

## **Conjugal Visits in Prisons Discourse: The Prisoners' Voice in Malawi**

Samson C. R. Kajawo  
University of Malawi, Malawi

### **Abstract**

The issue of possible provision of prisoners' conjugal rights in jurisdictions not yet allowing them, such as Malawi, is still an intricate debate amongst the stakeholders. However, the most important stakeholder in the issue, the prisoner, is usually left out of the discourse. This study analyzed the perceptions of randomly sampled 305 prisoners on conjugal visits at one of the central prisons in Malawi. Both qualitative and quantitative data from prisoners' perceptions were collected and used concurrently. The key finding was that prisoners (male and female) in Malawi generally had positive perceptions regarding conjugal visits since more than 80% of the respondents (n=305) reported that conjugal visits were good and recommended their possible introduction in Malawi. These incarcerated persons opined that conjugal visits reduced problems of homosexuality, sexual assaults, physical violence in prisons, supporting prisoners' rehabilitation and reintegration efforts as well as helping prisoners in preserving and establishing family ties. Prisoners also viewed conjugal visits as another way of dealing with the HIV and AIDS problem in Malawi prisons. Though the potential challenge was reported to be its costs, it was opined that the programme was still worthy of introducing. It was therefore concluded that the prisoners' voice is also valuable in not only conjugal visits discourse but also in all issues related to law and policy that concern them.

*Keywords:* conjugal rights, conjugal visits, Malawi prisons, prisoners' perceptions

It is said that imprisonment is the most ancient and oldest penal institution (Goyal, 2018). Traditionally, incarceration was meant to be painful since it was meant to deprive the prisoner of many civil rights and privileges in addition to their liberty. Imprisonment was aimed at extracting retribution from the offenders and to deter the would-be ones (Durrant, 2013; Parkinson, 1997). However, it is now widely held that punishment-centered imprisonment does not usually work in reducing recidivism and even deterrence (Durrant, 2013; Useem & Piehl, 2008; Yates, 2012). Durrant (2013) argues that as much as many scholars would argue that the threat of imprisonment, in general, helps in the prevention of offending, there is a considerable doubt that imprisonment completely deters crime in the society. This is because the punitive strength of criminal sanctions is not sufficient enough to deter offenders. Instead, offenders are made hard-core criminals who are likely to be much more dangerous when they are released into their societies (Useem & Piehl, 2008).

Malawi was also not exceptional. In the past, the prison regime was punishment-oriented. Burton et al. (2005) observed that prison life was generally dehumanizing to inmates. It was engrossed on taking away their most basic freedoms and placing little emphasis on prisoners' well-being and health since they were perceived as deserving the prison hardships. That is why many court's sentences in Malawi included the phrase "imprisonment with hard labour". The 1994 revision of the Malawi Constitution was the genesis for the change. It was felt that the prison regime in Malawi needed a total paradigm change from punitive centeredness to the rehabilitation model. Section 163 of the constitution includes the rehabilitative function of the prison regime as it establishes the Malawi Prisons Service as an institution mandated to "house, detain and rehabilitate persons sentenced to imprisonment" (Republic of Malawi, 2017, p. 73). This is clearly expounded in the current mission of the institution which states that prison service is existing to provide for effective rehabilitation, reformation and community reintegration services to inmates as the service's contribution to public security and safety in the country (Malawi Prison Service [MPS], 2016). In line with this legal framework, Malawi prisons introduced numerous programs aimed at rehabilitation and reformation of prison inmates such as education, technical and vocational training, chaplaincy and religious services (Kajawo, 2019).

Nevertheless, many researchers still bemoan shortages of effective rehabilitation and reintegration activities or programming of prisoners in Malawi (Burton et al., 2005; Kajawo, 2019). It was found that many offenders are released from prisons without proper efforts by the prison service to rehabilitate and reconnect these people to their societies for effective reintegration processes. This is the main cause of high rates of recidivism in the country. According to some studies, offenders' continued connection and communication with their families and friends while serving their sentences enhances their chances of not reoffending after their release (Burton et al., 2005; Durrant, 2013; Kajawo, 2021). Interestingly, the Malawi Prisons Act has some provision that could help in enhancing the continued connection of prison inmates with their outside world through mails, telephones and regular visits (Burton et al., 2005). Additionally, this 1962 legislation incorporated a provision for the license to be at large only for prisoners serving life imprisonment. Section 110 provides that qualified life-sentenced inmates may be temporally released for a period to stay with their families to enhance their community reintegration. However, this provision is not currently operational for unknown reasons.

There is indeed a need for the prison service to devise many activities or programs that can enhance rehabilitation and reintegration processes of the incarcerated people. This is to provide for more opportunities for inmates to have a meaningful relationship with people in their

communities while serving their sentences to reduce the dehumanizing effects of imprisonment (Kajawo, 2021). Amongst these opportunities is the provision of conjugal visits to the incarcerated people which is not yet provided for in the current prisons legalizations in Malawi.

### **Conjugal Visits in Prisons**

Conjugal visits in prisons are scheduled private meetings between inmates and their significant others, usually, their legal spouses and families during which they may engage in whatever legal activity they desire including sex (Hensley et al., 2002; Kajawo, 2021; Thompson & Loper, 2005; Einat & Rabinovitz, 2012; Wyatt, 2006). During this scheduled period, an inmate is allowed to spend several intimate hours or days with their visitor(s). To qualify for these visits, inmates are expected to meet certain requirements of which the standard ones are good conduct while serving their sentences and being legally married to the visiting spouse (Yakubu, 2018).

It is recorded that Mississippi State Penitentiary in Parchman was the first prison in the world to allow conjugal visits to prisoners as early as 1900 which were used as a motivation tool for prisoners' hard work and good conduct in the cotton plantations (Hopper, 1969; McElreath et al., 2016). In the 21st Century, at least six states in the USA and other countries such as Spain, France, Sweden and Denmark, Switzerland, Germany, Greece, Russia, Israel, Canada, Brazil, Philippines, Turkey and Belgium were reported to allow incarcerated people to enjoy conjugal visits in prisons (Carlson & Cervera, 1991; Deutsche Manipulationskunst, 2015; Einat & Rabinovitz, 2012; Hopper, 1989; Singh & Dasgupta, 2015; Smit & Dunker, 2001; Washington Department of Corrections, 2005; Wyatt, 2006; Yakubu, 2018). These included three African countries, namely; Kenya (Einat, 2017), Egypt (Shamel, 2004; Wyatt, 2006) and Tanzania (Presse, 2018; Rweyemamu, 2018). In Tanzania, the programme, which was announced in 2012, was eventually launched, but short-lived because the new political regime of the country directed an end to it in 2018 (Majaliwa, 2012; Presse, 2018; Rweyemamu, 2018).

In 2014, the Malawi Government established a special law commission to review the Malawi Prisons Act to align it with the dictates of the Malawi Constitution and other applicable international law and principles in the administration, governance and management of prisons and prisoners (Kajawo, 2021; Kitta, 2015). Amongst the issues that sparked a hot debate in the consultative meetings for this law review was the possibility of including conjugal visitation rights in the revised prisons legislation (Nzangaya, 2016; Magombo, 2016; Phiri, 2016). Some stakeholders embraced the idea since, according to them, had the potential of assisting in the rehabilitation and community reintegration of prison inmates. Phiri (2016) reports that stakeholders especially human rights activists indicated that providing conjugal visitations to well-behaved prisoners “would among other things help to preserve marriages, reduce HIV/AIDS prevalence and homosexuality cases in prisons” (para. 6). According to another activist, Malawi just needed to include prisoners' conjugal visits in the laws because the investigations showed that HIV was spreading very quickly in prisons partly because a huge number of inmates were involved in homosexuality practices (Nzangaya, 2016). However, another group of stakeholders were reported to have seriously opposed and ruled out the possibility of including conjugal rights of prisoners in the prisons legislations. This was mainly because prisons did not have proper facilities for conjugal visits (Magombo, 2016). To them, the issue of inclusion of conjugal rights in the prisons legislation was not a priority to the country since the contemporary pressing issue was overcrowding of prison facilities.

### **Statement of the Problem**

Several studies on the perceptions or attitudes of key stakeholders on conjugal visitation rights in prisons have been conducted all over the world (e.g. Bennett, 1989; Carlson & Cervera, 1991; Duba, 2016; Goyal, 2018; Hensley et al. 2000; Hensley et al., 2002; Hopper, 1962; Hopper, 1969; Singh, & Dasgupta, 2015; Wyatt, 2006). Majority of these studies were done in jurisdictions in which conjugal visit programmes were already introduced and operational of which the majority are western countries, with very few African countries such as Egypt, Kenya and Ethiopia (Duba, 2016; Einat, T. & Rabinovitz, 2012; Shamel, 2004), hence rendering scarcity or dearth of research in jurisdictions in which conjugal visits were not yet allowed.

Specifically, there is a dearth in research on this topic in Africa since most of the African reports on conjugal visits are not based on empirical studies but merely news articles (e.g. Majaliwa, 2012; Mbewe, 2016; Mwangi, 2019; Phakathi, 2012; Rweyemamu, 2018; Sichone, 2019). Einat & Rabinovitz (2012) observe that even those studies done in other continents on attitude and views of inmates have been conducted solely in male prisons that give uncertainty in the applicability of their findings to female inmates (Einat & Rabinovitz, 2012; Krahn et al., 2020). Einat (2017) found gaps in the literature on how various stakeholders perceive the meanings, functions, and implications of conjugal visitation programmes in prisons that needed exploring. This is also more valuable in the jurisdiction in which conjugal visits are not yet offered in prisons. In Malawi, the special law commission for the review of prison legislation engaged only the prisons managers and other outside stakeholders in consultative meetings of which their reactions on prisoners' conjugal visits were mainly negative as reported in the news media (Kitta, 2015; Magombo, 2016; Nzangaya, 2016; Phiri, 2016). The most important stakeholder, the prisoner was not consulted, hence their views are not documented anywhere. Prisoners' perceptions are likely to be valuable on the issue.

### **Purpose of the Present Study**

This study was aimed at analysing the perceptions of male and female prison inmates on conjugal visitation rights at one of the maximum (central) prisons in Malawi. The study was thus aimed at broadening the understanding of conjugal rights issues using a different approach. Rather than targeting inmates in jurisdictions in which conjugal rights are accessible, the study chose to analyse the opinions of incarcerated people in a country that is not yet allowing conjugal visits in their penitentiary facilities. The study was, therefore, guided by two research questions:

- What are the perceptions of incarcerated persons in Malawi on conjugal visits in prisons?
- What are the perceptions of the incarcerated persons on the benefits and disadvantages of conjugal visits in Malawian prison context?

### **Methodology**

The study was undertaken at one of the maximum (central) prisons in Malawi using a descriptive survey research design. Malawi has 30 prison facilities of which five are categorized as maximum-security prisons, which are regional referral prisons that admit all categories of prisoners in terms of crimes committed and length of sentence. Both qualitative and quantitative data from prisoners' perceptions on conjugal visits in prisons were collected and used concurrently (Plano Clark and Creswell, 2015). The researcher used semi-structured

questionnaires with both close and open-ended questions to explore how incarcerated persons made meaning of the term “conjugal visits” and their perceptions on its potential and appropriateness in their facilities. Firstly, the researcher asked the respondents if they had any knowledge or had heard anything regarding conjugal visits before this study. This was followed by a request to explain what they knew or heard in brief about conjugal visits. The researcher then provided a brief explanation of what conjugal visits are about to the respondents to prepare them for the proceeding question items. The question items were intended to gather their general attitude and perceptions on the idea of conjugal visits and their views regarding their benefits and some of the challenges that are likely to be faced in a Malawian prison context.

### **Participants and Data Collection**

The study involved 305 incarcerated persons at one of the central prisons in Malawi. During the time of the study, this prison was holding a total of 1,828 which included 40 females. The study randomly sampled 15.6% (285) of the total male inmates’ population at the prison (N=1,788) and 50% (20) of the female inmates (N=40). The mean age of the participants was approximately 32.24 years and Standard Deviation was 7.98 since the age range was 18 to 76. Amongst the respondents, 227 (74.4%) were married, 65 (25.3%) were single and 13 (4.3%) were either divorced or widows. Incarcerated persons were considered as participants because they were the basic key stakeholder of the conjugal visits.” Seth (1892, p. 233) argues that every individual responds effectively when they are given opportunity to contribute to issues affecting them rather than just being “passively moulded by society according to its ideas, either of its own convenience or of his good” (p. 233). According to him, “...a man knows himself from the inside as it were” (p. 233) hence prisoners have a valuable voice and input in the conjugal rights debate. Therefore, the involvement of inmates in this study cannot be overemphasised. Data was generated from all participants using semi-structured questionnaires which contained both close and open-ended question items.

### **Procedure and Data Analysis**

Approval to conduct this study at one of the central prisons in Malawi was sought and received from the Chief Commissioner of Malawi Prisons as well as from the officers’ in-charge of those prisons and the participants. All participants were informed of the aim of the survey. Questionnaires included an area and a form on which all respondents were requested to give their consents to participate in the study by signing, being briefed in a language they could properly understand the content of the form as well as the purpose and procedure of the study. Data obtained from some close-ended questions were edited, coded, classified and analyzed descriptively with the help of the computer statistical software package, IBM SPSS version 22.0. The software helped in reporting associations between variables at the  $P < 0.05$  level of significance as well as the computation of responses into frequencies and percentages. Qualitative data from open-ended questions were analyzed through content analysis and presented in narrative form with specific highlights on distinct themes.

### **Findings**

This study examined respondents’ prior knowledge of conjugal rights before being briefed on the subject. Their perceptions and attitudes towards the idea of conjugal visits in prisons were then generated and analysed.

### Prior Knowledge and Perceptions of Respondents on Conjugal Visits in Prisons

The study sought to find out if the respondents had prior knowledge or had heard about conjugal visits before this study. According to Table 1, both male and female prisoners (83%) indicated that they did not have any knowledge and have never heard of the conjugal visits.

**Table 1**

*Respondents' Prior Knowledge and General Perception Regarding Conjugal Visits*

Characteristics	Male (n=285)		Female (n=20)		P-value
	Freq	%	Freq	%	
Have you ever heard about conjugal visits?					<.001
Yes	49	17.2	1	5.0	
No	235	82.5	19	95.0	
Neutral	1	0.4			
Do you think prisoners' conjugal visits are good?					<.001
Yes	235	82.5	16	80.0	
No	50	17.5	4	20.0	
Would you recommend the introduction of conjugal visits?					<.001
Yes	237	83.2	17	85.0	
No	48	16.8	3	15.0	

However, out of the 17% who indicated having prior knowledge of conjugal visits (50 inmates), only seven male respondents were able to describe what they knew about conjugal visits. According to a married 32-year-old male, a conjugal visit is “*an opportunity in which relatives of convicted persons come and chat with them in a closed room*”. Another 40-year-old married male wrote, “*It is a privilege given to inmates to chat with their spouses and children (family). They are given space and time to interact*”. Another prisoner (a 38-year-old married male) even indicated one of the essential conditions for prisoners’ accessibility to conjugal visits “*Reformed or well-behaving prisoners are given a chance to have sex with their wives or husbands while they are in prison*”. It was interesting to also note that even some non-married respondents were aware of these standard conditions as two of them had this to say:

*It's a visitation of prisoners' wives or husbands in prison where a prisoner and a spouse engage in sexual activities with their legally married spouses only given to those well-behaving prisoners (a single, 23 years old male)*

*A right exercised by an inmate to be visited by family members such as wife, husband, children, fiancé, fiancée, in a separate room in absence of the prison officers for a period of one to seven days – enjoying their family love (a single, 40 years old male)*

This just showed that some prisoners were aware of the conjugal visits in prisons even though these visits were not yet accessible to them in Malawi. This was followed by a stage in which the researcher briefly oriented the respondents regarding conjugal visits; what they are and some general conditions and practices. After getting a glimpse of the idea of conjugal visits, more than 80% of respondents (n=305) reported that conjugal visits were good for prisoners and a similar percentage recommended their introduction at their prison as shown in Table 1.

According to a 22-year-old married male, provision of conjugal visits would be a very good practice because marriage is sacred in the eyes of God hence nothing needed to hinder its continuity including imprisonment. Comparing the perceptions based on marital status, it was

noted that 34% of single respondents (n=65) indicated “No” to the statement that conjugal visits were likely to be good, while only 13% (n=227) and 15% (n=13) married and divorced respectively indicated “No” to the same statement. This could be because of the respondents’ knowledge of the condition restricting the enjoyment of this privilege to only legally married individuals, hence many singles did not see it as a good thing since they were likely not to benefit from it.

### Perceptions of Incarcerated Persons on the Benefits of Conjugal Visits in Prisons

Both male and female prisoners (more than 80%) agreed that conjugal visits are likely to be beneficial to incarcerated persons and even prison systems as illustrated in Table 2.

**Table 2**

*Respondents’ Perceptions on Benefits of Conjugal Visits*

Characteristics	Male (n=285)		Female (n=20)		P-value
	Freq	%	Freq	%	
Conjugal visits would...					
reduce the problems of homosexuality and sexual assaults in prison					<.001
Agree	245	86.0	14	70.0	
Disagree	40	14.0	6	30.0	
reduce physical violence in prisons					<.001
Agree	234	82.1	14	70.0	
Disagree	51	17.9	6	30.0	
help in reforming the behaviour of inmates in prisons					<.001
Agree	232	81.4	14	70.0	
Disagree	53	18.6	6	30.0	
help in establishing ties with their families					<.001
Agree	263	92.3	17	85.0	
Disagree	22	7.7	3	15.0	

It was noted in the open-ended responses discourses that many incarcerated persons recommended conjugal visits practice because of its potential to preserve and enhance family or marriage ties.

*Can help us to have the peace of the mind and can enhance the good relationships with our loved ones and children hence giving them hope that we are still together, and we will be together (24-year-old, married male);*

*Most of the prisoners’ wives get married just because they cannot stand the long wait while their husbands are in prison. So, they find someone who might satisfy their sexual needs as she is also human she has feelings (23-year-old, single male);*

*When one is in prison, a lot of anxiety comes when he is thinking of the health of the loved ones. The spouse can remarry or start living a reckless life when they are not allowed to have sex with their loved ones in prisons. But all this might be reduced. The spouse will not get tempted to sleep with other people and get infected (31-year-old, married male).*

Even the female inmates were able to present their deep feelings regarding the likelihood of conjugal visits strengthening family relationships.



*We too are humans, we have sexual feelings, this programme can help (37-year-old, married female);*

*We miss our husbands all times. Being given this private time would be good because you can have time to discuss some important family issues that would help in maintaining marriages (35-year-old, married female);*

*I am imprisoned together with my husband. But we don't have a chance to be together. This can bridge this gap (24-year-old, married female).*

Apart from enhancing family ties and other benefits which were indicated, it was also noted that many respondents felt that conjugal visits programme was another way of combating or fighting the HIV and AIDS pandemic.

*Can reduce sexually transmitted infections among married people and promote bonding between parents and children (35-year-old, divorced female);*

*...it will give prisoners chances to chat freely with their families and will reduce homosexuality which is spreading HIV and AIDS and it is also putting many lives at risk (40-year-old, married male).*

From many of the respondents' narratives, it showed that incarcerated persons in jurisdictions in which conjugal visits were not yet introduced also felt strongly that these kinds of privileges were a good way to go for prison facilities in their rehabilitation, reformation and reintegration processes.

### **The Respondents' Perceptions on the Disadvantages of Conjugal Visits**

Since every coin has two sides, this study was also interested to gather the perceptions of the respondents on some challenges and disadvantages that conjugal visits are likely to have in Malawian prison facilities context as illustrated in Table 3.

**Table 3**

*Respondents' Perceptions on Likely Challenges or Disadvantages of Conjugal Visits*

Characteristics	Male (n=285)		Female (n=20)		P-value
	Freq	%	Freq	%	
Conjugal visits would...					
encourage one-parent family system					<.001
Agree	115	40.4	12	60.0	
Disagree	170	59.6	8	40.0	
be costly and expensive					<.001
Agree	118	41.4	7	35.0	
Disagree	167	58.6	13	65.0	
make single prisoners feel discriminated against					<.001
Agree	107	37.5	12	60.0	
Disagree	178	62.5	8	40.0	
likely to be prone to abuse by both prisoners and prison staff					<.001
Agree	151	53.0	7	35.0	
Disagree	134	47.0	13	65.0	

It was noted that there were statistically significant differences in the responses between males and females regarding three statements out of four. The only statement which the responses

were not statistically different was regarding whether conjugal visits programme was likely to be costly and expensive to the government. The perceptions of the female respondents closely paralleled those of their male counterparts since 41% of males and 35% of females agreed to the statement though most of both male and female respondents added in their narrative that the costs were worth the potential positive outcomes the programme was likely to produce.

But on the remaining three statements, it was noted that female respondents indicated that conjugal visits were likely to encourage one-parent family system (60% as compared to 40% of their male counterparts) as well as make single prisoners feel discriminated against (60% as compared to 37.5% of the male respondents). However, for the statement that the programme was likely to be prone for abuse, it was the male respondents (53%) who agreed to the statement as compared to only 35% of their female counterpart. These incongruities speak volumes regarding the gender-related differences in perceptions. Comparing the perceptions based on marital statuses, it was interesting to note that the majority (57%) of single respondents (n=65) agreed to the statement “conjugal visits would likely make single prisoners feel discriminated against” as compared to only 34% (n=227) and 38% (n=13) of the married and divorced respondents who also reacted positively to the statement.

In their qualitative narratives, it was noted that there was another group of respondents subscribing to a different school of thought regarding issues of HIV & AIDS and conjugal visits. Four respondents explained that access to conjugal visits might exacerbate the HIV and AIDS situation and the spread of other sexually transmitted infections in prisons. This is what two of them had to say:

*Not good to introduce since can contribute to the spread of HIV since most of the prisoners' wives are prostitutes] (36-year-old, married male);*

*This can make inmates have sexual intercourse with arranged prostitutes and this will cause the spread of HIV/AIDS in prisons (26-year-old, married male).*

Other respondents also added that conjugal visits were likely to lessen the pains of imprisonment hence encourage recidivism. According to a 40 years-old married male, “*This can promote more crimes in the country since prisoners may not feel the pains of imprisonment since they will not be missing their families*”. Another respondent also opined that conjugal visits might contribute to high rates of escapes in prison facilities when the prisoners are emotionally affected by those meetings “*...some prisoners might be disturbed by disagreements that might arise with their spouses during these visits hence encouraging escapes*”, while another felt that the mere availability of these kinds of privileges might trigger sexual desire in prisoners “*...this might trigger sexual desires in us*”. This just shows that incarcerated persons have a lot of things to contribute towards laws and policies that concern them, hence engaging them is always pivotal.

## **Discussion**

From the results of this study, it can be concluded that people incarcerated in jurisdictions where conjugal visits programmes are not yet provided generally have similar positive attitude and perception regarding conjugal visits just as their counterparts in the jurisdiction in which they are accessible. In this study, more than 80% of the respondents (n=305) reported that conjugal visits were good and recommended their possible introduction at the facility. These findings generally correlate with similar findings of prisoners' perceptions on conjugal visits

in countries where their laws allow such visits (Einat, 2017; Krahn et al., 2020; Hensley et al., 2000). The slight differences amongst respondents based on marital statuses on percentages of respondents who indicated “No” to the statement that conjugal visits were likely to be good (34% of single, 13% of married, and 15% of divorced) could be attributed to the respondents’ knowledge that only legally married individuals were the ones likely to enjoy this privilege. Therefore, many singles did not see it as a good thing since were likely not to benefit from it.

The findings on the benefits of conjugal visits also correlate with the general findings of the studies done elsewhere that many groups of people including prisoners, prison officers and spouses viewed conjugal visits as capable of reducing problems of homosexuality and sexual assaults (Einat & Chen, 2012; Hopper, 1989; Kajawo, 2021; Knowles, 1999; Wyatt, 2006), reducing physical violence (Knowles, 1999), supporting rehabilitation and reintegration efforts (Carlson & Cervera, 1991; Einat & Rabinovitz, 2012; Robertson, 2003), and helping and providing opportunities to incarcerated persons to preserve and establish family ties (Hensley et al., 2000; Hensley et al., 2002; Krahn et al., 2020; Kent, 1975; McElreath et al., 2016; Wyatt, 2006). From the open-ended discourses, apart from enhancing family ties and other benefits which were indicated, it was also noted that many respondents felt that conjugal visits programme was another way of combating or fighting the HIV and AIDS pandemic in prisons. This was through the reduction of prison homosexuality; concurring with the views of other stakeholders who were involved in the 2016 consultative meetings (Nzangaya, 2016). But another group felt that the same conjugal visits might exacerbate the HIV and AIDS situation and the spread of other sexually transmitted infections in prisons contacted from the spouses from outside, just as it was also observed by Einat (2017).

The study also revealed that some incarcerated persons felt that the programme was likely to face some challenges or have some disadvantages in a Malawian prison context. It was found that both male and female respondents had closely parallel positive perceptions (41% of males and 35% of females) that conjugal visits programme could be expensive to the government hence increasing the chances of not being considered for introduction. This concurs with other scholars who argued that the process of reviewing the prison laws to create room for conjugal rights as well as the construction of proper infrastructure is likely to be costly and expensive especially in developing countries (Goyal, 2018; Kajawo, 2021; Singh & Dasgupta, 2015; Yakubu, 2018). Nonetheless, many of the respondents of this study still defended the costs since, according to them, were worthy of the benefits potentially expected from such a programme.

The incongruities between male and female respondents on the remaining three statements regarding conjugal visits’ effects on the family system, its discriminatory condition against unmarried persons and its likely prone to abuse speak volumes regarding the gender-related differences in perceptions. This is because women were likely to feel more negative on the possibility of single-parenting than men since child care is usually stereotypically considered feminine activity (Marks et al., 2009). Moreover, men are expected to react more strongly to perceived distributive and procedural justice than women hence more sensitive to possible abuse of the programme (Foley et al., 2005; Gilligan, 1982). On the same note, the differences in the perceptions based on marital statuses in which the majority (57%) of the unmarried respondents (n=65) agreed to the statement that “conjugal visits would likely make unmarried prisoners feel discriminated against” as compared to only 34% (n=227) and 38% (n=13) of the married and divorced respondents respectively pointed to the fact that many unmarried prisoners did not feel any need to have the programme than the married and divorced ones.

These findings agreed with many studies (Burton et al., 2005; Einat, 2017; Goyal, 2018; Murray, 2005; Singh & Dasgupta, 2015). Goyal (2018) argues that conjugal visits might result in procreation which contributes to one-parent family systems. Burton et al. (2005) argue that children from single-parent homes are likely to be at a high risk of turning to crime due to a lack of suitable role-models. They are also likely to experience many psychological problems than those from two-parent homes (Murray, 2005). Commenting on likely abuse of the programme, Singh and Dasgupta (2015) argue that the possibility of corruption creeping in cannot be ignored especially in most developing countries where prison officers are often underpaid.

This study just revealed that incarcerated persons have a lot of things to contribute towards laws and policies that concern them, hence engaging them as one of the key stakeholders would always be valuable. It is an undeniable though the unfortunate fact that prison reforms have not been the society's priorities in many African countries. Though there have been some little developments in improving the lives of prisoners in Malawi since the Constitutional Court case of 2009 of *Gable Masangano v Attorney General & Others*, it is still far from satisfactory. That is why the issue of the possible introduction of conjugal visits in Malawi prisons aroused an intricate debate. Just like in other social debates such as gay-rights and abortion laws, there is also a need for an engagement of intellectual debate on issues of conjugal rights of prisoners. There is no need to continue "hiding beneath our moral cover" (Singh & Dasgupta, 2015, p. 88).

### **Implications for Prison Policy and Practice**

The findings of the study have several implications for prison policy and practice. Prisons need to put more emphasis on the humane aspect of an individual. Burton et al. (2005) observe that the Malawi Constitution entitles prisoners to the rights to humane conditions of detention, dignity, privacy and the right to communication and visitation. This is because contact with the outside world can also assist in their rehabilitation processes. It is important to understand that a prisoner does not cease to be a human being when incarcerated hence they do not lose their sexuality (Singh & Dasgupta, 2015). Therefore, it would be irrational to expect that prisoners check their sexuality at the prison gate. The society needed to take heed of many prisoners' plea to be allowed to satisfy their sexual needs to enable them to maintain ties with their spouses thereby also alleviating the homosexuality problem in prisons. In the words of Kaufman (1960), a prison regime that separates a man "...from his family in such a way that he is unable to enjoy periodic sexual satisfaction [conjugal visits] ..." is inhumane and barbaric (p. 52). The society should not just rigidly focus on blind desire for justice and unreasonable spirit of vindictiveness since it can "afford to be...generous as well" to its incarcerated people (Seth, 1892, p. 233). Denying conjugal visit without proper reasons or justifications is subjecting even the innocent family members outside prison walls to punishment as well.

Regarding the possible costs of introducing conjugal visits programme, Malawi and other African countries needed to reconsider their stands on the issue. The expensiveness of the programme should not be considered as an excuse for not introducing it since good things are not always cheap or free (Kajawo, 2021; Magombo, 2016; Nzangaya, 2016). Even in the case of Mississippi, McElreath et al. (2016) noted that the economic reason which was cited for ending conjugal visits was just a scapegoat which was not even close to the main reason. According to them, the main reason was the conflict in the competing prison philosophies; between rehabilitation and punishment. Politicians and courts opted for punishment philosophy hence guiding the policy direction (Sanburn, 2014). But Malawi has embraced rehabilitation

philosophy hence these kinds of programmes are important. As a matter of fact, most of the costs attached to the programme are likely to be in the initial phase, such as construction and furnishing of special rooms for these visits. Malawi needed to just engage the first step by introducing these visits in its legislations. The government can then work with non-governmental organisations in constructing those facilities.

### **Limitations of the Study**

This study had one main limitation. The study was initially planned to include spouses of prisoners. But they were left out due to the inability to contact them because of the COVID-19 pandemic restrictions. Their inclusion would have enhanced the value of this study since the desirability of conjugal visits ought to be a question that should also be answered by the prisoner's spouse since conjugal rights become to be their civil rights (Schneller, 1976). Nevertheless, the involvement of prisoners was still valuable as has still informed the study, though the inclusion of prisoners' spouses is strongly recommended in future studies.

### **Declaration of Conflicting Interests**

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**Corresponding author:** Samson C. R. Kajawo

**Contact email:** samsonkajawo@gmail.com