



Community bylaws concerning sexual and reproductive health and rights in Traditional Authority Chiwalo, Machinga district, southern Malawi:

To what extent are they responsive to young people's needs?

Maryse Kok, Mariëlle Le Mat – KIT Royal Tropical Institute

Alister Munthali, Peter Mvula – Palm Consulting Limited

Illustrations by James Kazembe, Layout by Alexander van der Mije

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Abbreviations

ADC	Area Development Committee
CVSU	Community Victim Support Unit
CSO	Civil Society Organisation
DCDO	District Community Development Office
FAWEMA	Forum for Women Educationalists in Malawi
FGD	Focus Group Discussion
GBV	Gender-Based Violence
GVH	Group Village Head
NGO	Non-Governmental Organisation
SAT	SRHR Africa Trust
SGBV	Sexual and Gender-Based Violence
SRHR	Sexual and Reproductive Health and Rights
TA	Traditional Authority
VDC	Village Development Committee

Abstract

Background

Community bylaws are commonly accepted mechanisms to influence behaviour change to achieve better health and development outcomes in sub-Saharan Africa. However, the uses, benefits, and potential downsides of community bylaws are largely unclear, especially regarding sexual and reproductive health and rights (SRHR) of young people. The objective of this study was to determine the extent to which community bylaws in Machinga district in southern Malawi are responsive to young people's realities and SRHR needs.

Methods

In Phase 1 of this qualitative study, 35 community members were interviewed, including 14 young people (15-24 years), five parents, five traditional leaders, and eleven key informants. Based on findings from Phase 1, eleven members from local youth groups co-created a drama performance that covered issues concerning bylaws and young people's SRHR (Phase 2). The drama was performed in the community, after which young women (18-24 years), young men (17-24 years), female and male parents discussed on what they saw in the drama, focusing on young people's SRHR, in four focus group discussions (Phase 3). All transcripts were coded and thematically analysed and narratives were written on main themes.

Results

Three community SRHR bylaws, related to teenage pregnancy, child marriage, and sexual harassment and rape were identified and commonly accepted in the community. While these bylaws intend to reduce SRHR-related issues among young people, they are often not involved in bylaw formulation. The bylaws were associated with protection of girls, and a good reputation for boys, young men and traditional leaders. Bylaw enforcement faced problems, as fines were not in line with national laws, and wealthy offenders could avoid them through bribes. Effects of bylaws on teenage pregnancy rates seemed limited, while some positive effects on school readmission, prevention of child marriage, and reporting sexual harassment were reported.

Conclusions

The study revealed that community bylaws were accepted but not owned by young people, and had different effects on the rich versus the poor, and girls versus young men. Bylaws were associated with punishment in terms of money, which seemed to overpower their potential to promote rights and address social norms underlying SRHR issues of the youth.

1. Introduction

Break Free! is a 5-year partnership programme (2021-2025) implemented by Plan International (lead), SRHR Africa Trust (SAT) and Forum for African Women Educationalists, financed by the Dutch Ministry of Foreign Affairs. The Rozaria Memorial Trust and the KIT Royal Tropical Institute are technical partners of Break Free!. The programme is implemented in Malawi, Mozambique, Zambia, Ethiopia, Kenya, Sudan, Burkina Faso, Mali and Niger.

Break Free! aims for adolescents and young people to exercise their right to live free from teenage pregnancy and child marriage, supported by civil society. To achieve this, the Break Free! alliance works on strengthening civil society organisations (CSOs), youth-led groups and networks to lobby and advocate for improved legislation and implementation to increase girls' agency and to promote social norms change in favour of the prevention of child marriage and teenage pregnancy. The programme generally aims at improving young people's sexual and reproductive health and rights (SRHR).

In Malawi, the Break Free! programme is implemented in Machinga and Lilongwe districts by SAT Malawi (lead), Plan International Malawi and Forum for Women Educationalists in Malawi (FAWEMA). The Yes I Do! programme (2016-2020) was implemented in the same districts and was also financed by the Dutch Government. The Break Free! programme is building on the Yes I Do! programme (1), but has an increased focus on advocacy.

Based on the alliance's research agenda, various studies are conducted to support programme implementation and advocacy efforts across the nine countries. The KIT Royal Tropical Institute, in cooperation with PALM Consulting Limited in Malawi, has conducted a qualitative study in Machinga District in 2022. This study aimed to gain an increased understanding of SRHR-related community bylaws: their content, formulation process, interpretation, implementation and effects on young people. The study findings provide input into the Break Free! programme, particularly whether community bylaws can be used as an entry point for advocacy aimed at improving SRHR of young people in Machinga.

2. Background

Traditional leadership remains a strong locus of political obligation in sub-Saharan Africa. In Malawi, the traditional chieftaincy, existing alongside the democratically elected local government structure, holds traditional respect and power within communities (2). While traditional leaders have little official power, they play an important role in safeguarding social norms and facilitating community mobilisation (3-5). One way in which traditional leaders can do this is through community bylaws.

Bylaws can be defined as “rules and norms to regulate life in communities and to levy fines for the non-compliance to those bylaws” (6). Bylaws are anchored in traditional leadership, focus on resolving specific community problems and use local fines when they are violated (3). Community bylaws could be regarded as ‘living laws’, in the sense that communities can use community bylaws as ‘home-grown’ laws or rules to adapt (their practices and customs) to socio-economic changes, state laws or international human rights (3). The Malawi Government as well as (international) non-governmental organisations (NGOs) have encouraged traditional leaders to develop and enforce community bylaws to support their development agenda (5, 7). Indeed, over the past two decades, Malawi has seen an increase in the number of community bylaws.

Current literature indicates that while community bylaws in Malawi focus mostly on combating child labour and promoting natural resources management, education and health, there are an increasing number of bylaws related to SRHR, particularly on maternal health, sexual and gender-based violence (SGBV) and child marriage (3-5, 8, 9).

3. Problem statement and justification

Community bylaws in Malawi are commonly accepted mechanisms to influence behaviour change to achieve better health and development outcomes. However, the uses, benefits, and downsides of bylaws are largely unclear, especially on SRHR of young people

Specifically, questions related to the effects of bylaws on societal norms, and youth perspectives on and involvement in bylaws need further scrutiny. Young people constitute a large part of the society in Malawi, and it is therefore important to gain understanding about whether and how community bylaws are responsive to young people’s realities and needs. This can inform the development of policies in Malawi as well as future programming and advocacy of the Break Free! Alliance and other development partners, aiming to improve the health and wellbeing for youth in Malawi.

4. Study objectives

The overall objective of this study was to determine the extent to which community bylaws in Traditional Authority (TA) Chiwalo in Machinga district in southern Malawi are responsive to young people's realities and SRHR needs.

The study had the following specific objectives:

- 1** **To determine** the SRHR-related content of community bylaws.
- 2** **To explore** how SRHR-related community bylaws have been formulated.
- 3** **To determine** how SRHR-related community bylaws are interpreted.
- 4** **To investigate** how SRHR-related community bylaws are implemented.
- 5** **To explore** the effects of SRHR-related community bylaws on young people.
- 6** **To establish** the extent to which SRHR-related community bylaws can be used as entry point in Break Free! advocacy and how.

5. Methodology

This qualitative study took place in TA Chiwalo in Machinga district from September to November 2022. It included three phases of data collection.

In the first phase, 35 interviews with different people were conducted to discuss the community bylaw development process, contents, interpretation, implementation and (potential) effects/ outcomes. We spoke to:

- Fourteen young people (15-24 years), from different genders, ages, marital status, schooling status and including youth leaders and disabled youth.
- Five parents and caregivers, from different genders and including those involved in initiation ceremonies.
- Five traditional leaders: a TA, a Group Village Head (GVH) and three village heads.
- Eleven other key informants, including a teacher, two health workers, one community development assistant, one community child protection worker, a magistrate, a representative from the police, representatives from two NGOs and two staff members from the Machinga District Council i.e. the District Planning and Development Office and the District Social Welfare Office.

Based on findings from phase 1, eleven youth group members from TA Chiwalo were trained and participated in a co-creation of a drama performance exercise. Each young person represented one active youth group. They created a drama play including existing Yao¹ songs that covered issues concerning bylaws, SRHR and young people (phase 2). The drama was performed at TA Chiwalo headquarters on 26 November 2022. Figure 1 depicts the main storyline of the drama (also available in Chichewa in Annex 1):

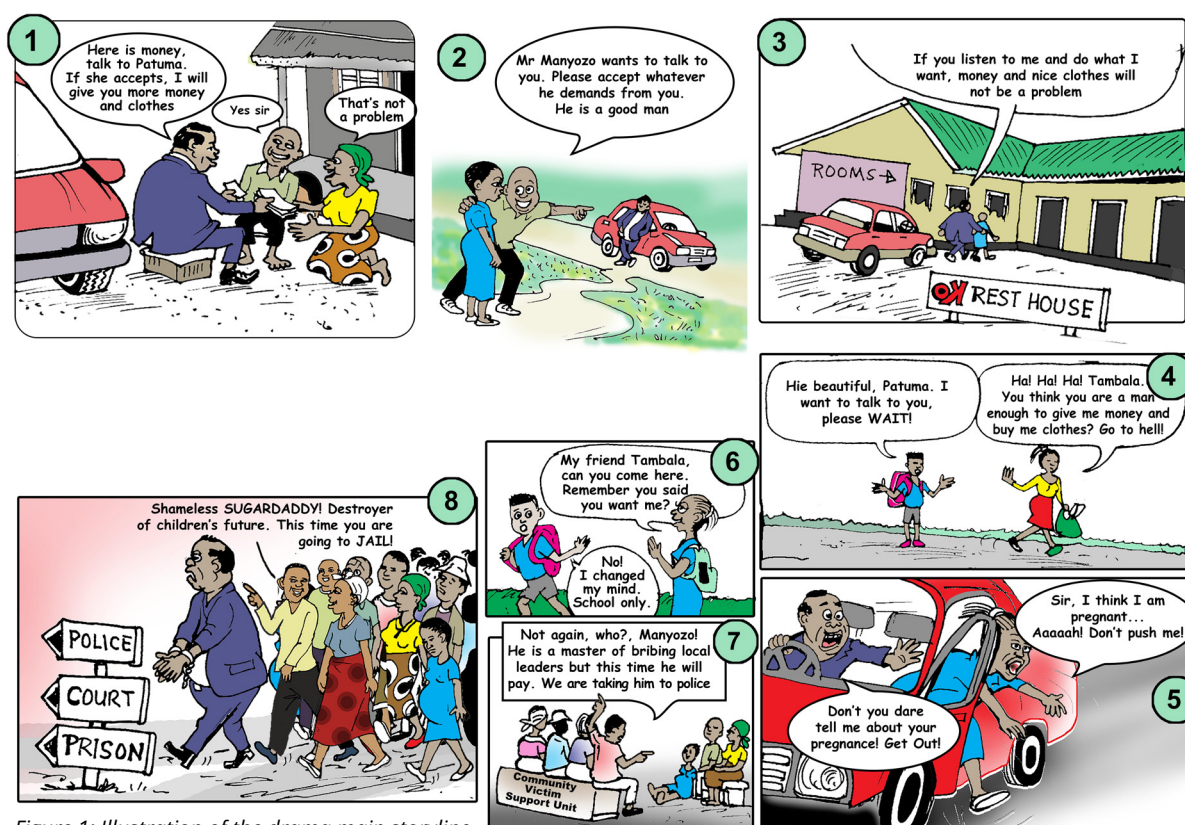


Figure 1: Illustration of the drama main storyline

¹ Yao is the dominant tribe in TA Chiwalo.

After the drama, phase 3 of data collection was undertaken: four focus group discussions (FGDs) with young women (18-24 years), young men (17-24 years), female parents/caregivers and male parents/caregivers were conducted. These FGDs focused on what they saw in the drama play, their opinions, perceptions, and recommendations; with a focus on young people's SRHR needs. Data collection tools were pre-tested. Data were collected in Chichewa by a trained research team, which consisted of a mix of younger and older, and female and male researchers. A study reference group, consisting of Break Free! staff, including a youth representative, provided input into the study design and discussed preliminary findings.

Interviews and FGDs were digitally recorded upon consent of the study participants and transcribed in English. Content analysis was carried out using a comprehensive thematic matrix developed using the study objectives and literature review. After coding all transcripts in Nvivo, narratives were written on main themes.

The study received ethical approval from the National Committee on Research in the Social Sciences and Humanities in Malawi.

6. Findings: SRHR bylaws in TA Chiwalo, Machinga District

6.1 The content of SRHR bylaws in TA Chiwalo

Community and key informants were able to list and explain many bylaws.

Not all informants had the same account on all the rules and fines of the bylaws. A few indicated that they differed per GVH or per case. While this study focuses on SRHR-related bylaws that are affecting young people, below, a short list of other bylaws is provided to illustrate other rules and fines that exist in TA Chiwalo. The fines reported are indicative.

- All children to go to (primary) school. If children are out of school without a valid reason, the parents are fined (MK 10,000) and the village head is charged at the Chief Forum (MK 60,000).
- All pregnant women to deliver at a health facility. If a woman does not deliver at a health facility, the fine is MK 5,000.
- Children should not be involved in labour, such as running businesses. In case of child labour, parents are charged two goats (MK 40,000).
- No local businesses should display video shows during school hours. If this rule is not followed, property can be confiscated by the police or the business owner has to pay a fine of MK 20,000.
- Initiation ceremonies should not take place during the school calendar. If they do, the initiation camp is burnt down and the responsible initiator is to pay a fine of MK 100,000, while the village head where the camp is located pays MK 50,000.

The study revealed three main SRHR-related bylaws. They focused on prevention of:

- **Teenage pregnancy**
- **Child marriage**
- **Sexual harassment and rape**

The bylaws that aim to prevent teenage pregnancy and child marriage are interlinked. All three bylaws provide provisions, rules and fines in cases where teenage pregnancy, child marriage or SGBV already happened. They thereby serve to instil fear in young people, parents and caregivers, and other key actors involved to prevent such cases from happening. The bylaw on child marriage also contains provisions and rules to prevent child marriage from happening in the first place.

SRHR bylaw 1: what happens when a school-going girl falls pregnant?

Many different informants reported this bylaw. Teenage pregnancy is happening quite a lot in TA Chiwalo, and the rules and fines as depicted by informants seem often (partly) followed. The rules mainly applied to 1) the man or parents of the man who made the girl pregnant and 2) the girl and her parents:

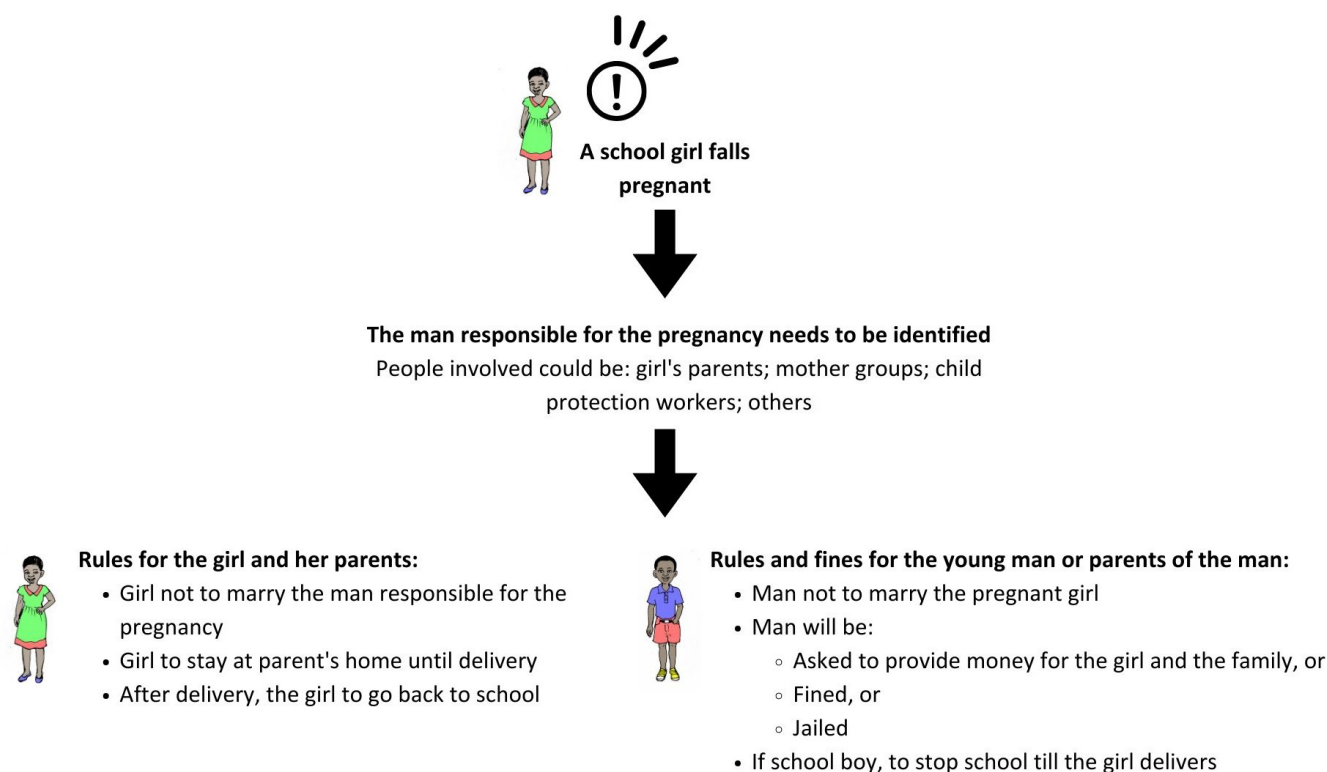


Figure 2: Bylaws concerning teenage pregnancy

A few informants said that if the man responsible for the pregnancy is an adult man who is much older than the girl, he should be jailed or fined, while if the man responsible is younger, it is more probable that he or his parents will only be asked to provide financial support for the girl and her parents. However, in the FGD with young men, participants said that boys also get arrested and that “this brings confusion from both sides of the girl and the boy”. Furthermore, a few informants indicated that the boy, if at school-going age, is also supposed to stop schooling until the girl delivers, but that often this does not happen.

The TA and a village head talked about a related bylaw saying that in case school-going girls are supported by NGOs or the government and if they drop out, for example because of pregnancy, her parents will be asked to refund the goods received and will pay a fine of one goat (MK 20,000).

SRHR bylaw 2: preventing and responding to child marriage

This bylaw was also often referred to in the interviews. According to most informants, the bylaw says that children should not marry under the age of 18, while two informants, both around 40 years old, thought it was 20 years.

The aims of this bylaw, as stated by the informants, were to avoid school dropout, encourage young people to continue their education, and avoid severe health consequences as a result of teenage pregnancy. Many informants mentioned that girls' bodies are not ready for childbirth and some of them referred to high cases of fistula. These educational and health-related problems seemed the most prominent justifications for not allowing child marriage and teenage pregnancy.

A few informants reported on primary preventative provisions in the bylaw. For example, a village head reported that pastors and sheikhs (who conduct marriage ceremonies) are obliged to verify the age of the girl. Furthermore, the TA mentioned that pastors and sheikhs always need to inform the village head about the intended marriage. Village heads should keep track of all marriages happening in their community and should ensure that none of those marriages involve children under the age of 18.

“*Yes, there are bylaws that say that if a girl wants to get married, she needs to seek approval from the village head who is to confirm her age. The chief and girl have to sign in a book to confirm that indeed the girl is eligible for marriage*”, (36-year-old male village head).

If people in the community would hear about a planned marriage involving a minor, this could be prevented from happening by talking to the parents and couple involved. If a child marriage already happened, the marriage would be nullified, and the bylaw included rules and fines which mainly seemed to target the parents of the girl (not the young man or parents of the young men involved), the pastor or sheikh involved and the traditional leadership (Table 1). Actors involved in trying to resolve or reinforce these rules and fines were traditional leaders themselves, child protection workers from the community victim support unit (CVSU), or NGOs.

Parents of the girl	Pastor/ Sheikh	Village head
<ul style="list-style-type: none">• To pay 2 goats (MK 40,000) to the Chiefs Forum or CVSU, or• Disowned from cultivation land, or• Brought to CVSU and then to police to get arrested	<ul style="list-style-type: none">• Taken to police or Chiefs Forum/ Council• To pay 2 goats• Forced to stop their spiritual activities	<ul style="list-style-type: none">• To pay 2 goats (MK 40,000) to the Chiefs Forum

Table 1: Fines in case of child marriage

Quite some informants reported the fine of land disownment: “... then the parents should be disowned the cultivation land. The land will be in the hands of the chief” (17-years-old male informant), however, none had heard of a case where that had happened.

SRHR bylaw 3: what should happen in case of sexual harassment or rape?

Many informants brought up what is supposed to happen in case of sexual harassment, rape or other SGBV. Such cases are to be reported to the CVSU, who then refers to the police, hospital and court for official handling. As such, such cases are not handled at village or community level.

SRHR-related provisions: young people's right to use contraceptives and receive age-appropriate advice

A SRHR-related provision that was often mentioned had to do with access and use of contraceptives. Many informants, including a GVH, village head, health worker, community-based child protection worker, mother group member, female initiator and two young women (17 and 24 years old) talked about the right of youth to access and use contraceptives (to prevent pregnancy and keep girls in school).

“ —
| *“This rule came about because abstinence is a problem for young people. So without the contraceptive*
| *methods, young people would drop out of school due to pregnancies. The contraceptive methods*
| *would allow young people to continue with school”, (24-years-old married woman).* — ”

Another SRHR-related provision had to do with initiation ceremonies: a 37-year-old female initiator reported that the GHV launched a rule saying that during initiation ceremonies,

“ —
| *“it is not allowed to advise the child about bad things but rather encourage them about school and*
| *other good behaviours.”* — ”

6.2 Formulation of SRHR bylaws

The bylaws are written

Most informants reported that the bylaws are written. An NGO worker reported that copies of the bylaws were even sent to the District Commissioner's office. These written laws are kept by the chiefs.

“*We formulated these rules, and we wrote them. I think they filled two pages. Every group village head has these rules in TA Chiwalo*”, (Village head).

The District Community Development Office (DCDO) representative, however, reported that while the bylaws are written, they are not very detailed. The informant further explained that many community members are illiterate: they are verbally informed about the bylaws.

The bylaw formulation process is steered by traditional leaders and NGOs

The process (Figure 3) started when NGOs visited TA Chiwalo, discussed the challenges in the community (e.g., teenage pregnancy, child marriage and school dropout) and explained the need to formulate bylaws to address these challenges.

“*The bylaws were brought about by [non-governmental] organisations which informed the chiefs. Due to the occurrence of rape in the area, the chief thought it wise to accept and work with these organisations on the bylaws*”, (VDC member).

“I cannot tell the name of the NGO but it opened our eyes. Then the TA called upon all his subjects to [attend] a meeting. There came an NGO that influenced the formulation of the bylaws”, (Ngaliba²).

The formulation of bylaws started at TA Chiwalo headquarters where, during a meeting with GVHs and village heads, participants agreed that they should come up with the bylaws.

“*Indeed, we have bylaws in this community. The bylaws we have in this community were formulated by us. It was not like we invited somebody from Blantyre to formulate the bylaws for us. We did it on our own*”, (GVH).

The GVH and some other informants explained that the process of formulating the bylaws did not only involve the TA, all the GVHs and the village heads, but also involved others, such as NGOs, the police, CVSU, area development committee (ADC), village development committee (VDC), youth clubs, mother groups, church leaders, health workers, community child protection workers, teachers and other community members. However, other informants reported that community members were not involved in bylaw formulation. A 22-year-old man, for example, reported that during formulation of bylaws, consultations with the general community were not conducted.

“*I was not there. They did not consult any member of the community. They [chiefs] just received [the bylaws] from elsewhere and then they told us about these things*”, (22-year-old married male farmer).

² Male initiator.

A few informants thought that government officials, together with the chiefs, formulated the bylaws.

Subsequently, the chiefs called for village meetings where community members were informed about the bylaws, including the associated fines or punishments for offenders, and accepted the bylaws. It appeared that these meetings were sometimes accompanied by NGOs.

“... Then we called for a village meeting whereby we then informed the members of the community of the bylaws that we had come up with. We informed them about bylaws to do with school, child marriages and the like”, (Village head).

“Chiefs conduct village meetings. In these village meetings, it’s when they were able to tell the villagers about the bylaws. They were not doing this alone. SAT was in the forefront doing this ...”, (FGD with young men).



NGO visits TA Chiwalo

NGO roles

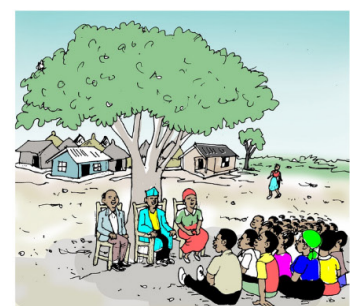
- Facilitate formulation of bylaws
- Funds for meetings
- Lobbying toward District Council for approval of bylaws
- Awareness creation about bylaws
- Monitoring and evaluation of bylaw implementation



Bylaws are formulated in a meeting with (group) village heads

Others who could be involved:

- NGOs
- Police
- CVSU and child protection workers
- ADC and VDC
- Youth clubs
- Mother groups
- Church leaders
- Health workers
- Teachers
- Other community members



Chief informs community members

Community members and young people participate in community meetings where chiefs tell them about the formulated bylaws; and they agree with the bylaws

Figure 3: Summary of process of bylaw formulation

Limited involvement of young people in bylaw formulation

There were some informants including a village head, parents and a few youth who reported that young people were invited to the meetings where the formulation of the bylaws took place. These informants emphasised that there was no one in the community who was not involved in the process. As was the case with the general community, most informants reported that in the meetings held by the village head, people, including young men and women, were just informed about the bylaws.

“We were not called. They only called the elders and the renown people in the community. They were called at TA Chiwalo. They only invited the elderly people to formulate the bylaw. We were not involved”, (17-year-old in-school boy).

“He [the chief] invited both boys and girls, and then began telling us that there are bylaws, like a child should not get married when not of age, he/she should be going to school, parents need to encourage their children to be going to school..., that's it”, (16 year old in-school boy)

Bylaw formulation takes between several weeks to nine months

Several informants, especially older people, reported that the bylaws were not formulated at the start of the Break Free! programme: they were formulated a while ago, but they were inactive. Some cited 2002 as the year when the bylaws were formulated, while others cited 2020 and 2021.

“It's a long time ago. When Break Free! started operating, these bylaws concerning our youth were already there. This organisation was just helping us so that these things should go further, but years have passed [since formation of the bylaws]”, (Health worker).

A community-based child protection worker indicated that it took a few days to formulate and introduce the bylaws. A key informant working for an NGO reported that the process of formulating the bylaws took three months and that this included taking the bylaws to the District Council (that still did not officially approve them) and disseminating them. A social welfare officer stated that the process took about eight to nine months, from analysing and setting the bylaws to people understanding the bylaws.

6.3 Awareness and interpretation of SRHR bylaws

Most people are aware of and welcome the bylaws, but do not know their exact content and do not have a large sense of ownership of the bylaws

While most informants were aware of the existence of the bylaws, for many, the exact contents of the bylaws remained vague. For example, informants stated that bylaws classify child marriage as “prohibited” or early pregnancy as “bad”, but the exact rules and punishments were unclear to community members. According to the FGD with young men, particularly youth who are part of youth clubs are aware of the bylaws, possibly a result of youth NGOs being involved in pulling the bylaw formulation process. To the question whether other young people are aware that of the bylaws concerning youth SRHR, one informant estimated this to be 50/50:

“Mmmh.., I can say it's 50/50 (...) It's 50/50 because of its enforcement (...) They know that there are bylaws, but its strength sometimes can't be seen because sometimes the ownership lies in the hands of the village head most of the time who is on the forefront, so [if] the chief is not active the whole process is messed up”, (DCDO representative)

Almost all informants agreed that the bylaws are welcomed by all community members – regardless of age, gender, or status – as there is a need for improved protection, education and SRHR outcomes. Only two informants mentioned that the elderly might have some more difficulty understanding the importance or language of the bylaws, because those who have not been educated might not fully embrace the importance of education, and some elderly might not grasp the language around rights for young people. However, these seem to be incidental observations. The level of ownership of community members, including youth, seemed to be rather low. Many informants thanked NGOs for the creation of the bylaws, and, as explained above, did not seem to have had a personal involvement in the process.

Aims of the bylaws: protection of girls and young women; good reputation for boys, young men and traditional leaders; and community development for all

Most informants interpreted the purpose of the bylaws to be protecting the lives of young people, particularly of girls and young women.

“The main reason for all laws is to protect the lives of the youths. There are laws that protect the whole country of Malawi, but as for our community, the laws that we set were to promote the rights of the youths and women, so that we can protect and save the youths and women who face different [types of] violence. In short, the laws are to protect the rights of children”, (GVH)

“I think it's for protection (...); If a girl becomes pregnant at a tender age, it means we have killed that girl. Once a girl has a child, poverty sets in. She cannot do anything. It means she has to support the child born to her. Since she is not mature enough to have a baby, they end up having complications and others also die. This is the reason why we came up with this rule”, (22-year-old unmarried man)

Informants saw the instilling of bylaws as a way to formalise the social norms into the standard of the bylaw, and for community members to learn a lesson by seeing others punished if they disobeyed.

While none of the participants reflected on possible gender differences, analysis of FGDs with young women and men did uncover some differences in interpretation between them. As Figure 4 illustrates, while some young women in the FGD emphasised that they indeed felt protected as a result of the bylaws, young men emphasised fear for reputation if they failed to adhere to the bylaws. Similarly, another participant stated that those who have trespassed are seen as morally inferior in the community:

“To me, [the bylaws] are good. (...) The coming in of this bylaw, it saves girls in the community. If a man has raped a girl, it means the man has no moral values. He has done contrary to the bylaw”, (Ngaliba)

“

Young man 1: “The consequences are not good if you trespass the bylaw. If you make a girl pregnant, parents require you to fund them or return the whole money they spend on their daughter. **I am afraid to do wrong because of the consequences that follow.** So, the bylaws are doing us well as youths in avoiding the consequences that follow.”

Young man 2: “If others hear that a youth club member has made a girl pregnant, what will be the case like? So, **I fear to damage my reputation.**”

(FGD with young men)



Young woman 1: “For us young people, this is a very good bylaw because **it protects us** young people from abuse. No one is supposed to touch us when we do not want to be touched.”

Young woman 2: “I feel it is a good bylaw. (...) because the way I understand it, it says that **nobody has the power of touching or raping a woman.** This makes us to **be protected.**”

Young woman 3: “I like this bylaw because it gives us girls the **freedom** to attend youth clubs **without being afraid** of someone touching us.”

(FGD with young women)



Figure 4: Views on bylaws differ between young men and women

For many informants, the aim of the bylaws was more instrumental for the community at large. In their view, young people needed to be protected through these bylaws, so that they can be healthy and educated citizens who contribute to development. To illustrate, one young person stated that a bylaw helps young people:

“... to finish our education. If we make it, then we will be able to develop this community or even the whole Malawi”, (17-year-old in-school boy).

The fact that community development was a central concern was also reflected to in the response of a GVH, who took the level of development gains as a reflection on his performance:

“... the laws are helping me with my chieftaincy and good reputation. If a community is failing, the one being pointed at is the group village head for the community for the failure.” (GVH).

This GVH went on to thank the Break Free! programme for the support by initiating the bylaw formulation in the community. This GVH also felt that the coming of the laws has made it possible for more community members to report on injustices and for the chief to act on them.

“But the coming in of the laws, they have helped youths to be strong, for example, the youths themselves are detective on each other to find out misconducts like early marriages and report to the chiefs and get helped by the chief's authority. Before the laws, this was not possible, but now it is possible with the help of Break Free and different authorities”, (GVH)

6.4 Implementation, adherence, and enforcement of SRHR bylaws

Many stakeholders are involved in bylaw implementation and enforcement, but the onus lies with the traditional leadership

A wide range of stakeholders are involved in the implementation and enforcement of bylaws and these include the TA, GVHs, village heads, the Chiefs' Council, the child protection worker, CVSU, community police, police, NGOs, mother groups, health workers, the youth, parents, and other community members. The roles of these people and institutions are described in Table 2.

Stakeholders	Roles
TA, GVHs, village heads	<ul style="list-style-type: none"> • Key in the enforcement of bylaws. <ul style="list-style-type: none"> ◦ Remind community members about the bylaws, especially during village meetings. ◦ Handle cases and refer them to relevant authorities including the police, child protection worker or CVSU.
Chiefs' Council	<ul style="list-style-type: none"> • Helps to see that the bylaws are being adhered to.
Child protection worker	<ul style="list-style-type: none"> • Creates awareness about bylaws. • Attends Chief's Council and is the one who deals with children's issues in the Council. • Ensures that children are protected, in terms of abuse, child marriage and avoiding school dropout.
CVSU	<ul style="list-style-type: none"> • Manages cases of child abuse; hence helping with enforcement of bylaws.
Community police	<ul style="list-style-type: none"> • Monitors compliance with the bylaws in the communities. • Takes cases to the police.
Police	<ul style="list-style-type: none"> • Helps to enforce the bylaws i.e. ensuring that the bylaws are adhered to by community members. • Arrests and jails offenders.
NGOs (incl. those involved in Break Free!)	<ul style="list-style-type: none"> • Sensitise community members about the bylaws. • Encourage community members to adhere to bylaws.
Mother groups	<ul style="list-style-type: none"> • Follow up cases of child marriage and school dropout and discuss these with parents. • Mobilise resources e.g. to buy notebooks for school going children.
Health workers	<ul style="list-style-type: none"> • Test girls withdrawn from marriage for sexually transmitted infections or pregnancy. • Encourage youth to go to health facilities, especially for contraceptives.
Youth	<ul style="list-style-type: none"> • Create awareness about bylaws through drama. • Advise each other and sometimes adults on the need to adhere to bylaws. • Go around the village and search for/ investigate cases where bylaws have been broken and report this to the chief.
Parents	<ul style="list-style-type: none"> • Encourage their children and other community members to adhere to the bylaws. • Report the cases where their children have been abused to authorities including the police; and report cases where bylaws have been broken to the chief.
Community members	<ul style="list-style-type: none"> • Adhere to community bylaws. • Report cases where bylaws have been broken to the chief and other structures.

Table 2: Roles of various stakeholders in implementation and enforcement of bylaws

Many informants were of the view that while all these people play a role, the onus of enforcing the bylaws lies with the chiefs: village heads, the GVH and TA. The village heads actually report cases to the GVH and TA as part of enforcement of the bylaws. A participant during an FGD with female parents reported that village heads are doing a good job on this, the only challenge being that some parents do not respect village heads. One informant said that village heads do not take any further action, because they fear that parents of the abused children can bewitch them.

“*They can seek charms just to deal away with you because you are disturbing their children, because the village head is forcing their children to continue with school. They can even ask the village head like ‘did you yourself go to school?’ Now if my child is able to read that’s enough”, (FGD with female parents).*

Mixed adherence to bylaws

Many informants including the TA, GVHs, village heads and community members acknowledged that the bylaws are being implemented. To a large extent, informants said that these bylaws are being adhered to.

“*Yes, in my village the youths are aware of the bylaw and they are obedient. No one is doing differently to what was set. They are responsive and active. They are part and parcel of social change”, (Village head).*

There are also some community members who do not adhere to the bylaws for several reasons. Particularly the bylaw on child marriage was mentioned as not being adhered to for reasons related to wanting to have grandchildren and financial issues.

“*At 18 years a boy marries while for a girl, it is not so. Though we have these rules, for girl child it is not applied. Mothers once they prefer to have a grandchild, they go for it. I have seen mothers forcing their daughters into marriage so that they should have grandchildren. They force them too much to the point of NGOs giving up. The end result, the NGOs down-tools and she marries”, (22-year-old unmarried woman).*

This was also stressed during the FGDs after watching the drama performance. It was argued that parents admire their friends who have grandchildren; so they need to have grandchildren as well. FGD participants argued that such practice jeopardises the life of a child.

Poverty is another issue which drives child marriage. During the FGDs after watching the play, FGD participants reported that it is not good for parents to arrange marriages of their children in order for them to financially benefit.

“*I have seen that the practice of Chitomelo¹ is not good because it disturbs girls’ education. Instead of the girl concentrating on her education, she was just focusing on the Chitomelo and the money from the man who promised her marriage”, (FGD with young women).*

“Patuma’s parents were interested in receiving money from Mr. Manyozo, forgetting that receiving the money would put their daughter, Patuma, at risk [of engaging in sex with Mr. Manyozo, getting pregnant and dropping out of school]”, (FGD with male parents)

¹ The practice where a man promises a girl that he will marry her.

After watching the play, FGD participants acknowledged that they know about girls who in a sexual relationship or married with someone working in South Africa and this seems to be accepted in TA Chiwalo. Participants reported that some parents force their daughters aged 11 or 12 to get into sexual relationships or to get married to young men, particularly those working in South Africa, because they want to financially benefit from such relationships.

“I have watched that play, and I have been touched by it. The reason being that parents put on the forefront marriage, by marrying off children who are not yet of age, because of those who go to Johannesburg here in Machinga”, (FGD with female parents).

“I know of a case whereby a man who is in Johannesburg, South Africa, wanted a young girl to marry. A certain young girl was in school and her parents forced her to drop out of school and accept the marriage proposal of the man from Johannesburg. This girl did as her parents advised her. Then the man processed her travel documents and then sent her transport money to join him in Johannesburg. Currently, the girl is now in Johannesburg with the man”, (FGD with young women).

The other challenge with adherence to bylaws on child marriage is that some parents lie about the correct age of their children. In the FGD with male parents, participants were discussing about a case in which a boy had made a girl pregnant, and both got fined according to the bylaw, but the boy and girl ended up getting married after all.

Challenges in bylaw enforcement: fines are not aligned to national law; differences in enforcement depending on (wealth of) the offender; and more focus on fines than child rights

Many informants reported that if someone violates bylaws, then action is taken against such people. At the same time, an NGO representative reported that the fines are not really functional, as the bylaws have not been endorsed by the District Council. This is because the fines as stated in the bylaws are often not in line with the Constitution, which hinders effective bylaw enforcement.

“And even these bylaws can be challenged in the court of law, because they can give you a fine which is above the fine of the same case within our legal system”, (NGO representative).

A police officer confirmed this and said that bylaws are not enforced, because the attached fines sometimes surpass the Constitution and the Penal Code. The TA indicated the same and that therefore, the District Council told him that some cases should be left to the police. A magistrate painted a slightly different picture. He said that fines in bylaws can be upheld in court:

“So in my case, I said on our part at the court we respect the bylaws. We don't leave them outside because it is one way of encouraging compliance to the laws of this country. So if the bylaw has been put in place in a community where we ourselves are, and somebody happens to have broken the bylaw, as a court we cannot say no this is not in the Constitution. We say that is the police that people put in place, they agreed on it. We will just follow that. Whether the fine is about a goat, we will also charge you that. Whether it is about giving ten chickens, like how village heads say, we will be following that”, (Magistrate).

A district official thought that bylaws are actually there in the first place, because people have little knowledge and understanding of national laws.

“... the available laws by the government, most people on the ground do not really understand them. These people are rarely reached with the laws, and even the people that are supposed to take the laws to the people do not understand them, so that's a complication. Now in the community when they formulate their bylaws, they are like regulating them, so it's like they are dealing with that problem of not being reached with the government laws... So if anything, there has to be a good procedure of taking these government laws that are in the Constitution to the people. There should be good procedures for them to understand, only then can we decide to drop the bylaws... The bylaws are coming in because the government laws are not trickling down well to the communities”, (District officer).

Indeed, an NGO representative indicated that the Ministry of Gender, Community Development and Social Welfare developed a booklet on Consolidated Child Related Laws, and that instead of promoting bylaws, this booklet should be the basis for communities' rules. He recognized that bylaws are good as they cement the already present legal systems in Malawi, but that discrepancies should be taken out: bylaws should be re-aligned with the national laws.

A few informants reported other challenges in the implementation of bylaws, such as lack of transport for child protection workers and youth champions who visit different communities and report cases to the chiefs.

Some informants noticed how the interpretation of the bylaws would differ depending on who is targeted in enforcement:

“The enforcement becomes difficult... For the government laws, it is the police that is on the forefront, but for these ones [bylaws] it's the village heads (...) You understand these are the same people, but you will notice that interpretation changes when it has happened to someone, and if it happens to someone else you will see what they discussed is not working (...) it becomes subjective”, (DCDO representative)

During the FGD with young women, participants reported that there is a lot of bribing of those in authority in their community to get away with crimes. They reported that the amount of money paid to authorities ranges from MK50,000 to MK100,000. In such cases, the bylaws reinforced existing power relations, since those who afford can bribe and thus can 'risk' ignoring or violating the bylaws.

“Yes, these things happen. We have a certain village whereby a teacher raped a girl. The teacher went to the chiefs and rulers bribing them so that the case should not be heard. Nevertheless, he failed because the case was reported to the police. Police came to his house to arrest him; he was nowhere to be found. He ran away”, (FGD with young men).

“These things happen. We have chiefs who like receiving money in terms of bribes. They are corrupt. They want to get the money and leave the case unattended. As youths, we will not tolerate these things. We will stand for the truth”, (FGD with young men).

During the drama play, FGD participants observed that an older man proposed to a school going girl, impregnated her and when cornered, he wanted to bribe authorities so that he should not face the law.

“Mr. Manyozo was boasting that he knows Patuma together with her parents because he has been feeding the whole family. He was not fearing going to the courts or being arrested because he had a lot of money that would give him freedom to do whatever he wanted to do”, (FGD with male parents).

“..... As parents we usually complain that our children are dropping out of school, simply because of these men. If we decide to take such issues to those who handle them, such men just end up giving money to those who handle them. You just end up going back home with your child, with nothing else to do...”, (FGD with female parents).

Many FGD participants shared that such scenarios where community leaders, who are supposed to be trusted, are bribed by offenders indeed happen in their communities.

A few participants reflected on how bylaws (and in particularly the fines) have become a focus of intervention, while it disregards principles of care, underlying social norms that underpin inequities and child rights.

“Passing judgement is one thing, but there is a need to follow up and monitor what is happening with the girl”, (FGD with male parents)

One young man shared he has been taking economic and social responsibility for a girl he made pregnant. He classified it as a form of corruption, because he escaped the consequences of the bylaw (fines) by arranging with the girl and her family that he would support her (who, as a result, did not press charges against him). This illustrates the inherent conflict of trying to address social norms by instilling bylaws that monetize disobedience to the desired social norms:

“Our parents were delighted having these bylaws but in no time, they were astonished with the consequences of not adhering to the bylaws. I can give an example. I have made a girl pregnant and I have agreed with the parents of the girl that I will support their daughter. Parents agree that I will support economically even socially. What I have done, others will question, since it is not in line with the bylaws that were established. I will be open to tell those who asked me that I have agreed to take the responsibility of social economic affairs of the girl. If the consequences will not come to me, then my friends will also follow the same pattern knowing that they will also support the girl just like I have done. Corruption has taken it all”, (FGD with young men)

Indeed, participants in FGDs after watching the play performance also noted that if a girl child gets pregnant, and her parents decide to take the issue further, those who are entrusted with the responsibility of protecting the girl child get bribed by the parents of the one who has made the girl pregnant or the perpetrator himself, so that the issue should not go up to police.

Use of revenue: it sometimes goes to the chiefs, CVSU; and less often to the victim or community development projects

While there was some confusion around what happens with the fines, most informants reported that the money that offenders pay as fines is paid to the chief or the CVSU. A few informants stated the fines will go to the victim, either through the CVSU or directly, and others stated that the chiefs use it for community development (Figure 5).



Chief or CVSU

"It is given to the complaints office, where we go to report our cases", (FGD with female parents).

"The fines are given to those enforcing the bylaws. They were given to the child protection officers and village police unit. These people walked long distances so that money would be given to them so that they can use or buy some snacks when doing their jobs. They even used those fines for transport fare when escorting the offenders to the police station", (Village head).

"When a person is fined, the money is shared among those in the victim support office", (FGD with young men 17-24 years).



Girl

"The fine is charged to the offender, but what is surprising is that the complainant does not get anything (...) the one whose rights have been infringed you don't get even one tambala", (FGD with female parents).

"If there is a need for support for the girl, that support is supposed to come from the money that has been given as a fine by the boy. This money is supposed to support the girl until she delivers and returns to school. The money is not supposed to be used by the people in the CVSU", (FGD with male parents).

"I cannot tell if the chiefs also use [the money] for their own benefit. What I know is that the money is used to support the girl at the maternity. You know, they need a lot of things when the time for delivery comes. They need four wrappers. They need that and that. So, the money is used to support her in this manner", (Ngaliba).



Community development

"When the judgement for the fine is given, the money goes to the chiefs and the chiefs use the money for community work, for example, helping the needy. The money is for the community so there is something like an account where the money goes", (GVH).

"We do not use the money for our benefits. We planned that it should be used at school as school projects", (Village head).

Figure 5: What happens with bylaw revenues?

There were some informants who said that the money that is paid is actually shared between the CVSU and the victim.

“Okay, the money is shared among the officers. If it is MK100,000 then they share among themselves MK60,000 and then the MK40,000 remaining, they give it to the parent's daughter. They take some amount and share among themselves”, (FGD with young men).

Finally, some informants did not really know what the fines are used for.

“I do not know. We only pay the fines and then leave everything to them so we are not told of what happens with the fines”, (FGD with female parents).

“I do not know of what happens to any fines that are paid to the chief”, (Young person with a disability).

6.5 Effects of SRHR bylaws on young people and communities

Effects of bylaws on teenage pregnancy rate seems limited, some positive effects mentioned concerning preventing of child marriage and reporting SGBV

Some members of the community reported fewer girls have early pregnancies and more girls return to school after delivering. During FGDs, several youth gave examples of young men who made a girl pregnant and after delivering, the girl (and if applicable, the young man) went back to school.

“ ———
“The change that I can see is that now girls who get pregnant and then give birth are returning to school. That is the change I can say”, (FGD with female parents).

“... when a girl gets pregnant she does not get married but she is told that there is no marriage and that she should wait until she delivers and then she can get back to school after that”, (FGD with male parents). ——— ”

In contrast, during the FGD with male parents, some participants said that in their area not many girls who dropped out of school due to pregnancy have returned to school after delivery. They recalled two such cases, arguing that it is difficult to force a girl who has delivered to go back to school. Despite several informants reporting that access to contraceptives has improved, they also reported that nothing has changed regarding teenage pregnancy. The magistrate cited statistics provided by a primary education advisor, which show that many girls are getting pregnant and drop out of school.

Many informants, including a village head and 40-year-old parent, reported that age at marriage has changed due to the coming in of NGOs and that child marriages are annulled since the establishment of the bylaws.

“ ———
“Yes, our social norms have changed. We used to do [things] contrary to these rules. We have changed now. We used to marry them off at 14 years. The coming in of these NGOs has contributed to the change”, (Caregiver).

“What has changed is that when children get married, the CVSU is able to visit them and annul their marriage which never used to be the case in the past”, (FGD with adult men). ——— ”

One other reported effect of the bylaws was that cases of SGBV, including rape, are being reported more often. Some informants reported that such cases are going down. During the FGD with young women, participants reported that raping or touching of body parts of women and girls has greatly decreased, as men are afraid of being arrested.

“ ———
“Young people were raped and the issue was never dealt with. But currently, rape cases are not kept as a secret and are pursued further”, (VDC member).

“The effects; I can say that they are good. We have a good society. We do no longer have cases upon cases of defilement or rape. No issues on early pregnancies. There is a change. There is child spacing. These have come up with developments across the community. It is only those who are in good health who can do developmental activities. We are active because we do not have illness”, (Caregiver). ——— ”

Bylaws' foci on social norms underpinning SRHR issues concern the importance of education, discouragement of sex among adolescents and discouragement of child marriage; however, avoiding SRHR issues seems to be more a result of fear for bylaw consequences than a change of social norms

There were some indications that the bylaws address social norms underlying SRHR problems, with three areas of focus: the value of education, discouragement of sex among adolescents and discouragement of child marriage.

Some informants reported that generally the number of school going children has increased. A ngaliba, for example, reported that it was hard for learners in TA Chiwalo to write standard 8 exams, but with the coming of bylaws, there are now some who are sitting for standard 8 exams and there are more young people going to secondary school. During an FGD with female parents, participants emphasised that because of the bylaws, the number of girls in school has increased from three to seven out of ten. One thing that has changed in initiation ceremonies is the provision of school and religious books to initiates in the camps, which was previously not the case.

“ ———
“Youths were encouraged to have sex after initiation. This is bad. The camps we are having now, they are different. We give them books to read. We do not encourage them to go out there and have sex after being initiated. We do ask them which class they are. We give them books to read according to their classes. ‘Which class are you?’ ‘Standard 4’ and then we give them standard 4 books to study”,
(Ngaliba). ——— ”

Previously, initiation ceremonies coincided with the school calendar, which resulted into some learners missing classes. A social welfare officer reported that this is no longer the case because of the bylaws in place. In addition, the fact that books are distributed is in line with the aims of bylaws of education promotion and shows an increased attention for and valuing of schooling. Similarly, the reduction of sexual experimentation after initiation camps seems to have changed notions of when and with whom sexual relations are appropriate; preferring abstinence until marriage. Young men and women in the FGDs as well as the GHV also said that sex after initiation (kusasa fumbi) is no longer promoted.

“ ———
“What was practised before in terms of cultural practices has changed a lot. Before the laws, children were encouraged to have sexual relations, but now things have changed”, (GVH). ——— ”

During the FGD with young women, participants also reported that the practice of chimwamazira, in which men would be having sex with their daughters, has also ended with the coming in of the Break Free! programme and the bylaws. Two young men (20 and 22 years old), however, were critical and said that adolescent boys and girls at traditional initiation camps are still told to experiment with sex. A ngaliba confirmed that in traditional camps in the bush, adolescents are indeed told to experiment with sex. He himself was only involved in modern boys' initiation at the hospital, where advice to experiment with sex is not provided anymore.

One village head was of the opinion that democracy destroyed social norms. He implied that years back, child marriage was uncommon, but that with the coming of democracy, freedom led to people doing what they desired, including having sex and marrying at a young age:

“ —

“We used to marry at [the] right time. The challenge is the time we had multiparty [the challenge started when multiparty came in]. Democracy destroyed our social norms... The dawn of democracy with the coming in of our President Dr Muluzi, he encouraged the youths to marry at any time they want. He was an agent for child marriages here. His influence had a negative impact on the community. Boys and girls were let free to do whatever they desired. They had no control on sex. The coming in of these NGOs are taking us back to the days of the Kamuzu era [meaning the NGOs try to stop this and let us go back to the old social norms of now sex and marriage at a young age, like in the time of President Kamuzu Banda]”, (46-years-old male village head).

— ”

Another 36-year-old male village head also said that the community social norms do actually not allow child marriage, but that the problem is that young people do not abstain from sex, and that is why they are getting pregnant and marry early. This implies that the existing norm is that when people have a relationship or are pregnant, then they need to marry – and that the bylaw goes against this social norm.

As much as these changes in norms and cultural practices are encouraging, the data reveal that the bylaws seem to have had little effect on addressing social norms related to teenage pregnancy and child marriage. Even though community informants reported a reduction of child marriage, it is questionable to what extent social norms underlying the practice have changed, because people were reported to lie about their children’s ages, and were finding creative ways (including bribes) to proceed with child marriage. Avoiding child marriage, or conducting them in a hidden way, seem to be a result of fear for the bylaw consequences, more than a change of social norms. Particularly, the social norm of having to marry when being pregnant is still supported by many.

Potential unintended effects of bylaws: what happens after a child marriage nullification and do young people have appropriate information about contraceptives?

While girls can be withdrawn from child marriage, there are unintended effects: a health worker explained that when a girl marries because of poverty and is withdrawn from the marriage, she can fall back into greater poverty. In principle, she is sent back to school, but there are no school fees. He argued that this challenge needs to be addressed.

A key informant reported that, with the bylaws, youth are forced to use contraceptive methods to avoid unintended pregnancies, because they fear that if they are found pregnant, “they will face punishment”. However, contraceptive use seemed not easy for all youth. For example, one 17-year-old male informant who was in school said that while young people have access to sexual and reproductive health services, there are challenges regarding actual use of contraceptives.

“ —

“They [girls] do not want to use any of the contraceptives, because they say they want to know if they can become pregnant or not. Once they use the contraceptives, they will never know if they are fertile or not”, (17-year-old male informant).

— ”

This quote shows that misconceptions about contraceptives are still present among the youth, and can make contraceptive use, and thus preventing teenage pregnancy, challenging.

7. Implications: use, benefits, and limitations of SRHR bylaws

This study shows that SRHR-related bylaws exist in TA Chiwalo: they concern teenage pregnancy, child marriage and sexual harassment/rape. The bylaws were formulated to address these issues.

Most people have accepted the bylaws even though the contents remain vague to them. Other studies also found that bylaws are generally accepted by community members (3, 5, 7). Walsh (2018) argues that the acceptance of bylaws by the wider community is out of respect for the traditional leadership (7). While bylaws in TA Chiwalo are accepted, this study reveals a lack of sense of ownership. The bylaws seem an 'outside' development intervention rather than a traditional structure being used to advance young people's SRHR.

The existence of bylaws is a government policy as espoused in the Local Government Act, which provides for the District Councils to make bylaws for good government of the local government areas – and this authority cannot be delegated (10). Bylaws that are created at community level by traditional leaders, often with the support of NGOs, and that are not endorsed by the District Council, can also not be officially enforced through the Local Government Act (3, 5). This and other studies (5) show that bylaws that are not enforced through the Local Government Act are often not in line with existing national laws, particularly concerning the fines and other sanctions.

For example, in 2016, there was a case in Nkhata Bay where a lower level court ordered pregnant learners, boys who had made the girls pregnant and their parents to pay fines (MK 10,000 each) and those who were not able to pay the fines were placed in police custody only to be released after paying the fines. The learners and parents filed an application in the High Court arguing that the actions of the magistrates were unlawful, unreasonable and irrational. The High Court found that the arrest, detention, and imposition of the fines was indeed unlawful, because it was not done in terms of any recognised laws, as falling pregnant or making someone pregnant is not an offence. The judge ordered that the fines should be paid back to them². The group was awarded compensations for the damages in 2021³. In this study, a male parent in the FDG reported being fined MK 150,000 because his son made a girl pregnant. These hefty fines contradict the Local Government Act which says that bylaws' fines shall not be more than MK 2,000 and an extra MK 200 for every day an offence continues (10).

It has been observed in this study that these fines could also be in paid kind (paying a goat or chickens), as also reported by Maiden (2021) (4). The meting out of punishments including fines by traditional leaders to offenders in communities is not a recent development (i.e. it did not come with NGOs). Davies (2014) documents that in the pre-independence era there were payments of fines including in the form of goats. She gives an example of a chief in Rumphi whose subjects were fined a goat for not completing working in their own gardens (11). Chimango (1977) reports that before independence, chiefs and elders sat in an open area under a tree in the village (bwalo) when dispensing justice (12). They had more or less institutionalised court procedures, which used unwritten customary law to settle quarrels and punish the guilty (13).

² <https://www.southernafricallitigationcentre.org/2019/04/05/news-release-malawi-high-court-upholds-the-rights-of-detained-pregnant-learners/>

³ <https://africanlii.org/article/20211007/charged-and-found-guilty-%E2%80%98being-pregnant%E2%80%99-school-learners-now-awarded-damages>

This study reveals that the formulation of bylaws in TA Chiwalo has been participatory, but has been steered by traditional leaders and NGOs, without official involvement of the District Council. While other studies (3, 4) also describe the participatory nature of bylaws formulation processes, in the current study, there were quite some informants who reported that community members are just informed about the bylaws. In addition, while the bylaws are supposed to protect the youth, the youth are mostly excluded from participating in the formulation process. This implies that existing power relationships, where adults have more voice than the youth (14), are largely upheld in the bylaw formulation process.

Other studies from Malawi confirm that bylaw enforcement lies with the TA, GVHs and village heads (3, 4). Bylaw enforcement is sometimes supported by specific community members, such as women groups (3), CVSUs, the community police forum and others. The enforcement is not always correct, as there are attempts to bribe duty bearers such as chiefs and the police, as also reported in another study from Machinga district (1). This implies that in some cases, incorrect enforcement of bylaws aggravates the difference between the rich and the poor in the community, as the rich can stay unpunished, while the poor do get punished.

In terms of use of the fines, most informants reported that victims (e.g., of rape or child marriage) are not compensated and that the money is actually used by chiefs or the CVSU staff. This is why it can be argued that the bylaws can be perceived as being about money and not the principles. Maiden (2021) and Stewart et. al. (2020) report that community members perceived traditional leaders as enriching themselves with the fines (4, 5). This means that relatively wealthier and more powerful people financially benefit from the bylaws – more than poorer and less powerful people in the community. There were, however, a few informants who reported that the fines are used to support girls when they deliver or go back to school, or the support community development projects, which is also supported by evidence from other studies (3, 4).

The issue of bylaws being more about money than about principles is not only reflected in the use of the related fines. This study reveals that educational and health-related problems were the most cited justifications for protecting mainly girls from teenage pregnancy and child marriage. While these are relevant justifications, child rights as a 'standalone' justification were seldom referred to. In addition, the bylaws seem to have different meanings to girls/ young women and boys/ young men. While the protection of girls and young women was widely valued, boys and young men mainly feared the bylaws because of the associated fines and reputation damage. This implies that bylaws have different gendered implications.

This study shows that despite the bylaws aim to combat (harmful) social norms and practices, some norms and practices, such as experimentation with sex among young people after initiation and child marriage, do continue in the community. Some people try to circumvent the bylaws and still support underage marriage, especially in case of teenage pregnancy. Again, (richer) offenders can get away or other simply disappear, and such behaviour is condemned but at the same time, supported (through receiving bribes) by some people in the community. This shows that bylaws have not (yet) resulted in social norm change. Despite this, the increased value given to education, as also reflected in the bylaws in TA Chiwalo, can prevent the occurrence of teenage pregnancy and child marriage, as being in school is a protective factor for both issues (15, 16).

Informants of this study had mixed opinions on whether the bylaws have brought about positive outcomes. There was consensus on the positive effect of the bylaws on schooling. There was some evidence that girls return to school after delivery, girls are being withdrawn from child marriages

and there were accounts of SGBV being reported more often. Maiden (2021), in her research in seven districts in Malawi, claims that bylaws contribute to combatting child marriage (4). The same is reported in Steward et al.'s (2020) study on child marriage bylaws in Karonga, Machinga and Rumphi districts. They particularly report increased re-enrolment of girls in school (5). It remains to be seen if the incidence of SRHR-related problems including teenage pregnancy among the youth in Malawi will decrease, and whether bylaws would indeed play a role in such a development. A study in TA Liwonde, Machinga showed that over the course of four years (2016-2020), despite a mix of interventions aimed at reducing teenage pregnancy and child marriage were implemented, both the teenage pregnancy and child marriage rates increased (but not significantly) (1). As it is known that the COVID-19 pandemic has also had a significant negative impact on the incidence of teenage pregnancy in Malawi⁴, it seems there is still a long way to go.

In this study, a few informants pointed towards potential unintended effects of bylaws. First, it is not always clear if child marriage nullification is the best choice for a girl, in cases of extreme poverty. Second, one informant reported that bylaws 'force' young people to use contraceptives, while they do not want to use them (because of misconceptions around contraception). In an earlier study in Machinga, a few informants reported that unsafe abortion went up as a result of fear for the bylaws' punishments (17), although such notions were not expressed in the current study.

The aim of this study was to determine the extent to which community bylaws in TA Chiwalo in Machinga district are responsive to young people's realities and SRHR needs. While bylaws intend to reduce SRHR-related issues among young people, they are often not involved in their formulation. The bylaws seem to have a different effect on the rich versus the poor, and young women versus young men. Bylaws are associated with punishment in terms of money, which seems to overpower their potential to promote rights and address social norms underlying SRHR issues of the youth.

4 <https://allafrica.com/stories/202105040652.html>

8. Recommendations

One of the objectives of this study was to establish the extent to which SRHR-related community bylaws can be used as entry point in Break Free! advocacy and how. Based on the results of this study, the following recommendations can be made.



Break Free! partners and other NGOs should have more eye for the rights perspective when facilitating the establishment and implementation of bylaws, in terms of potential unintended effects concerning gender (in)equality and discrimination; richer versus poorer; and younger versus older people.



Bylaws are not a magic bullet to address community problems such as teenage pregnancy, child marriages and school dropout. NGOs, traditional leaders and other stakeholders should combine the implementation of bylaws with social norm change interventions.



These bylaws are supposed to benefit young men and women. NGOs and traditional leaders should meaningfully engage young men and women in the formulation, implementation and evaluation of the bylaws.



There is a need for NGOs and Government to continue creating awareness about the national laws, including the translation and summarising of the relevant child protection laws and distributing these widely.



Traditional leaders, NGOs, young people and other key stakeholders should continually engage communities and create awareness about (improved) bylaws so that everyone should appreciate the benefits of the bylaws.

- o NGOs, traditional leaders and local government officials should work together and formalise bylaws that are in line with the national law, through endorsement by the District Council.
- o Traditional leaders should revisit the use of revenues from bylaws and ensure that the victims are compensated.

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Annex 1:

Illustration of the play [Chichewa]

