economic rights but also prohibit any form of discrimination that prevents women's involvement in any economic enterprises. With this background in mind, the research assumptions and questions were designed to interrogate how far the provisions within the rules and regulations establishing and governing WVSLs respect, protect and safeguard women's social and economic rights. For example, this study interrogated how far the provision that requires women to obtain the consent and permission of their spouses to join and subsequently access loans from the schemes respect the non-discrimination clauses found in international and national legal instruments. As will be expounded later, the human rights approach brought to the fore a clear violation to women's

rights as these schemes do not only discriminate against women, but also regard women as perpetual minors who are not capable of making their own decisions as they depend on their husbands.

Conversely this approach also helped me to interrogate the duty bearers' accountability in making sure that WVSLs respect the rights of women. As will be discussed later, the human rights based approach helped me to appreciate the 'wait and see approach' that the government has taken on whether to put in place statutory regulations to govern these schemes or not.

This approach also helped me to appreciate the capacity of women to claim and defend their economic rights. I noted that while women knew that they have rights to engage in economic activities, they had to navigate and often succumb to traditional and religious teachings that put men in control of women's lives.

The concept of interrelatedness and indivisibility of human rights also came into play during the course of this study and heavily influenced the conceptualization and the iterative process of data collection, analysis and interpretation. For instance, as it will be detailed later, I noted that the discriminatory provisions that require women to obtain permission from their spouses to join these schemes also compromises their other human rights such as the right to health and freedom of association as women who are prevented by their husbands from participating in these schemes are denied a chance to raise money that would enable them to finance the cost of health care and education for their children.

3.2.3 Dung beetle approach

The dung beetle approach describes the grounded research process in which the researcher collects, sifts and analyses and then considers the implications of their findings, determines what to collect next to meet their needs and continues the collection and analysis cycle (Bentzon *et al.*, 1998).

With the guidance of this approach I was able to adjust, where necessary, my research questions and questioning technique depending on the gaps that I would have detected at the end of every day of field work. For instance, my initial assumption on the WVSLs kept on being refined each time I got involved in the research process. For instance, I started off with

assumptions that kept on being challenged and this demanded that I kept on refining them each time I did some literature review and pretesting of the data gathering tools.

This was also true during the data gathering processes where I had to keep the research as fluid as possible making sure that my research questions were as grounded but alive to the issues that were being raised during my interactions with the respondents. It helped me to make sure I paid attention to details in order to identify issues that needed to be followed up and further interrogated as well as respondents who were not initially on my list. For instance, while conducting a discussion with the women of the Takondwera WWSLS, I was told that the Evangelical Lutheran Church provided some capacity guidance to the scheme. I was under the impression that this scheme was independent and not connected with any other organisation. This meant that I had to devise appropriate questions for the community mobilization facilitator specifically in order to discover what type of support the church provided the scheme.

3.2.4 Actors and structures approach

The actors and structures approach assumes that social and legal reform happens within the confines and interaction between and amongst human beings as individuals or groups and not necessarily through some abstract medium such as the law (Bentzon *et al.*, 1998).

Guided by this approach, I was able to engage the leadership of all the relevant structures concerned with the direct and indirect running and management of these women's schemes. My starting point for this interaction was the leadership of these schemes. There I learnt how significantly the decisions of other leadership structures within the community affect these women's groups. Where on the face it one would be tempted to think that laws and regulations that establish and govern these schemes are made and executed by the women themselves, I learnt that the family and the community have a very big stake in these schemes. For instance, I learnt that the family structure with the husband as the head of the family and the main actor makes decisions that have a massive bearing on how the rules and regulations are made and implemented, the effect of which rendered the women almost helpless. Husbands literally have the powers to decide when a wife can access a loan, how much she can access and what business she is allowed to conduct. I also learnt that in the event that a woman member defaults in servicing her loan, the village leadership structure

headed by the village headperson, usually a man, presides over and delivers judgment in such cases.

It was therefore only logical for me to conclude that it was the understanding of the village headman and the women members' husbands of the rules and regulations of the WVSLs and their application of them that actually establish and govern the schemes. In a discussion with the village headmen and the members' spouses that I learnt that their appreciation of the rules and regulations were biased towards upholding their own interests and aspirations in the schemes as men and that they paid little or no regard to the position of women in as far as ownership of property, such as land is concerned, property that is usually demanded (in effect by them!) as collateral for loans. At the national level, the Ministry of Gender, Children, Disability and Social Welfare the parent ministry responsible for the welfare of women has still failed to take the crucial first step to engender the rules and regulations of WVSLs. I also learned to appreciate that if the journey towards engendering the laws and regulations that establish and govern WVSLs is to be successful, there is a need to engage these very same family and village structures and actors as they are the gatekeepers of the rigid cultural and religious teachings that subjugate women.

3.3 Data collection methods

Various methods were used to collect data for this study and these were individual interviews, focus group discussions (FGDs), observations and literature review. This section discusses how each of these methods was used in the study.

3.3.1 Individual interviews

Individual interviews were one-on-one interviews aimed at collecting information from members of the WVSLs and other interested and relevant stakeholders (Figures 2 and 3). While I also had focus groups discussions (FGDs) with these women, the individual interviews accorded them the chance to discuss, air their opinions and personal experiences that they would not have felt free to discuss in the presence of their peers. Such issues included how their husbands controlled the proceeds from the schemes and how they had abandoned their role of helping to provide for their households just because their wives were now engaged in some small scale business with a loan from the scheme.

Figure 2: Bar chart showing details of the men and women who were interviewed

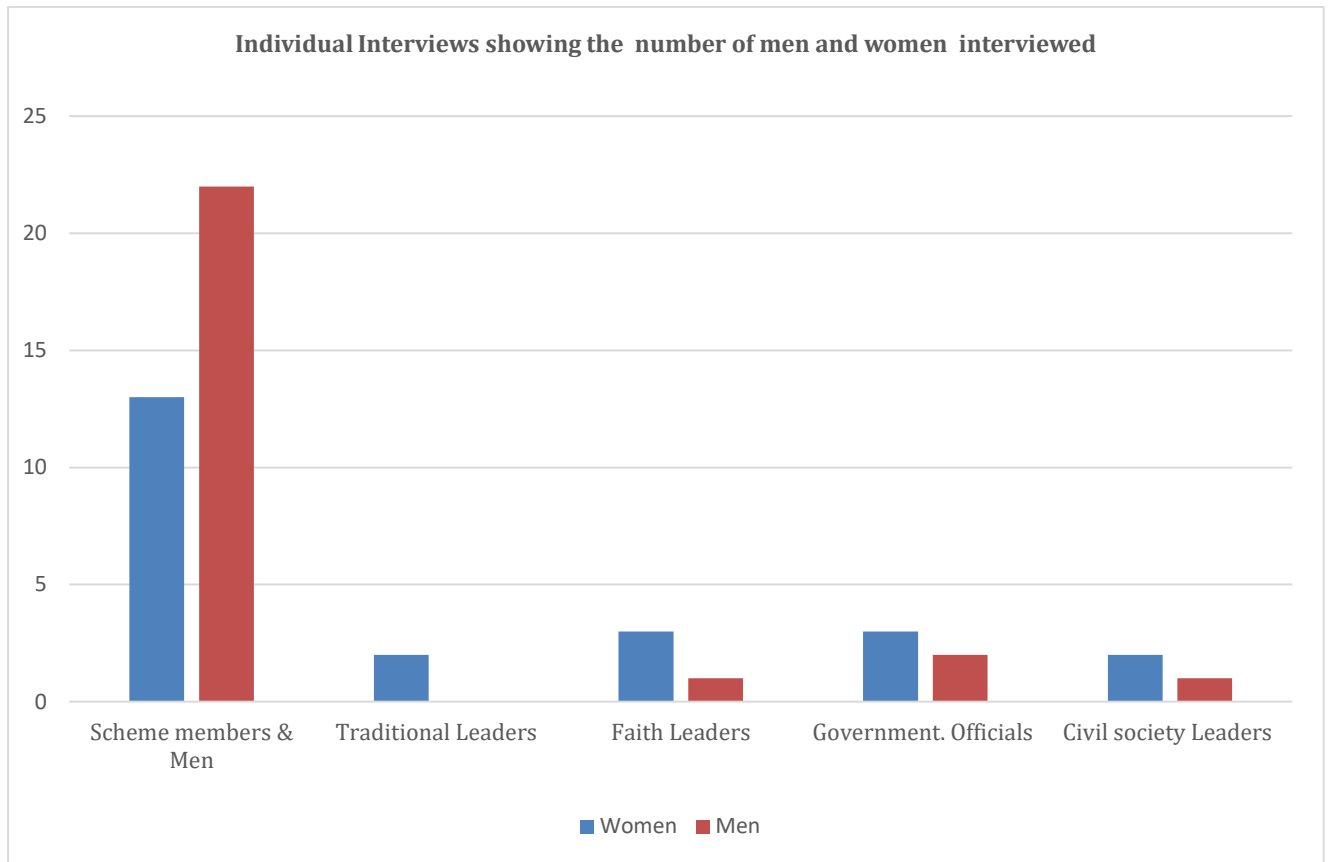


Figure 3: Photograph of the researcher with the Deputy Group Headman of Kashingula Village, Mponela Traditional Authority, Dowa District



I also employed this method when meeting key informants like the Ministry of Gender, Children, Disability and Social Welfare, development partners and civil society organization leaders because they could not be brought together for group interviews mainly because their perspective, interest and focus on this issue were different.

3.3.2 Focus group discussions (FDGs)

I also conducted focus group discussions (FDGs) with each of the two WVSLs. I employed this method because I wanted to obtain as much detailed information about personal and group feelings, perceptions and opinions. Using this method I was able to collect a more detailed narrative about the perceptions, processes and procedures of the WVSLs. Members would take turns to either supplement each other's responses, debate an issue or disagree outright with each other on an issue related to the scheme. However the only downside was that there were other people in the group who dominated the discussions while others were extremely passive. I had to employ my facilitation skills to try and ensure that everyone who wanted to make a contribution did so. Using this method I was able to hold focus group discussions with a total of 30 women, being 16 members from the Takondwera WVSL and 14 from the Kapula WVSL, respectively (Figure 4).

Figure 4: Photograph with women members of the Kapula WVSL (researcher, far right)



3.3.3 Observations

I also employed this method in the study mainly in relation to the interaction between the multiple roles that women play at family and community level and some of the sanctions that are contained in the rules and regulations of these schemes. In question are some of the offences that impose monetary sanctions on women for reporting late for weekly meetings and which fail to make allowances for the multiple roles of women members at family and community level. For example, I observed that most women reported to these meeting with babies as little as one month old, a responsibility that is more likely to make them report late or not report at all for weekly meetings.

Figure 5: Photograph of the babies and children of members of the Takondwera WVSLs who are about to report for a weekly scheme meeting



3.3.4 Written sources

I needed to consult written sources contained in the literature relevant to the topic under research. These materials included but were not limited to research studies, journals, media articles, books and the training manual on WVSLs as well as the rules and regulations establishing and governing WVSLs.

3.5 Conclusion

This chapter has discussed a number of methods and methodologies that were employed in the research process and how they were used to shape the design of the study and the collection, interpretation and analysis of the research data.

CHAPTER FOUR

4.0 FINDING THE DEVIL IN THE DETAIL

4.1 Introduction

As discussed earlier, studies on the social and economic impact of Village Savings and Loans Schemes (VSLs) on women has given birth to two opposing schools of thought: the one contends that these schemes have had a positive social and economic impact not only on women but also on their families and community at large, while the other is of the view that the schemes ultimately drown women in perpetual debt and defeat their whole purpose. Both schools of thoughts however do agree that, if well regulated and managed, VSLs would be one of the most viable vehicles for women's inclusion and involvement in financial enterprises this would strengthen their social and economic rights. This chapter discusses, analyzes and interprets the findings of this research which are based on the research's assumptions and questions.

Firstly, it is important to understand how the rules and regulations governing these schemes are constituted.

4.2 Rules and regulations formulation, inspiration and reference points

'The rules and regulations establishing and governing Women's Village Savings and Loans Schemes are alien and blind to the local realities, the cultural, political, religious terrain of Malawi. Development partners use templates of sets of rules that have worked elsewhere, especially in Europe, and push them on the Malawi settings. If they are to work, they need to be adapted to local needs.'

Principal Economic Officer, Malawi Ministry of Gender, Children, Disability and Social Welfare

As noted earlier, VSLs are unregulated by the statutory laws in Malawi. The Microfinance Act, 2010 categorically excludes them and states in Chapter 4:

'The following shall be exempted from the application of this act, microfinance that have:

- (b) Small member-based schemes which are operating:

- (i) In a single locality
- (ii) Based on a common bond and rotating savings and credit association or similar form or methodology.’

(Section 4 of the Malawi Microfinance Act, 2010)

This void in statutory policy and the legal framework has enabled the Women’s Village and Savings Schemes to become self-regulatory. Women, with technical support from various development partners, including civil society and faith-based organizations, have come up with rules and regulations that establish and govern their respective schemes. While the women members of the WVSLs indicated, during the interviews, that they take a leading role in formulating these rules and regulations governing their respective schemes, these rules and regulations are however inspired to a greater extent by a number of references including ‘The Village Savings and Loans Associations Training Manuals’ put together by development partners and civil society organizations, cultural and religious norms, beliefs and teachings.

According to the Malawi Ministry of Gender, Children, Disability and Social Welfare, ‘The Women’s Village Savings and Loans Training Manuals’ that have inspired the rules and regulations that women use in their schemes were first used in the World Bank funded projects that took place in 1980/90s and which were developed in accordance with the Women in Development (WID) and Women and Development (WAD) theories of women’s economic empowerment. Over the years these training manuals have been modified, adapted and ‘perfected’ to run the Women’s Village Saving and Loans Schemes.

In Malawi various organizations like the Evangelical Lutheran Church have been providing technical support to these schemes including the Takondwera WVSLs. According to the Church’s community mobilization facilitator responsible for Mponela catchment area, before the schemes are established in an area, the church organizes a community mobilization meeting aimed at selling the idea of forming a scheme in the village. Meetings of these kinds bring together women, men and community leaders. Usually after the community mobilization meeting, another meeting that brings together those women who have expressed an interest to join is convened, where the women are taken through the training manual that set out in detail how to run and manage the scheme. It is at this point that women are told

what the rules and regulations that govern schemes ought to look like. They are then asked to adapt these rules and regulations to suit their needs.

A discussion with members of the Takondwera WVSLs revealed however a different story. These women indicated that they set up the scheme on their own. They did not receive any guidance or training whatsoever from the church. The church interventions only came after the rules and regulations were already in place. Members indicated that they depended on guidance they got from other schemes within the area, schemes that have benefited from training provided by other development partners. Just like the Takondwera WVSLs, members of the Kapula WVSLs also sought and received help from other similar schemes within their area locale which had benefited from capacity building initiatives run by development partners and civil society organizations that champion women's economic empowerment.

I learnt that apart from these training manuals, the rules and regulations of the WVSLs were also informed by cultural and religious norms and dictates. For instance I learnt that provisions that demand that women seek permission from their husbands to join the schemes and eventually access a loan are largely influenced by the cultural and religious belief that men are the heads of their families and entitled to make all decisions in the home. The rules that regulate these schemes are to a great extent blind to the needs and aspirations of women. Therefore, while these schemes are supposed to be women's sanctuaries, gendered provisions which are insensitive to them, their rights and interests have found their way into how they are established and governed.

4.3 Gender blind spots within the rules and regulations of WVSLs

This section discusses the specific findings of this study with reference to the five assumptions that guided the study.

4.3.1 *'I can't join without his authorisation/permission'*

A member of the Takondwera WVSLs told me she could not join the scheme without the permission of her husband. She had this to say:

'Sindigapite kukalowa kopanda kundivomereza...zitha kubweretsa maphokoso mbanjabanja likhoza kutha kumene...'

(Translation: ‘[I cannot join] without his authorisation/permission or else [I] can chased away his from the house or divorced.’)

These sentiments were echoed by one male respondent whose wife is a member of the Takondwera Scheme. Upon being asked what he would do if his wife joined a scheme against his wishes, he had this to say (Figure 6):

‘Sangalowe popanda chilolezo changa... ngati angapite payekha, kumeneko ndikudelera kwakukulu... banja litha kutha.’

(Translation: ‘[She cannot join,] not without my permission; if she goes ahead to join without my permission that is gross insubordination, worthy of divorce.’)

Figure 6: Summons for a divorce against a wife who allegedly obtained loans from a WVSLs without her husband’s permission

0487838

REPUBLIC OF MALAWI
FORM XIV
IN THE F.G. MAGISTRATE'S COURT
SITING AT LILONGWE
CIVIL CAUSE NO. 19d OF 2017

PLAINTIFF
AND
1st DEFENDANT
2nd DEFENDANT

SUMMONS FOR DIVORCE

Lilongwe

By this summons, you are hereby ordered to appear before the above mentioned court on the 19th day of Dec 2017 at 9 in fore noon to answer the summons of the above named plaintiff against you for divorce on the grounds of:

1. Irreconcilable Issues (She is found
2. of taking loans without the consent
3. of the court which has lead to loss of property.

TAKE WARNING that if you fail to attend court on the date and time stated, judgment may be given against you in your absence.

Date the 19th day of December 2017

COURT SEAL
LILONGWE
CENTRAL SECTION

MAGISTRATE

This section discusses the assumption that the provision within the rules and regulations that requires women to secure permission from their husband to join these schemes and access their loans is not only discriminatory (as it has the potential to deny women the right to engage in economic enterprises so that they may eventually enjoy their social and economic rights) but it also deems that women are perpetual minors, unable to make their own decisions.

In both the schemes under discussion this provision is jealously guarded and diligently followed to the letter. It is part of standard operating procedure called 'double verification' that when a woman requires a loan, the leadership of the scheme is tasked to verify with her husband whether to give her the loan and how much she should be given. I learnt that this requirement is important because in the event that she fails to pay the loan her husband should be able come to her rescue.

Discussions with members of both schemes indicated that this requirement is influenced by cultural and religious teachings. Culturally husbands are the ultimate decision makers in both communities.

According to Group Village headman of Kashingula Village, men in his village are the heads of their families and therefore a wife can neither make a decision on her own to join a scheme nor can she refuse to join one if her husband orders her to do so. This was also corroborated by Rev. Mphatso Cosmas, a minister at Kashingula Last Church Prayer House, who indicated that Bible teachings indicate that the husband is the head of the family and is the ultimate decision maker in the family. He quoted authority from the Bible, Ephesians Chapter 5 verses 22-23:

'Wives, submit yourselves to your own husbands as you do to the Lord. For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Saviour.'

According to his interpretation of this scripture, submission means being under the control of another person and that means that a wife cannot go against the wishes of her husband.

In a separate discussion I had with men on why they think this requirement is important, most of them indicated that most women cannot be trusted with decisions that involve money.

They indicated that money decisions are supposed to be made by men because they are very important decisions.

Similarly, other male respondents indicated that a husband has to make the final call on whether his wife can join scheme or not after weighing up all the options and probabilities. They were of the view that men are not only heads of the family but also their bread winners. Therefore allowing their wives to engage in income generating activities would be interpreted as the failure of husbands to be breadwinner and will also encourage wives to eventually usurp the power of their husbands.

Some women respondents supported this requirement for various reasons. Firstly, they reasoned, that since it is the men who give them the funds to purchase the initial shares for the scheme, it only makes sense for them to seek permission to join, not only for the purpose of joining but also to ask them for the money required to purchase their initial shares.

Other women respondents were of the view that some men are just driven by sheer jealousy because they think that allowing their wives to engage in business would give them an excuse to be out and about to find opportunities to engage in extramarital affairs. This is even more likely the case, they said, when wives were involved in business far from their homes.

On a different note, some women indicated that some men are just afraid of having a wife who is financially independent because to them a financially independent woman becomes difficult to control and subjugate. They would rather have a wife who is dependent on them for everything so they can use it as a tool of subjugation.

Similarly, other male respondents were of the view that women become stubborn and forget their 'wifing' roles once they become financially independent.

'Akayamba kugwira ndalama, amayamba mwano. Osamagwira ntchito zapakhoma kapena kulera ana.'

(Translation: 'Often some women become stubborn and rude to their husband and forget their 'wifing' and mothering roles once they are financially independent.')

A male respondent from Kashingula Village, 2017.

It was also interesting to note that while both male and female respondents acknowledged that women have the right to participate in economic enterprises free of this restrictive consent requirement, they were hesitant to have it modified or removed altogether. They rightly noted that wives are by the dictates of culture and religion required to run every one of their decisions past their husbands.

4.3.2 Human rights violations and legal pluralism dilemma

From a human rights perspective, the consent clause is in direct conflict and interferes with the non-discrimination clause and the right to engage in economic enterprises as entrenched in international, regional and national policy and legal instruments (*ibid.*). This requirement militates against these provisions as it puts the power to either exclude or include women from engaging in economic enterprises in the hands of their husbands. In the event that their husbands do not give them permission to join, these women will be denied their rights to engage in economic enterprises and this limits their social and economic rights.

Other rights that are compromised because of the ‘permission clause’ is the right of women to associate freely with others which encompasses both their individual right to join or leave a WVSLs voluntarily and the right of the scheme to take collective action to pursue the interests of its members.

‘The permission clause’s’ breach of one human right which in turn causes breaches of other human rights (i.e., the ripple effect of human rights breaches) reveals the indivisible and interrelated nature of human rights. For example, women whose husbands have denied them the right to join a WVSLs means that they will remain on the margins of economic empowerment and will have difficulties in supporting their family, including accessing health services, buying food during lean periods and also finding the finance to pay schools fees, thereby compromising their rights to health, food and education, respectively.

On another front, the consent requirement brings into play the concept and the dilemma caused by legal pluralism. Legal pluralism entails the co-existence, interplay and interface between multiple systems of law and normative values within one geographic area or territory. It also entails the interplay, interface of the traditional and religious, norms, practices and teachings on one hand and the statutory laws of a country on the other.

Societies are made to navigate and live within the dictates and requirements of these complex normative orders (Makonese, 2017).

From my findings regarding this assumption, it is clear that there is a strong influence of legal pluralism that tilts the legal regime toward the prevailing traditional and religious teachings, dictates and norms.

‘[Strong legal] pluralism therefore creates a diverse range of systems that stretch the meaning of law beyond the conventional understanding that entails rules that are accepted by and solely administered or enforced by the State. It includes rules and norms that are outside the State-centric sphere which are not recognized by the State and which are not administered by the State’ (Makonese, 2017).

This strong legal pluralism has not only influenced women to put in place the consent clause in the rules and regulations but it has also influenced men to support this provision because, according to them, their culture and religious teachings provide that husbands, as head of their household, have the final say on any decision that their wives make. While the international, regional and domestic policy and legal provisions safeguard and guarantee women’s rights to engage in economic enterprises without undue hindrance from anyone including their spouses, the traditional and religious dictates provide otherwise and they take precedence.

4.3.3 Theoretical perspectives

From the feminist’s perspective, there are quite a number of theories that not only explain the origins and effects of the prior consent provision but also how it can be navigated or ignored altogether.

Marxist feminism theory do not only problematizes oppressive capitalist tendencies that women are subjected to, but it also proposes ways and means through which women can be liberated. According to Marxist feminists, women's liberation can only be achieved through a radical restructuring of the current capitalist economy in which, they contend, much of women’s labour is unappreciated and uncompensated (Ferguson and Hennessy, 2010).

Marxists feminist, just like radical feminists, contend that women have for far too long been confined to reproductive roles that have excluded them from productive work. Despite some

progressive statutory policy and legal frameworks that have been put in place to guarantee that women engage in economic enterprises, women are yet to surmount a further hurdle in their pursuit into the productive work realm. Productive work should be understood not only to mean women getting remunerated formal white collar jobs that pay a salary at the end of the day, but also engaging in informal businesses made possible by membership of WVSLs.

While everyone including husbands are under statutory legal obligation to allow their wives to freely engage in economic activities, they are not yet ready to relinquish their capitalist power in one go. Therefore they have retained the power to decide whether their wives may join or secure a loan from WVSLs. Men still hold the power to decide the fate of their wives in as far as productive work is concerned. Just as Marxist and radical feminists contend, men would rather have their wives in the kitchen and the maternity ward than in the market place engaging in economic activities.

I note that that Nego-Feminism (Nnaemeka, 2004) or ‘the feminism of negotiation’ that ‘builds on the indigenous’ can be used to reduce the blow of this restrictive provision. Already women are using this strand of feminism to negotiate their way into the schemes and eventually access loans. It was interesting to note how women have perfected the art of negotiating with their husbands and persuaded them of the importance that they participate in these schemes. As a result, some men have not only allowed their spouses to participate in these schemes and others have even taken the further step of helping their wives manage and run their businesses. This proves that human rights provisions can live side by side with traditional norms and cultures. In the long run, these cultural norms may eventually be realigned with prevailing human rights norms.

In the same way as Nyuma-Musembi (2013) contends that not all cultural practices that are deemed primitive are harmful and therefore need to be eliminated with urgency, I suggest that there are some cultural practices which only need to be modified to suite the prevailing times. Perhaps what is needed is not necessarily the abolition of this restrictive provision but rather its modification. So, instead of women having to seek permission from their spouses, they should rather simply and out of a sense of courtesy be required to give their husbands notice of their intention to join a WVSL or to obtain a loan.

4.4 *'It's a waste of time rearing a hen that does not lay enough eggs'*

In a discussion with one male respondent, he indicated that the purpose of WVSLs is for the members to make as much profit as they can, using every strategy available to them, even if it means paying a high interest rate on the loans that they get. He used a clever analogy to make his point:

'Chiwongola dzanja chochepa pa ngongole nde kuti pakutha pa chaka sadzagawana ndalama zochuluka, kuli ngati kuweta nkhuku yosayikira mazira.'

(Translation: 'A lower interest rate will compromise the amount of money that will be available at the end of the year for them to share; it's like rearing a hen that does not lay enough eggs.') A male respondent from Kapula Village.

This section problematizes the interest rate that women's scheme charge on loans. Both the Kapula and Takondwera WVSLs charge a 20% monthly compound interest on loans. Just as these schemes operate outside the realm of statutory law, interest rates in Malawi are not regulated by any statutory law. In other words Malawi does not have laws on usury.

'Usury is the unlawful act of charging interest on a debt [loan] at a rate greater than what is permitted under any applicable law or exemption from a law' (Washington State Department of Financial Services, 2018).

Usury laws prohibit the tendency and practice of charging exorbitant interest rates on loans by setting maximum caps that can be charged on a loan with the sole interest of protecting the borrower (*ibid.*). While the Reserve Bank of Malawi (RBM) is by law mandated to regulate the financial sector, it does not have powers to regulate how much interest rate financial institutions charge on the loans they provide to their customers. The idea is that Malawi, as free market economy, interest rates are left to be controlled and moderated by the market dynamics and forces.

'The advocates of interest rate liberalization and financial development as growth enhancing economic policies in developing countries have based their arguments on the theoretical works of Mckinnon (1973) and Shaw (1973). The policy of low interest rates was considered an important avenue for promoting investment by keeping interest costs low. Mckinnon and Shaw, however, showed that the policy of controlled or administered interest rates was tantamount to 'financial repression', which is a general distortion in financial prices like interest rates that reduces the real value of financial assets. Thus,

the overall volume of savings decreases and investment is naturally adversely affected. The policy prescription for the financially repressed economy in the Mckinnon Shaw models is then to raise institutional interest rates or reduce inflation' (Reserve Bank of Malawi, 2000).

During the course of the this study the Malawi Government was pleading with financial institutions to lower their interest rates on loans in response to the Reserve Bank of Malawi's reduction of the policy rate, the rate at which commercial banks borrow from the central baank. The Reserve Bank of Malawi (RBM) had reduced the rate to 16% (Chalanda, 2017). The onus of reducing or increasing the interest rate is on individual financial institutions.

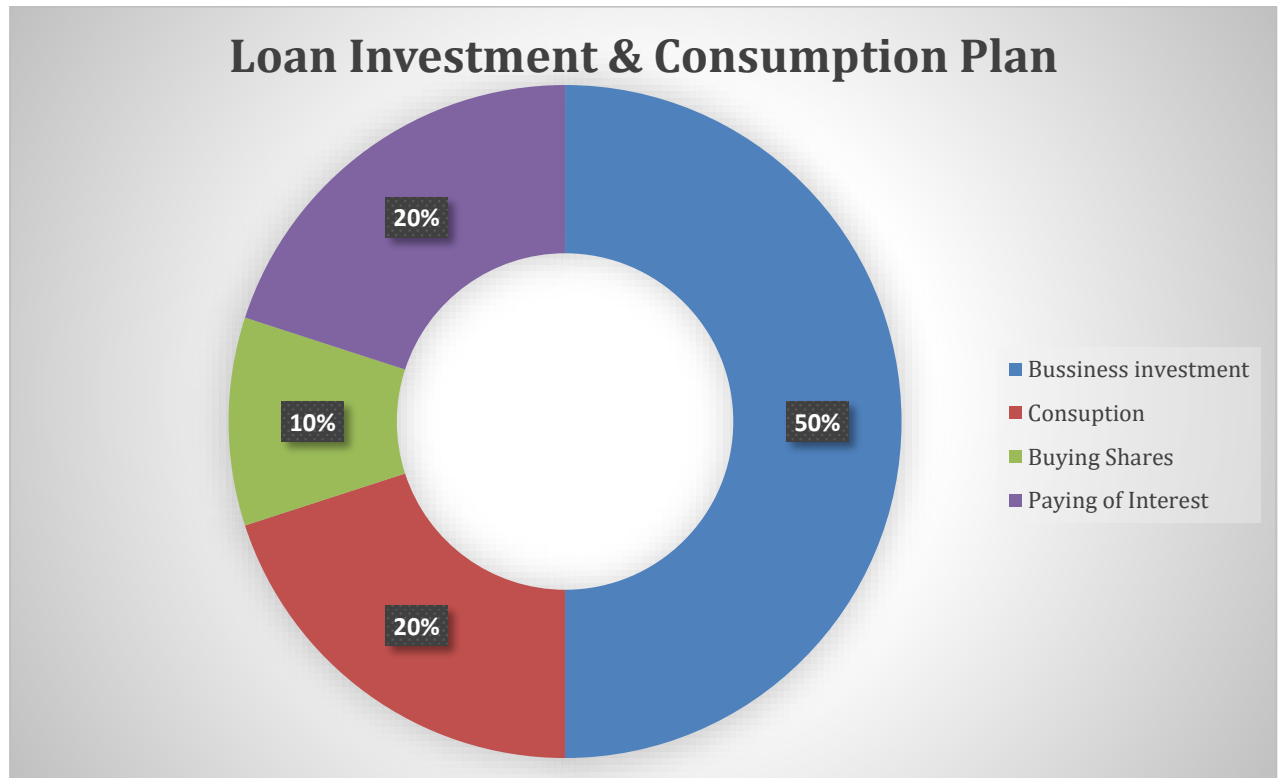
This study found that, just as is the case in the formal financial sector, VSLs also have differing rates of interest. The prevailing interest rates regimes in these schemes, including the Takondwera and Kapula WVSLs, have been inspired by the provisions contained in the Village Savings and Loans Schemes Training Manual. The Village and Savings and Loan Association Training Manual prescribe interest rates between 10-20% monthly compound interest on loans that women access from the scheme (Discussion with Community facilitator).

It was interesting to learn that most women did not mind paying the high interest rate on loans so long as they know that at the end of the year their shares will yield more money. Their logic is simple, the more money the scheme collects from the high interest rate on loans, the more money that will be available for the members to share at the end of the year. Their eyes are trained on the big 'reward' they get at the end of year. In other words, I learnt that members would rather endure the hardship of raising the money, even if it means paying through 'their noses' as long as they know that at the end of the year they would share more money. It is fine with them.

I was interested to learn from the women members of the WVSLs how they used their loans. They do not invest all the money in ventures more ambitious than the small ones they may already run. Instead they invest some of it in small petty businesses like buying and selling tomatoes or making '*zithumbuwa*' (similar to pancakes), some of it to buy household consumables (consumption) and the rest of it to buy weekly shares and service their loan.

One of the women respondent members of the Takondwera WVSLs gave a break down of how she uses the loans that she gets from the scheme as illustrated in Figure 7.

Figure 7: Illustrative breakdown of a respondent member’s use of a loan from the Takondwera WVSLs

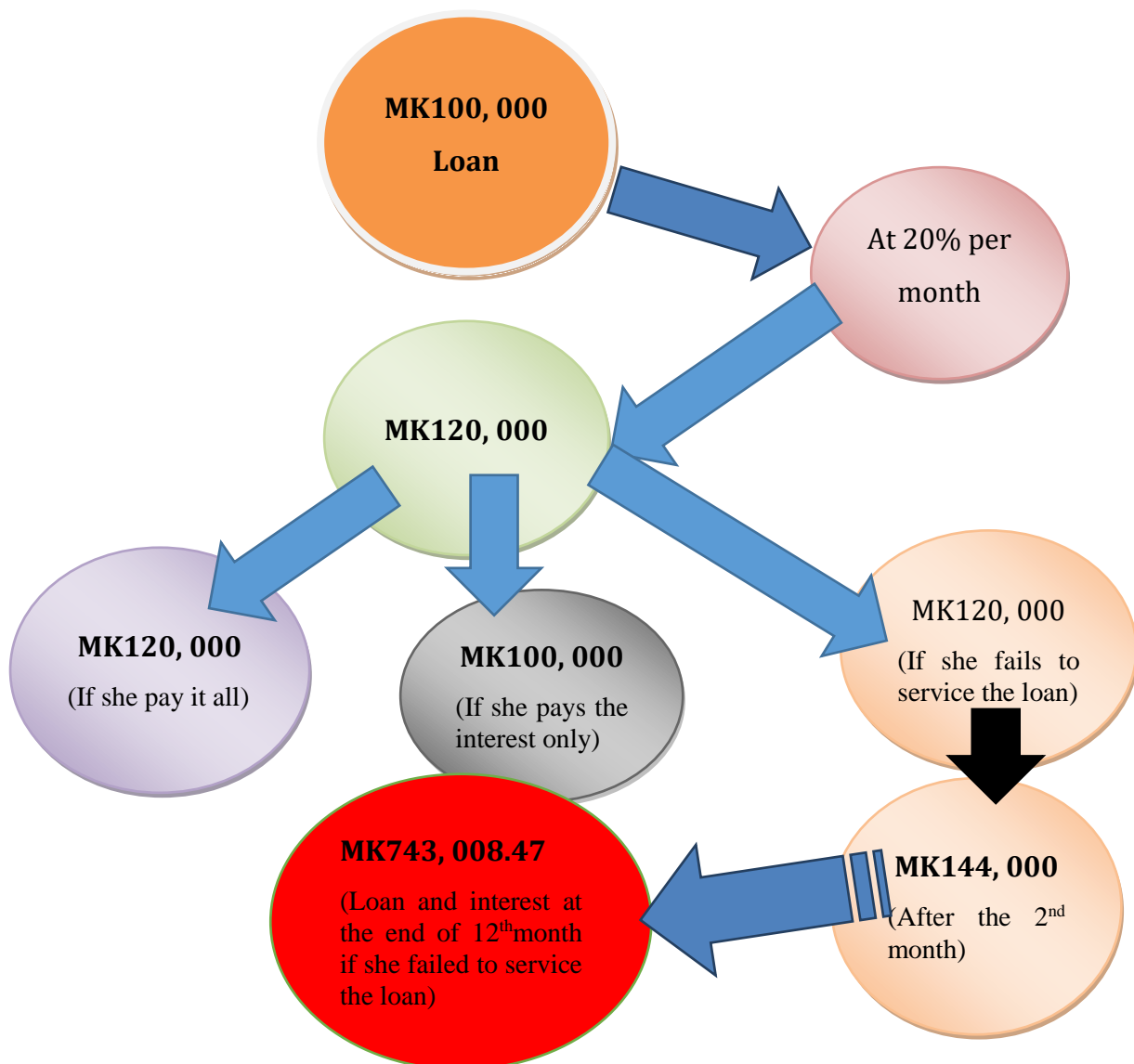


She indicated that the loans that she gets are divided into four parts namely: (1) investment that finances her business; (2) consumption for household expenses; (3) mandatory purchase of weekly shares and (4) mandatory repayment of her loan.

For instance, if she accesses a loan of MK100,000 she ends up investing MK50,000 of that in her business because she has to keep MK20,000 for her first interest rate instalment which is due after a month (way before she makes any meaningful profit from her business). She uses MK10,000 to buy the mandatory weekly shares and the remaining MK20,000 for household expenses. In practice this means that the woman is required to generate a 20% profit from the MK50,000 she invests in order to service her loan of MK100,000 and that is unrealistic.

At first glance, the interest rate looks affordable and manageable. A closer interrogation and analysis, however, reveals a different story. A simple calculation shows that women are made to pay close to 240% in compound interest rate per annum for the loans. Figure 8 is a diagram illustrating in simple terms what a woman is required to pay at the end of year if she fails to service her loan over a period of 11 months.

Figure 8: Diagram illustrating the large debt that accrues from a member’s failure to service a MK100,000 loan from a WVSLs at a compound interest rate of 20%



Most respondents, at this point in the discussion were coming to terms with how high the interest rate actually was and they started opening up and talking about how their not little businesses were not good enough to generate the amounts of interest they needed to service their loans.

I learnt that in a desperate attempt to supplement the income that women generate from the business investments, some women have devised means and ways to generate additional income. They actually engage in demeaning ‘piece work’ in other people’s gardens, sell household items and in extreme cases women find themselves joining multiple schemes in order to try and manage their tight financial positions.

4.4.1 Multiple membership of multiple schemes

In some instances, women in a desperate attempt to raise enough capital and service their loans find themselves being members of multiple loans schemes. I learnt through discussions with some of the respondents that women end up being in multiple schemes where they end up borrowing from one scheme just to use the loan to service a loan in another group. It becomes a vicious circle and a real Ponzi-like scheme for these women. He the real catastrophe finally manifests itself at the end of the year when the respective schemes come knocking looking for their money and usually the women debtors end up losing their property.

4.4.2 Implications of high interest rates for women

The implications of the high interest rates are far reaching for women. The high interest rates are blind to the fact that most women, especially in the schemes under discussion, are engaged in very petty businesses that cannot generate the kind of returns to service their debt repayments. Women respondents admitted that they find it difficult in view of their multiple roles as wives, mothers and breadwinners (Figure 9).

Similarly, these interest rate regimes are also blind to the fact that women are unlikely to be engaged in lucrative business because of the multiple ‘wifing’ and mothering roles that they assume at family and community level. The amount of time they spend running a business to generate an interest of 20% per month competes with other equally and sometimes more important roles they first have to perform as wife like taking care of their children, finding and fetching water, and farming. At the end of the day, when they cannot cope in their effort

to meet all their obligations, they collapse, things fall apart, their business crumbles and the compound interest rate goes ‘shooting through the roof.’

Figure 9: An artistic expression of the multiple roles that women play in their family
(Source: Facebook)



One member of the Takondwera Scheme do not have any kind words for the exorbitant interest regime as she lost almost everything because she could not service her loan in time. Flanked by her husband, she narrated her ordeal about how she failed to fully service her loan because the business she was involved in crumbled. By December of the previous year, when the schemes close their books and members share its funds between themselves (being what has been accumulated through shares and interest on loans), she owed the scheme close to MK240,000. She explained how the scheme members with the blessing of and sanctioned by the Group Village Headman of Kashingula descended on her house and confiscated household items including doors, beds, bedding, clothes including that of her six month old baby.

Figure 10: Photograph of the researcher (left) with Mr and Mrs Mwale outside their home



It is possible that from a feminism perspective, relational feminism (which is built on the understanding and appreciation that women usually put the interest and welfare of others especially their family and children way above their own) best explains why women find it difficult to engage in businesses that are lucrative and entail their having to leave their homes and children unattended for long periods of time. Similarly, while women are interested in making their businesses work to ensure that they can properly service their loans, their competing duties (including making sure that their husbands and children are clean and fed, etc.) means that they must temporally give up their interest in their business. At the end of the day this compromises their capacity to repay their excessively expensive loans.

Similarly, Barnett (1998), who uses existentialist feminism theory to problematize women's continued stereotyped roles as bearers and nurturer of children, suggests that women, despite being engaged in income generating enterprises, are not exempted from these stereotyped roles. Women, despite being involved in economic enterprises, are still expected to multitask; they are expected to fulfil their 'wifing' and mothering roles to the fullest.

I noted during the interactions with the respondents that in instances where the women would give their husbands the loans to run the business on their behalf, they were able to service the loans with little or no difficulties at all. In an interesting discussion I had with one male respondent, I discovered that his wife had obtained a loan and then surrendered it loan to him. He then invested the loan in a more profitable business of selling second hand clothes. The business involved travelling to Lilongwe to buy the merchandise for resale in his and the surrounding villages. He sells his wares going door-to-door. He admitted that he finds time to invest in the business because his wife takes care of their two children.

He indicated, sentiments corroborated by his wife, that this arrangement has really helped them develop economically and they have two pigs and a plot of land to their name thanks to the proceeds from the business. Perhaps the challenge with this arrangement is that it defeats the very the purpose of the WVSLS which is the financial inclusion and social and economic empowerment of women as it, once again, leaves the woman on the periphery.

Another female respondent indicated that she divides the loan between herself and her husband in a 30:70 ratio. While her husband invests his share of the capital in the profitable business of buying and selling farm produce, she invests it in more of a-stay-at-home kind of business like baking and selling *mandazi*, a business which she claims is less profitable and does earn sufficient returns to service the loan at 20% monthly interest. She admits that it is her husband's business that helps to service the loans.

These two narratives reveal quite a number of dynamics that women have to navigate in their pursuit to realise their economic rights. Firstly, it clearly demonstrates that men have taken control of the management of the schemes albeit from behind the scenes. Secondly, and more importantly, it also demonstrates that women are unable to engage in more lucrative businesses that would enable them to service loans with such exorbitant interest rates.

Perhaps, once again, it is Marxist feminism theory (which problematizes capitalist, exorbitant interest rate tendencies that pay little or no regard to the weak position of women) which will help to inform the next course of action. Women's Village Savings and Loans Schemes should not be driven by capitalist motives, but should rather be alive to the lived realities of the women they are apparently intended to benefit. Interest rates should be considerate to the weak financial position of women.

4.5 *'Property or one is ineligible for loan beyond a certain limit'*

During a focus group discussion with members of the Kapula WVSLs, one member had the following to say to justify the importance of property as collateral:

'Agha tikuyoghoya apa ni makopala...ghaliye kupanganika...chikole chikuzakawovwira pala munthu watondeka kuwezga ngongole...uyo waliye katundu bwenu wakutola tundalama tuchoko.'

(Translation: 'Collateral in the form of property helps the scheme recover its money in the event that the member fails to fully service their loan.')

While this provision is not clearly stipulated in the rules and regulations governing both the Kapula and Takondwera WVSLs, I noted during the discussion with members of the both schemes that the women are asked to indicate what collateral they would surrender in the event of their failing to service their loan. According to the Chairperson of the Kapula WVSL, loans that women access from the scheme attract collateral in the form of household property, land and livestock to mention just a few. The larger the loan a member seeks to access, the more valuable the collateral that member is supposed to indicate when getting a loan.

It should be mentioned that, according to the literature, one of the reasons for the conceptualization and establishment of VSLs was that people were avoiding formal financial services since, among other things, they require collateral in the form of property, especially immovable property (UN, 2016). Lindé and Spencer (2015) observe that it is the United Nations' premise that microfinance in the form of WVSLs are meant to service the very poor, usually those who do not have 'collateral' as defined by the formal financial sector.

It is important to note, however, that, according to the Evangelical Lutheran Church community facilitator, the best rule-of-thumb practice or guide to protect both the scheme and its members is to ensure the loan a members applies for is not more than three times the value of her shares in the scheme. For instance if a member has bought shares worth MK10,000, she is ineligible to access a loan of more than MK30,000. In discussions with members of the scheme, I discovered that women have disregard this guide because they want to access more funds to engage in more meaningful businesses and spare some of the loan for consumption.

More emphasis is placed on the enforcement of the collateral clause when a member wants to access a loan of more than MK100,000 and MK70,000 for the Takondwera and Kapula WVSLs, respectively. Just as the schemes require the member to obtain the consent of their husbands before joining the schemes, they are also required to secure their consent before obtaining a loan. A discussion with women and men alike on the validity and practicability of this provision revealed that it is very blind to and blatantly disregards the lived realities of women in as far as their limited ownership of, access to and control over property and resources is concerned in both the communities in which I carried out the research.

Before I discuss the implications of this provision in relation to women's attainment and enjoyment of their social and economic rights, it is important and logical that I briefly discuss the triple concept of ownership of, access to and control over property as they relate to women.

4.5.1 Women's access to resources

Women's access to resource and property including land and livestock entails the availability of land (resources) for utilization (Kachika, 2009). Kimani (2012) notes that usually women access property including land through their relationships with male figures including their husbands. This study also found that women could only access the collateral demanded by the schemes through their husbands. In essence women were at the mercy of their husbands to access collateral to qualify them for a loan.

4.5.2 Women's control of property

Kameri-Mbote (2005) notes that control of property entails the power to distribute and redistribute property including access rights to members of society and family. Women have very limited or no control over property especially land and property. Since those who control property also have the ability to determine who and how it can be used (Mokonese, 2017), men have almost absolute power to determine whether and what property their wives can use as collateral for loans that they desire to access from the schemes.

4.5.3 Women and property ownership

Makonese (2017) observes that the ownership of property and resources confers the most absolute of rights over them and implies the total exclusion of other people to that which is owned. Kameri-Mbote (2006) notes that although international policy and legal provisions

including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Beijing Platform of Action and the Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol) are replete with provisions that underscore the need to secure women's rights to own, control and access property and resources including land, the situation on the ground tells a different story.

The history of women's lack of access to, ownership of and control over property including land and livestock is a long one whose deep roots can be traced back to centuries of culture, law and religious ideologies (Makonese, 2017). Discussions with both women and men respondents to this study revealed that women do not only have limited ownership of property that these schemes require as collateral but also have very limited access and control over it. While I was under the assumption that the concept of ownership, control and access would play out differently in the matrilineal and patrilineal societies under which this research was conducted, the story turned out to be different. Both societies exercise and provide women with very limited ownership, and access and control of property.

For instance, the Kapula WVSLs which is in a patrilineal society, where culturally men control almost every sphere of life including property, land and livestock, women do not own, have limited control or access to household property, including land and livestock, forms of property that the schemes require for collateral. I found the same situation in Mponela, a matrilineal society, where the Takondwera WVSLs is located and where culturally women are supposed to be in a comparatively better position in owning, controlling and accessing land. There I found that, as with patrilineal societies, the men here have also taken over all sphere of life.

The implication of limited ownership, control and access to property in relation to women's access to loans is far-reaching. The women respondents indicated that even though the collateral requirement gives the scheme protection, it creates a challenge for them and prevents them from accessing larger loans from the scheme.

The first challenge women face is to convince their husbands (who in most instances have absolute ownership, control and access to property) that the scheme requires property as collateral. Women are at the mercy of their male figures including husbands to secure collateral to access loans. Collateral in the form of land, goats, cattle, household property are

in practice the property of husband. A further challenge is that if women fail to service their loans they risk losing their collateral which is the property of their husbands.

4.6 The failure to properly determine the value of collateral at the time of enforcement, i.e., upon the confiscation of a member's property

During a discussion with one of the families that lost property because they failed to service their loan, I learnt of the dilemma that these schemes face in determining the value of the collateral against the outstanding balance a member owes the scheme. What I learnt from this couple and corroborated with the leadership of both the village and scheme is that there is no set formula whatsoever in determining what they confiscate from defaulters. The property confiscation process is not only sanctioned by all the members of the scheme but also by the village headman. The village headman makes the final call and orders the scheme to confiscate the item or items of property. There is no set formula whatsoever to determine what to confiscate to pay off the loan. It all boils down to guess work. One family who lost property had this to say:

'Anabwera ndikutenga katundu wambiri yomwe ine ndikudziwa anali wandalama zambiri kuposa ngongole imene ndinali nayo....anatenge, mabedi, mbale, zovala zanga ndi za mwana, zitseko ziwiri zanyumba chifukwa cha ngongole ya MK250,00...ndikudziwa anandibera.'

(Translation: 'They came and took away my property including beds, plates, clothes, the front and rear doors of the house for just MK250,000 that we owed the scheme. I know they ripped me off. They got more than what I owed them.')

A respondent who lost her property because she could not fully service her loan.

In summary, most respondents acknowledged the challenges the collateral clause poses for the scheme's women members particularly upon its enforcement through the confiscation of their property for failing to service their loan and especially in view of their limited ownership, control and access to property in general.

The Malawi legal system protects its citizen against the extrajudicial confiscation of one's property or effects to pay off a loan. Section 6 of the Sheriff's Act, 1967 governs the process of executing judgments or orders to recover the value of a debt or loan from the attachment and subsequent sale of a debtor's property. Unless this process is followed, the Malawi Police

treats as theft any case of a scheme's seizure of a member's property who has failed to service her loan in terms of the scheme's rules and regulations. Like the courts, the Malawi Police encourage the schemes to use mediation to resolve these kinds of cases (Interview with the Malawi Police).

The Sheriff's Act also protects loan defaulters by limiting the kind of property that can be seized to pay off the loan. Section 6(1)(a) of the Sheriff's Act provides:

'The Sheriff executing any warrant of execution issued from a court against the movable property of any person may by virtue thereof seize:

- (a) any of the movable property of that person, except the wearing apparel and bedding to the value of fifteen pounds of that person or his family, the tools and implements of his trade, to the value of ten pounds, and the food of that person or his family to the value of ten pounds, which shall to that extent be protected from seizure....'

It was therefore illegal for the Takondwera Scheme to seize almost all the clothes and bedding of the member who failed to service her loan.

It has to be noted, however, that while most respondents know that they can seek legal redress and remedy through the formal courts, they opt for the informal traditional courts to preside over and determine disputes which arise in their schemes. Most women indicated that the formal courts take a long time to determine cases as opposed to the informal and traditional courts that usually make prompt decisions. They also disliked formal court judgments which allowed scheme defaulters to pay off their outstanding debts in small instalments, the effect of which undermines the whole manner in which the schemes are being run (i.e., according to the scheme's rigid life cycle which involves a once-off year-end distribution of the accumulated crippling payments made by members during the course of the year).

Section 7(1) of the Sheriffs Act provides:

'Where a court has made an order for payment of any sum of money by instalments, no warrant of execution for the enforcement of the judgment shall be issued until after the default in payment of some instalment according to the order.'

I also learnt from a discussion with a lawyer, that in some instances where defaulting members have satisfied the courts that they do not have the means to repay what they owe the scheme, they have imposed a custodial sentence against them, as a result of which the scheme loses the chance of ever recovering its money. Conversely, those that have fallen victim of property seizure at the hands of the schemes think this provision needs to be followed to the letter.

It remains tricky and unclear as to how the rigid annual lifecycle of these schemes can accommodate a provision that gives loans defaulters the chance to repay by way of instalments.

4.7 *‘We need monetary fines to sanction and to instil discipline in members’*

During a focus group discussion with members of the Kapula WVSLs, one respondent had this to say pertaining to some offences and monetary fines imposed on women who contravene these rules:

‘Palipose apo paghungana banthu kapukhumbikwa malango, kwambula malango, bwenu kukuwavya kupulikana.’

(Translation: ‘In order for every organisation to last, there is a need for rules and regulations to instil discipline in its members.’)

To instil discipline amongst members, schemes, through their rules and regulations, have put in place offences punishable by monetary fines for any member who, for instance, reports late for weekly meetings, absenteeism or failure to purchase weekly shares, amongst other offences. This section discusses the last of my assumptions built on my understanding that these offences are not only capitalistic in nature but are also blind to the multiple roles that women fulfil at all levels of society and its expectations of them.

4.7.1 *Failure to buy weekly shares*

During the time I was reviewing the rules and regulations that govern both the Kapula and Takondwera WVSLs, I noted that a woman member commits an offence if she fails to buy the minimum weekly number of shares. As noted earlier, according to the rules and regulations governing these schemes, a member is required to make weekly ‘savings’ by way

of purchasing shares. It is these shares that will, at the end of the year, determine how much a member takes home.

Individual schemes charge different minimum amounts for their shares and this is true for the schemes being discussed in this study. For the Kapula and Takondwera WVSLs every member is required to purchase at least one share a week worth MK250 and MK300, respectively. But no member is allowed to purchase more than five shares per week. If, for whatever reason, a member fails to purchase this weekly share they not only lose the chance to 'save' for that week, they also commit an offence punishable by a monetary fine of MK200 and MK250 for the Kapula and Takondwera Schemes, respectively.

In discussion with members of both schemes, I learnt that while a woman is given up to two weeks to source and buy the minimum share for the week she has unable to buy the share; before she forfeits her chance to buy shares for that week, even if she finally sources money to purchase shares for the week in question on time; she is nevertheless required to pay a fine for failing to buy the shares in time. Every member is supposed to buy the share on a set day of the week, the day that the women have set aside for their weekly meeting not after or before the day.

I also learnt that the fines that women pay for such offences, namely, failing to purchase minimum shares on time, is kept in a different pot altogether, and it is usually the pot in which they keep the interest on the loans. This money is then shared by all the members at the end of the year.

I also discovered that while the schemes' apparent motive behind this offence is to instil discipline in their members, their real motive is to increase the end of year total of money accumulated during the year so that there is more to share when it is finally distributed.

However I also learnt that women do not only struggle to raise money to buy the shares but they also struggle to pay the fine. In other words, this provision in effect only serves to further weaken the already unsound financial standing of its women members. This is supported by what one of them said:

'Ine ningachitila dala yayi kutondeka kugula share, pala natondeka kugula share ndikuti vinthu vyanisuzga nadi.'

(Translation: 'It is not out of malice that I fail to buy the weekly shares; it is usually because I fail to raise the money in time.')

A woman respondent from the Kapula Women's Scheme.

Perhaps the explanation for this lies in the fact that women are not actually in control of these schemes at all. Women's schemes are to a greater extent run by the men behind the scenes. It speaks to the capitalist legal provisions that are not sympathetic to the conditions of women but rather that of men. In fact, the Chairperson of the Kapula WVSLs actually wondered out loud when she said (or questioned?):

'Panyakhe tifumiskepo waka dango ili, panyakhe mamembala tiwapasenge waka mwawi kuti pala wazisanga ndalala wangagula ma share kwambula kuwalanga na ma faini.(?)'

(Translation: 'Maybe we need to abolish this provision and allow the members to deposit whenever they have the cash without penalising them.(?)')

I was not surprised to learn that men were of the view that this is a great provision as it does not only instil financial discipline in its women members but is also a sure way of guaranteeing that funds are available to satisfy demands for loans. Besides, they claimed, fines make up the greater part of the funds that go into the pot that members end up sharing at the one-off end of year distribution. Their thinking did not even consider what the women are forced to do to raise the money to buy the shares and pay the high interest rates. If anything, some men and women were of the view that after all women get the money from their husbands to buy the shares and therefore finds it in order for women to pay the fines.

4.7.2 Late arrival/absenteeism at weekly meetings

Just like failing to buy shares on time is an offence punishable by a fine, so is reporting late or being absent from weekly meetings. For the Kapula and Takondwera WVSLs reporting late and absenteeism attracts a fine of MK100 and MK150, respectively. While discipline is the basic tenet of an organisation's management, these monetary fines imposed on its women members play out to their own disadvantage, especially in view of the fact that these regulations are executed with little or no regard to mitigating factors including the well-known fact that women have other multiple roles that they need to attend to before they report or, at worst, fail to report for meetings.

While it is accepted that there are exceptional cases which pass for mitigation and exonerate members from breaching this provision (including the death or sickness of an immediate or close family member), a member may not be excused on account of having to perform the multiple roles that her family or community demand of her. In discussions I had with members of the schemes, I learnt that while they acknowledge the difficulties and the practicability of this offence in the face of the multiple roles that women play and are expected to play, they were at a loss as to how best to instil discipline in members if such an offence is to be removed. Other members suggested the need to include the multiple roles that women play at family and community level as a mitigating factor together with the need to remove the monetary sanctions attached to this offence.

4.7.3 Failure to service monthly loans

I also learnt that, especially in the case of the Takondwera WVSLs, besides the compound interest that a member is charged for failing to service her loan on time, a separate fee is charged. As justification for this, members were of the view that this is meant to make sure that members service their loans on time so that the schemes accumulate more funds to share at the end of the year, a stance which seems to totally disregard the financial stress to which these already over-burdened women are subjected throughout the year.

CHAPTER FIVE

5.0 WHERE TO FROM HERE?

5.1 Introduction

Findings from this study indicate that while WVSLs exhibit great potential to turn around the social and economic rights of women and in many instances have already shown some evidence of success, there is still room for much improvement. This paper argues that the first step towards making these schemes more effective is by making sure that their rules and regulations that establish and govern these schemes are fully and truly engendered. This paper establishes that the rules and regulations that govern WVSLs, although superficially put together by the women members themselves, are in fact modelled around, lean towards and actually in practise satisfy not their needs, expectations and aspirations but those of men being their husbands, other men in their village, including its male leadership. It therefore came as no surprise to me then that the way the Kapula and Takondwera WVSLs are run has not only proved to be problematic in the enforcement of their rules and regulations; they have even been proven to be counter-productive in that they are hindering rather than helping their women members in their quest to enjoy and exercise their social and economic rights.

Looking forward, while there is no one-size-fits-all definite solution to the teething problems that WVSLs are going through owing to their heterogenous nature, this study puts forward some suggested routes that are seriously worth exploring in a sincere attempt to make WVSLs the vehicles that they promised to and should be in order to guarantee and consolidate women's social and economic rights. I present these options at two levels, the macro and micro level.

5.2 Macro level policy and legal reforms

At the macro level, I discuss some of the viable policy and legal options that can be pursued to improve and engender the rules and regulations that govern WVSLs. These options mainly hinge on the need to put in place an engendered statutory policy and legal framework that govern these schemes. This section discusses the consensus and contentions, options, pros, cons and fears of formalizing WVSLs through statutory policy and legal reform.

5.2.1 *Formalizing the Schemes or not?*

This section discusses the option of formalizing WVSLs through statutory policy and law. If Malawi is to take this route, the legal and policy regime should be built around the need to protect the interests, aspirations and needs of women. Specifically, the legal and policy framework should address the schemes' usurious interest rates, discriminatory provisions and gender-insensitive offences and sanctions and collateral clauses. However, the legal and policy reform process should not only be cognizant of the concerns that have been raised against taking this route, but should also be able to address concerns raised by the on-going debate concerning them. This debate is whether WVSLs should be formalised through statutory law.

5.2.2 *Formalizing VSLs' school of thought*

If media reports are anything to go by, the Reserve Bank of Malawi, which is mandated by law to regulate all financial institutions, has taken a wait-and-see approach to this debate. Similarly, the Ministry of Gender, Children, Disability and Social Welfare the parent ministry that champions women's rights has also taken a back seat on this issue. The wait-and-see approach that the Reserve Bank has taken has not gone down well with some stakeholders in the formal financial sector who have been agitating for the formalization of the VSLs.

There are various reasons advanced by the proponents who are calling for the formalization of these schemes. Prime among their reasons is that commentators have accused the schemes of distorting the economic outlook of Malawi as they allege that the schemes do not bank their money with formal banks:

'For example, recently the Reserve Bank of Malawi said VSLAs have about K2 billion which is not calculated in the country's GDP since the sector that these financial groups operate is informal hence difficult to track them down' (Ngwira, 2017).

However, there is a counter argument to this. It comes from other commentators including the women that I talked to who contend that these schemes do not keep hard cash, as whatever cash is paid into the schemes on a weekly basis is almost immediately distributed in the form of loans which means that the cash managed by the schemes is always in circulation:

'Tikusunga ndalama yayi, ndalama zikuwa mwawanthu nyengo zinandi...pala mamembala ghiza na ndalama zakugula ma share nazakuwezga ngongole, pakuwaso mamembela ghanyakhe agho ghakuwa wakuyweka kutola ngongole dazi lenelilo.'

(Translation: 'We hardly keep hard cash in our coffers. Usually when members bring funds to either service their loans or buy shares, other members are present and ready to borrow the same funds') Chairperson of the Kapula WVSLS.

It should also be accepted that behind the scenes formal financial stakeholders are also likely to be calling for the formalization of the VSLs. This is due to the fact that they are losing increasing numbers of potential customers to these more informal financial schemes as they grow more popular. In fact, speaking to the Daily Times of Malawi, the then Bankers Association of Malawi Vice-President admitted that the mushrooming of VSLs is an indication that there is clearly a gap in the financial services market:

'Because banks are not providing what the customer wants, we have seen the sprouting of parallel structures such as village banks. Village banks are spreading like wild fire handling billions of kwacha. Even some of the bankers are now members of village banks' (Kandiero, 2016).

Members of the schemes that I interviewed indicated that formalizing the schemes will go a long way to improving and engendering the schemes. Amongst other issues, the members envision that the policy and legal framework would and should regulate interest rates. They are of the view that the fixing of interest rates should be responsive to the financial status of women. In addition, they suggest, the statutory policy and regulatory framework should also be able to restrict or prohibit altogether the collateral requirement as well as address the gender insensitive offenses that attract monetary fines.

This route may not necessarily require putting in place an independent and separate piece of statutory law. Reform may only require borrowing from other laws and putting them together in a regulatory framework that is engendered. For instance, Malawi already has laws that prohibit discrimination and guarantee gender equality and women's economic rights. Perhaps the statutory rules and regulations establishing and governing VSLs that are being proposed should bring together these provisions that are scattered all over Malawi's statute books. Ultimately these regulations should also be able to prohibit usurious rates that characterize these schemes.

5.2.3 Formalizing WVSLs: What would this entail?

There is also a school of thought which is hesitant to formalize the VSLs because it is not yet clear what formalizing these schemes would entail. The main argument has been that the fact that these schemes operate outside the ambit of formal statutory policy and legal framework is the very essence of their suitability for engineering women's economic and social empowerment. For instance, since they are self-regulatory, these schemes do not pay tax, an ideal privilege which allows them to use these extra funds for their growth. Formalising these schemes, they argue, would therefore restrict or defeat their very purpose.

There have been various concerns as to what it would entail to formalize these schemes through statutory policy and legal framework. The concerns mainly stem from the assumption that formalizing VSLs through statutory laws would involve bringing them under the scope of the Microfinance Act, 2010. As such, during the discussions with members of the two cases studies, several concerns were raised as to what it would entail to formalize the schemes and these included:

- (1) Would formalizing these schemes entail mandatory legal registration of the schemes? If that were the case, who would be responsible for the costs associated with the registration process? Women were of the view that if statutory regulations would require them to formally register and license their schemes (like sections 6 and 7 of the Microfinance Act, 2010) they doubted their financial and technical capacity to engage in or complete the process unaided.
- (2) The respondents were also worried about other probable requirements including the paying of taxes and opening and maintaining of a bank account for the scheme. Members of the Kapula WVSL indicated that it would be costly for them to open, let alone manage, a bank account because not only are their nearest banks about 15 kilometres away but the costs associated with maintaining a bank account would also eat into their savings.
- (3) The respondents also wondered if formalizing these schemes would mean putting in place an office replete with professional staff who would need to be paid, something that did not sit well with them.

5.3 Engender the WVSLs Associations' Training Manuals

At the micro-level, another route worth following is the need to work with civil society organizations and development partners that champion WVSLs in engendering the Training Manuals which so heavily influence the drafting of the rules and regulations that establish and govern these schemes. Of special interest in the review process should be the problematic gendered clauses that have been discussed in this paper. The Training Manuals should be amended or re-drafted based on a grounded approach through a gender sensitive lens in order to give women hands-on, practical guidance as to how to formulate gender-sensitive rules and regulations that fulfil their rights and meet their needs and interests and which for example do not give power to their husbands to decide whether or not a woman can join a scheme or access a loan. Such Training Manuals should teach women members how to calculate a viable interest rate regime that serves and promotes (as opposed to undermines and destroys) the overall economic and social well-being of its corporate women membership.

5.4 Specific issues to consider when reviewing the rules and regulations of WVSLs

Whichever route these reforms may take at the macro or micro level, they should also address the various issues that have been discussed in this paper as follows.

5.4.1 Eligibility to join and access loans from a WVSL

As discussed in this paper, this provision which treats women as perpetual minors who are unable to make sound financial decisions clearly prevents them from enjoying to their fullest their right to freedom of association and their right to exercise their economic and social rights.

While males, fuelled by their need to harvest increased patriarchal dividends, are still of the view that this is a very useful provision to keep women under their control, women are of the converse view that this provision interferes with their freedom/right to engage in economic enterprises. Currently, women cannot make decisions on their own to join the schemes or take a loan without first running it past their husbands. Women have therefore suggested that this provision should be removed from the rules and regulations or better still be amended so that they rather simply inform their husbands of their activities. This is what they have

already been practising in response to the challenges of cultural norms and practices which they face and is supported by the Nego-Feminist approach.

Since women are however alive to the resistance they will most likely face especially from their husbands (who will see it as an attack on their power and control over them), they believe it is an avenue worth pursuing. In anticipation of this response, the amendment of this provision should be accompanied as soon as possible with sensitization meetings with men, opinion, traditional and faith leaders on the need to empower women to be take charge of their social and economic rights.

At the macro-level the rules and regulations that would govern these schemes should also clearly prohibit the need for women to get permission from their husbands as a prerequisite to joining and accessing loans from the schemes.

5.4.2 Interest rates

Most respondents were of the view that the interest rate was high, making it difficult for them to service their loans. Looking forward, they suggested that the interest rate should be reduced to say 10% per month at a simple rather than compound interest rate. Their suggestion was motivated by the fact that the businesses that these women engage in do not have the capacity to generate the profits necessary to enable them service their loans. Owners of the few businesses which are sufficiently profitable and would have been able to service the former higher 20% compound interest rate loan will find that they can use the difference they gain (between the old 20% compound and new 10% simple interest rate) to save and/or reinvest in their businesses.

This option can be effected and enforced at either the macro or micro level or both. At the macro level Malawi is being called upon to put in place usury laws that will regulate interest rates across the board.

At the micro level, the rules and regulations that govern WVSLs should also be amended to reflect interest rates that can be managed by women. From the findings it appears that the interest rates are only manageable by men and have proven very difficult for women.

5.4.3 Collateral requirement

One of the other important issues that needs to be addressed according to the respondents is the property collateral requirement for women to access a loan above a certain limit. The collateral in the form of property which these schemes require range from household property to land and livestock. As discussed earlier, this requirement does not only prejudice women owing to their limited ownership, access and control to property but also gives men almost total power and control over the affairs of the WVSLs which are supposed to be a women's sanctuary. Women were of the view that reforms at both macro and micro level need to ensure that the collateral requirement in terms of property should be discouraged as much as possible or, even better, outlawed altogether.

Some women suggested that development partners could assist them with technical training and/or start-up capital to aid them in their business ventures.

Other respondents were of the view that all that needs to be done is to set a limit on loans. In other words, a provision should be enforced that prohibits members from accessing loans more than three-times the value of their shares. I noted a counter view, however, which is that women cannot make any meaningful business investment with loans less than three times the value of their shares.

5.4.4 Offences: Monetary fines for absenteeism, late arrival and failure to buy shares

As discussed earlier, provisions within the schemes under discussion impose monetary fines on women who report late for or fail to attend weekly meetings or fail to purchase weekly shares. While these sanctions are meant to instil discipline in their members they unfortunately pay little or no regard for the multiple roles of women or their weak economic position. Respondents were of the view that such momentary sanctions should be removed. Alternatively, penalties should be reviewed and tempered by allowing for the consideration of a broad range of mitigating factors, especially the multiple roles of women which may legitimately in the circumstances take precedence over their obligations to the scheme. Each case must be determined on its own merits.

5.5 Conclusion

This study has established that the rules and regulations that establish and govern the self-governing WVSLs are gendered and therefore more tilted towards addressing the needs and aspiration of men than women.

This study has brought to the fore and discussed how provisions like the need for women to seek their husband's permission to join and access loans militate against their right to participate in economic enterprises as enshrined in Malawi's Constitution. While most women have found their way into these schemes, the mere presence of such provisions in written or unwritten form demonstrate the unfortunate fact that women are still regarded as perpetual minors incapable of making sound economic decisions.

This study also problematizes and shows how the usurious interest regimes seriously impede women's exercise of their economic and social rights, as they end up toiling for close to a year only to find that they have almost nothing to show for it. The interest rates are designed to generate as much money as possible at the expense and the health of the small scale businesses and the women who run them which (and who) often collapse way before they finish servicing their loans. Women end up engaging in other piece work just to raise the money needed to service their loans and buy shares. They essentially become slaves to these schemes.

This study has also discussed how the property collateral requirement for women to access loans discriminate unfairly against women in the face of their limited access, control and ownership of the property. Forcing women therefore to provide property as collateral is in essence asking their husbands not only to make the decisions on how these loans should be used but also letting men make decisions for the women and 'their schemes'.

This study has also demonstrated that some offences that attract monetary sanctions are not only gender insensitive but also capitalist in nature as they are enforced by men who are only interested in making profits at every opportunity without due regard for the multiple roles of the women members and their weak financial position.

Lastly, while this research is not conclusive as to whether or not Malawi should formalize its VSLs through statutory policy and legal framework, as this is one of the areas which needs further research, it is clear from this study that there is a need for engendering the rules and regulations that govern these schemes regardless of whatever form this should take.

Bibliography

Bentzon A, W. et al, (1998). Pursuing Grounded Theory in Law: South- North Experiences in Developing Women's law. Oslo, Tano-Aschehoug and Harare, Mond Books.

Chirwa, E. W; (2002) Microfinance and poverty reduction in Malawi: what has happened to the Microfinance revolution? University of Malawi.

Ferguson, A. & Hennessy, R. (2010). [Feminist Perspectives on Class and Work](#). Stanford Encyclopedia of Philosophy. Also found at: [Feminist Perspectives on Class and Work](#). (Accessed on 18/02/2018).

Ghatak, M. & Guinnane, T. (1999). The economics of lending with joint liability: theory and practice. Journal of development economics, 60(1), 195-228. Also found at <http://www.sciencedirect.com/science/article/pii/S0304387899000413>. (Accessed on 30/11/17).

Harrison, D.& Laliberté, L. (1994). No life like it: Military wives in Canada, James Lorimer & Company.

Hashim, Y.& Dodo, P. (2015). Access to microfinance banks' facilities and poverty reduction in Kano State, Nigeria. European Journal of Business and Management, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.734.9629&rep=rep1&type=pdf> Accessed on 30/11/17.

Kandiero, C. (2016), The Reserve Bank of Malawi defends village banks, The Daily Times of Malawi. Also found online at : www.times.mw%2Freserve-bank-of-malawi-defends-village-banks%2F&usg=AOvVaw3A0IxJrozJpTO6Vw-zJkEk. Accessed On 30/11/17 .

Khamula, O. (2015). Village loans concept keeping Malawi women poorer, Nyasatimes. Also available at <http://www.nyasatimes.com/village-loans-concept-keeping-malawi-women-poorer-official/> . (Accessed on 5/12/2017).

Lindé, T.& Spencer, M. (2015). Access to Financial Services and Women's Empowerment an Evaluation of a Village Savings and Loans Association in Rural Malawi. University of Gothenburg.

Mayoux, L. (2002). Microfinance and women's empowerment: Rethinking 'best practice'. Women, gender and development in the Pacific: key issues, 57, 20. Also available at: https://acbee.crawford.anu.edu.au/rmap/devnet/devnet/gen/gen_status.pdf#page=20 (accessed on 30/11/17).

Meerendonk, A & Juergens, F (2016). Assessment of Social Protection Programs and Costing of Policy Option: Towards a Malawian Social Protection Floor, Programme Specific Report: Village Savings and Loans, International Labor Organization (ILO), Government of Malawi The Microfinance Act (2010), Laws of Malawi.

Molloy, E. et al, (2016) Gender Analysis of village savings and loans, Christian AID, Malawi Mwalughali O, (2015) The impact of community savings and investment promotion program on household income and credit market participation in Kasungu district, central Malawi, University of Malawi, Bunda College of Agriculture.

2009 World Survey on the Role of Women in Development Women's Control over Economic Resources and Access to Financial Resources, including Microfinance, United Nations Department of Economic and Social Affairs Division for the Advancement of Women; also found online at: <http://www.un.org/womenwatch/daw/public/WorldSurvey2009.pdf>. (Accessed on 5/03/2018)

Daley-Harris, S. (2009). State of the Microcredit Summit Campaign Report 2009. Washington, D.C.: Microcredit summit. Also available on http://www.microcreditsummit.org/uploads/resource/document/socr2009_71248.pdf. (Accessed on 6/3/2018)

Johnson, S. (2005). Gender relations, empowerment and microcredit: moving on from a lost decade. European Journal of Development Research, vol. 17, No. 2, pp. 224-248. Washington state department of Financial Services, (2018) also available online at: <https://dfi.wa.gov/financial-education/information/usury-law> (accessed on 12/3/2018)

Chalanda, T. (2017), The Reserve Bank reduces policy rate to 16%. The Nation Newspaper. Available online at: <http://mwnation.com/reserve-bank-reduces-policy-rate-16/> (accessed on 12/3/2018)

Makonese, M. (2017). The Policy and Legislative Framework for Zimbabwe's Fast Track Land Reform Programme and its Implications on Women's Rights to Agricultural Land. Dissertation, submitted in partial fulfillment for the Degree of Doctor of Philosophy in Law, University of Zimbabwe. Unpublished.

MacKinnon, C.(1989). Toward a Feminist Theory of the State. Cambridge: Harvard University Press.

Kameri-Mbote, P. (2006) "Women, Land Rights and the Environment: The Kenyan experience" In: Development, 2006, Volume 49, Number 3, Page 43.

Kachika, T. (2009). Women's Land Rights in Southern Africa: Consolidated Baseline findings from Malawi, Mozambique, South Africa, Zambia and Zimbabwe. NIZA and ActionAid International.

Ngwira, W. (2017). "Government Wants Village Banks to Follow New Standard Guidelines" In: Malawi News Agency (Malawi) July 7, 2017. Available online at: <http://allafrica.com/stories/201707140688.html>. (Accessed on 15/3/2018)

Nnaemeka, O. (2004) "Nego-Feminism: Theorizing, Practicing, and Pruning Africa's Way". In Chicago Journals, University of Chicago Press Vol. 29, No 20. Available online at https://serendip.brynmawr.edu/oneworld/system/files/Nnaemeka_Nego-Feminsim.pdf Accessed on 19/03/2018

Nyamu-Musembi, C. (2013). Pulling apart? Treatment of pluralism in the CEDAW and the Maputo Protocol. Women's Human Rights: CEDAW in International, Regional and National Law, 183-213.

Appendices

Appendix 1: The rules and regulations of the Kapula Women's Village Savings and Loans Scheme

MALANGO GHA GULU LA KUSUNGA NA KUBWEREKESKA

1. KUMANYIKWA KWA GULU
{a} Zina la gulu----- NGONGA CENTRE Kapula

{b} Address----- Ngonga - School Centre
Box 10
Ngonga, Ruwaphu

{c} Dazi ilo gulu likapangikira----- 19-4-2010

2. CHAKULATA CHA GULU
Chakulata cha gulu lithu----- KUMAZGA UKAVU

Ntchito izo gulu lichitirenge mamembala ghake kuti likwaniriske chilato ichi:--
Kuwonana mamasizga

KASI MEMBALA WA GULU ILI WABE MUNTHU WA MUTUNDU ULI?

- > Wavyaka vilinga----- 13-nagomergexo - 18-15
- > Banakazi panji Banalume pela----- Manalume na wanakazi pa
- > Wakufumira mu muzi, uno pela panji na mizi yinyake uwo-----
na mizi yakupambana pambana
- > Kumanyana kwawo kube kwa mtundu uli?-----
Umajanenge khala zinthu
- > Mbiri yawo yibe ya mtundu uli?-----
yum!
- > Wabe wabizinesi panji yayi?-----
waliyose

KOMITI YA GULU YIBE NA MAUDINDO AGHA

- > Wapampando
- > Mlembi
- > Msungi chuma
- > Banthu Bawiri Bakuberenga ndalama

KUSANKHA BA LONGOZGI WA GULU.
Vyaka ivyo munthu wakhalenge mlongozgi wa gulu vibenge----- Chaka Chimoze
-----Visakho vichitikenge vyaka----- Chaka Chimoze vilivyose.

Numbala ya banthu bachoko chomene awo bakwenera kubapo pa visola wabe-----
3

Ndondomeko ya yavisola yibe ya _____
Chulu

Nambala ya banthu awo wapikisanenge pa mpando uli wose _____
1001001 1000000 100 100000

Munthu uyo wangayima nawo pavisola _____
100 10000 100000

KUFUMYAPO WALONGOZGI PA UDINDO PAMBELE NYENGO YA VISOLA YINDAKWANE.

Membala waliyose ali nawanangwa wakuperspha gulu kuti liuskepo mlongozgi uyo wakutondeka kugwira makola nchito yake. Ndipo pala ma membala ghoze ghakoleranako mlongozgi uyo wakwenera kuthula pasi udindo ndipo basakhe mlongozgi mnyake.

VIFUKWA IVYO TINGAMFUMYIRA MLONGOZGI PA MPANDO
Pala _____

MAUNGANO
Maungano gha kusunga ndalama tichitenge pa _____
Chusira

Maungano gha kutola na kuwezga ngongole tichitenge pa _____
100000000 1000000000

Maungano gha kugawana ndalama tichitenge pa _____
December

KUFUMA KWA MEMBALA MUGULU
Pala membala wakufuma mgulu kwambula vifukwa vya kwenerera _____
100000000 1000000000 1000000000 1000000000

Ndivifukwa uli ivyo gulu lingazomerezga kuti vyakwenerera kuti membala wafumire m'gulu?

Kumala Kwazibengwa
na transfer

Pala membala wakufuma m'gulu pa vifukwa vyakwenerera _____
100000000 1000000000 1000000000 1000000000

Pala membala tachita kumfuma chifukwa chakuti wananga _____
100000000 1000000000 1000000000

Pala membala tachita kumfuma chifukwa chakutondeka kuwezga ngongole _____
100000000 1000000000 1000000000

Membala uyo wali na ngongole wakuzomerezgeka ~~Enya~~ Enya-Kuuskako
panji kuguliska masheya ghake ku gulu.

KUKONGOZGANA NDALAMA PA GULU
Ivyo vingamuyenerezga munthu kukongola ndalama ku gulu
~~chukulu~~ chukulu ndalama
~~ku~~ ku

Munthu wazomerezgekenge kutola ngongole yinandi pakuwona fundo izi:-
~~muwone~~ muwone ma sharps
~~muwone~~ muwone

Utali wa nyengo iyo munthu wakhalirenge na ngongole
~~nyengo~~ nyengo yhatu

Yapachanya pa ngongole yiwenge ^{10/100} pa K100 pa mwezi

Pala munthu watondeka kuwezga ngongole tizamchita nthowa izi:-
~~Tamukakiska~~ Tamukakiska

Ngongole yakugonera yizamubabe yapachanya
~~20%~~ 20%

NDALAMA ZA MASUZGO.
Ndalama za kovwira pa masuzgo zisungikenge
~~bachugawa~~ bachugawa

Ndalama za kovwira pa masuzgo tisungenge ~~ku~~
~~K20~~ K20 paungano umoza

Masuzgo ghakwenerera kovwirika na ndalama za masuzgo ni agha
~~hifwa~~ hifwa
~~materra~~ materra

Wovwiri wa kupereka pala muwoli panji mfumu wa membala wafwa
~~K200~~ K200
K500

Wovwiri wakuperekeka pala mwana wa membala wafwa
K200

Wovwiri wakuperekeka pala mpapi wa membala wafwa
K200

Wovwiri wa kuperekeka pakukawona membala ku chipatala
K500

Ndondomeko ya yavisola yibe ya-----
Chitani

Nambala ya banthu awo wapikisanenge pa mpando uli wose-----
Wakutani Mpanzo Uli wote

Munthu uyo wangayima nawo pavisola-----
na kutani Mpanzo

KUFUMYAPO WALONGOZGI PA UDINDO PAMBELE NYENGO YA VISOLA YINDAKWANE.

Membala waliyose ali nawanangwa wakupempha gulu kuti liuskepo mlongozgi uyo wakutondeka kugwira makola nchito yake. Ndipo pala ma membala ghose ghakoleranako mlongozgi uyo wakwenera kuthula pasi udindo ndipo basakhe mlongozgi mnyake.

VIFUKWA IVYO TINGAMFUMYIRA MLONGOZGI PA MPANDO

Pala wakutondeka kapuluka vya vya
nyakhe

MAUNGANO

Maungano gha kusunga ndalama tichitenge pa-----
Chisiri

Maungano gha kutola na kuwezga ngongole tichitenge pa-----
na kutani Mpanzo

Maungano gha kugawana ndalama tichitenge pa-----
December

KUFUMA KWA MEMBALA MUGULU

Pala membala wakufuma mgulu kwambula vifukwa vya kwenerera-----
ndalama zakhe zina kupasa pala kinugawana

Ndivifukwa uli ivyo gulu lingazomerezga kuti vyakwenerera kuti membala wafumire m'gulu?

kumala kwa thengwa
na transfer

Pala membala wakufuma m'gulu pa vifukwa vyakwenerera-----
ndalama na kutani Mpanzo kinugawana na shi

Pala membala tachita kumfuma chifukwa chakuti wananga-----
ndalama zakhe kinugawana

Pala membala tachita kumfuma chifukwa chakutondeka kuwezga ngongole-----
ndalama zakhe ngongole gulu

Membala uyo wali na ngongole wakuzomerezgeka ~~Enya~~ Enya - Kuuskako
panji kuguliska masheya ghake ku gulu.

KUKONGOZGANA NDALAMA PA GULU
Ivyo vingamuyenezga munthu kukongola ndalama ku gulu
Chikulu kwawona ndalama

Munthu wazomerezgekenge kutola ngongole yinandi pakuwona fundo izi:-
Tuzungu ma shares Tuzungu
Uma yuzungu

Utali wa nyengo iyo munthu wakhalirenge pa ngongole
nyengo yatu

Yapachanya pa ngongole yiwenge ^{10/100} pa K100 pa mwezi

Pala munthu watondeka kuwezga ngongole tizamchita nthowa izi:-
Tanzania

Ngongole yakugenera yizamubabe yapachanya
20%

NDALAMA ZA MASUZGO.
Ndalama za kovwira pa masuzgo zisungikenge
bachiganga ka choko

Ndalama za kovwira pa masuzgo tisungenge
K20 paungano umoza

Masuzgo ghakwenerera kovwirika na ndalama za masuzgo ni agha
Tuzungu wakuzungu wakuzungu
matenda

Wovwiri wa kupereka pala muwoli panji mfumu wa membala wafwa
K200
K500

Wovwiri wakuperekeka pala mwana wa membala wafwa
K200

Wovwiri wakuperekeka pala mpapi wa membala wafwa
K200

Wovwiri wa kuperekeka pakukawona membala ku chipatala
K500

Appendix 2: Translation of the rules and regulations of the Kapula Women's Village Savings and Loans Scheme

1. Name and address of the group.

- (a) Name of the group: Kapula
- (b) Address of the group: Ng'onga School, Box 10, Ng'onga, Rumphu
- (c) Established Date: 19-04-2010

1. Aim of the group:

Poverty reduction for members

2. Members illegibility criteria

- (a) Must be above the age of 18
- (b) Must be female
- (c) Should be from the village or from a neighbouring village
- (d) Should be trustworthy
- (e) Be honest
- (f) Can either be already involved in business or not
- (g) They need to get the permission of their husband in order to join

3. Composition of the group's leadership committee

- (a) Chairperson
- (b) Secretary
- (d) Treasurer
- (e) Two people to count the money and keep the books

4. Election of leadership committee members

- (a) Elections will be held every year
- (b) The tenure of office for the elected leaders shall be one year
- (c) Secret ballots will be cast to elect all office bearers There shall be a secret ballot
- (d) Anyone of good conduct is eligible to run for any leadership position

- (e) Any member can move to remove any member of the leadership committee if she in case of incompetency and misbehaviour by the said leader. All members have to agree with the motion before the leader is dismissed.

5. Group meetings

- (a) Weekly group meetings to buy shares shall be convened every Tuesday.
- (b) Meetings access and service loans shall be convened every Sunday of the first week of every month.
- (c) Members shall convene a meeting to share their dividends every December at a date to be set and agreed upon by the membership.

6. Member leaving the group

- (a) If a member leaves the group without valid reason during the year, she can only get her money back at the end of the year.
- (b) If a member is divorced or transferred away from the village during the year, she is allowed to access all her money at once, there and then.
- (c) If a member has been dismissed from the group she will only access her money at the end of the year.
- (d) If a member has been dismissed from the group because she is failing to service her loan, she is supposed to service the loans fully.

7. Death of a member

- (a) The group is supposed to contribute towards her funeral costs.
- (b) If a member dies with an outstanding loan, calculations are made against her shares; if she has more shares than the loan, the surplus should be surrendered to the surviving members of her family.
- (c) Members are supposed to contribute MK50 per month for funerals and the sickness of members and their families.
- (d) The group will contribute MK500 toward the funeral costs of a member's husband.

8. Offenses, sanctions and fines

Offence	Fine
Absenteeism from weekly and monthly group meetings	MK200
Arriving late for meetings	MK100
Failing to buy weekly shares	MK150
Holding side meetings/making a noise during meetings	MK100
Insubordination to authority	MK100
Failing to participate in group fundraising initiatives	MK100

9. Amendments to the rules and regulations

- (a) Rules and regulations can only be amended if at least two-thirds of the membership agree with the proposed amendment.

10. Buying of weekly shares

- (a) A member must buy a minimum of one share worth MK250 and a maximum of five shares.
- (b) All shares bought must be documented by the secretary and verified by the owner and treasurer and chairperson.
- (c) A member who fails to buy weekly shares will be fined.

11. Member's eligibility to access a loan

- (a) One must be a member of the group with some shares to their name.
- (b) The value of a member's loan will be determine based on the following:
 - (i) The value of their shares; and
 - (ii) The collateral indicated to the group.
- (c) A loan shall be serviced monthly at initial 10% and then escalate to 20% if she fails to pay in the first month.
- (d) If member a fails to service their loan the group will get her arrested or confiscate property
- (e) A member should get permission from her husband before she get a loan.