

**ASSESSING SATISFACTION LEVELS OF INDUSTRIAL RELATIONS COURT  
USERS: THE CASE OF BLANTYRE REGISTRY**

**MASTER OF BUSINESS ADMINISTRATION DISSERTATION**

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USERS: THE CASE OF BLANTYRE REGISTRY**

**Master of Business Administration Dissertation**

**By**

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## DECLARATION

I, the undersigned, hereby declare that this dissertation is my own original work which has not been submitted to any other institution for similar purposes. Where other people's work has been used, acknowledgements, have been made.

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## CERTIFICATE OF APPROVAL

We the undersigned certify that we have read and hereby recommend for acceptance by the University of Malawi, a thesis entitled “Assessing satisfaction levels of industrial relations court users – the case of Blantyre registry.”

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## **DEDICATION**

To my mother

## **ACKNOWLEDGEMENT**

I would like to thank Mr Archie Mwenefumbo and Mr James Kaphale for their guidance, particularly when I thought I would not finish this dissertation. I would like to thank my family for all their support and encouragement through the hard times. I would especially like to thank my mother for teaching me the value of perseverance. I hope you are proud. Last, but certainly not least, I would like to thank God for helping me see this through.

## **ABSTRACT**

The goal of this research project was to assess the satisfaction of court users, especially the litigants at the Blantyre Registry of the Industrial Relations Court. Customer Satisfaction theory was used as a foundation. It posits that people determine their satisfaction based on their own actual experience. The main research question was whether the Industrial Relations Court delivers an expedited and efficient settlement of disputes. Data were gathered from court users for the period 2012 to 2016. The study used a closed questionnaire, face-to-face interviews with litigants, and secondary sources to generate data. Satisfaction was operationalized by examining case management, assessing responses to questions regarding the accessibility to and perceived fairness in the court. The study established that the number of unresolved cases from the previous to the following year was very high. It was also found that the case age was at an average of 2,041 days. Based on the foregoing the study has concluded that court users of the Blantyre Registry of the Industrial Court (IRC) between 2012 and 2016 were not satisfied with the performance of the court.

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## **LIST OF ABBREVIATIONS**

ASF	Avocats Sans Frontières
IRC	Industrial Relations Court
SPSS	Statistical Package for Social Scientists
RSA	Republic of South Africa
ADR	Alternative Dispute Resolution

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# CHAPTER ONE

## INTRODUCTION

### 1.1 Background

The role of an Industrial Relations Court in any country cannot be overemphasized. An effective and practical dispute settlement machinery that deals with disputes between workers and employers is fundamental to achieving sound labour relations and industrial peace and harmony. The ideal dispute settlement machinery should not only be founded on tenets of industrial democracy, but should also allow the active participation of the parties (Bendix, 1992).

Most countries within the SADC region have some sort of specialist labour court or tribunal. In most of the courts, access is given only after reasonable attempts at conciliation/mediation have been made and have failed. Many of the courts, however, do also provide for direct access where appropriate. For instance, an urgent application may be made in cases involving threatened industrial action (Christie & Madhuku, 1992).

#### 1.2.1 The Rationale for a Specialist Labour Court

There are certain international “best practices benchmarks” that have been developed over the years regarding dispute prevention and resolution machinery (Roberts & Palmer, 2005). These benchmarks include:

- Procedures- Dispute settlement systems need to be simple and accessible to potential users so as to encourage the speedy resolution of disputes. Dispute resolution systems should be cost effective and be uniformly applicable to both employers and employees. The system should promote fairness with such fairness being based on the setting of and conformity to minimum standards. The system should also be able to encourage good faith negotiations.

- Tripartism- Many specialist labour courts have embraced the concept of tripartism as initiated by German Courts. The concept of tripartism requires the involvement of government and the social partners in the development of social and economic policy. Tripartism is promoted because it allows for consensus based solutions rather than imposed solutions. Dispute prevention is also viewed as a critical element of peaceful industrial relations. This requires a generalized knowledge of labour laws, rules and policies as they are applicable within the labour market.
- Credibility- Dispute resolution systems must be staffed with personnel who have the ability to act independently and without bias. This will ensure that the system will achieve a certain amount of credibility.

“Courts provide an open and independent forum to which citizens can come to assert or establish legal rights as between themselves (or as against the state) and to receive an enforceable determination of those rights. They are also an open and independent forum in which the state enforces a code of conduct through the criminal laws.” However the role of courts is increasingly being viewed not only in terms of outcomes but also of process. There is a belief that the process of litigation should be just, accessible, efficient, timely and effective. Courts should be accessible and there should be consistency in process and result (Moore, 2001).

The resolution of disputes in a particular area of the law or concerning a particular human activity requires either a particular type of judicial expertise or a particular process of judicial adjudication or both. “Specialist courts might, as a result, be established in areas that have not traditionally been dealt with by the general courts, with a high public policy or technical content, or in areas where it may have been perceived that existing procedures were not sufficiently flexible or were inappropriate”. One commentator has suggested that specialist courts are established to encourage informality and speed in hearing cases and to avoid some of the costs and delays perceived to be inherent in litigation in the general courts (Kalula, 2005).



### **1.2.2 The History of Specialist Industry Courts**

France was the forerunner with regard to the establishment of specialized labour courts (Moore, 2001). The first labour court, the *conseil de prud' hommes* (literally, the court of wise men), was set up in Lyons by virtue of a Napoleonic law passed in 1806. The Court was predominantly made up of manufacturers and foremen, and initially existed as a disciplinary committee. The *conseil* initially dealt with disputes concerning the quality of work and the rate of payment, but this was later extended to provide for conciliation to minor disputes. In the second stage of its development, from 1880 onwards, the *conseil* underwent some fundamental transformation regarding the way in which labour disputes were resolved. This was largely due to the considerable interest of the workers' movement in the system. The workers' movement, accordingly, worked towards obtaining an 'improved functioning' of the court, as well as a geographical and professional extension system. The establishment of the *conseil* in France culminated in the 1924 *Code du Travail* (The Work Code) legislation (Ramm, 1997).

The French model was followed by Belgium in the late 1880's, with Italy following suit in 1893 and passing the industrial *provviri*. In Italy, the concept of magistratura *togata* (gownless courts) was introduced alongside the *ordinaria* (ordinary courts) (Weiss, 1997).

In Germany, specialised 'courts were first introduced for manual workers in 1890, and later, for clerical workers in 1904. The principle of tripartism that exists in specialized labour courts owes its origins to the historical circumstances that prevailed in Germany between 1875 and 1890. The tripartite industrial courts known as *Jerberichte* were set up in 1890, and they consisted of a professional judge and two lay members, one from the employers' side and the other from the employees' side. The concept of full-scale separate courts with jurisdiction over labour matters (*Arbeitsgerichte*) was introduced in 1926. The courts were established with the tripartite structure being retained at all levels (Wedderburn, 1997).

### **1.2.3 Industrial Relations Court in Malawi**

The Industrial Relations Court (IRC) was established under Section 110 of the Republic of Malawi Constitution (Constitution of Malawi, 1994). The jurisdiction, composition and structure of this court is provided for in the Labour Relations Act. The IRC registers labour related

disputes involving any person-- except members of the armed forces, the prison services or the police--save for those employed in a civilian capacity. The court has a principal registry in Blantyre and two other registries in Lilongwe and Mzuzu.

According to the 1996 Act, the labour dispute resolution system begins with the Ministry of Labour, which implements an Alternative Dispute Resolution (ADR) process. Where ADR fails, parties may be referred to the IRC. A party dissatisfied with a decision of the IRC may appeal only points of law and or jurisdiction to the High Court, a further appeal may be made to the Malawi Supreme Court of Appeal (Zibelu-Banda, 2009).

### **1.3 Problem Statement**

The Industrial Relations Court is intended to be a vehicle through which disputes can be resolved in a timely way, on the merits, in an affordable fashion, and with finality. Since its inception, no comprehensive study has been conducted to establish whether the IRC is serving the purpose it was created for to the satisfaction of its stakeholders. In fact, there are mixed reactions among court users as to whether the court is serving the needs of the stakeholders satisfactorily. This study, therefore, seeks to establish if the court users are satisfied with the services that the court offers.

### **1.4 Study Objectives**

The principal objective of the study is to assess whether court users are satisfied with services of the IRC. Specifically, the study pursued the following objectives:

- 1.4.1 To assess whether IRC delivers an expedited and efficient settlement of disputes
- 1.4.2 To measure the levels of satisfaction of court users
- 1.4.3 To analyse whether gender and education of court users affect their satisfaction

### **1.5 Study Questions**

To achieve the objectives outlined in 1.4 above, the study was guided by the following questions:

1.5.1 Does the court deliver an expedited and efficient settlement of cases?

1.5.2 How satisfied are court users?

1.5.3 Does gender and education of court users affect their satisfactions?

## **1.6 Significance of the Study**

The Industrial Relations Court (IRC) is mandated to promote rule of law in labour matters. It is core to the labour dispute resolution system in Malawi. It has a constitutional mandate to promote, protect and enforce rights at work, and to interpret and apply international labour standards in its determinations. It hears many cases, and it is the last resort for people seeking justice related to labour matters, especially in the low income category. The researcher has not come across any literature that has assessed the performance of the IRC. Therefore, this study is significant because it will add to the body of knowledge on this important issue.

## **1.7 Organisation of the Thesis**

The rest of the study is organized as follows:

Chapter 2 : Literature Review

Chapter 3 : Methodology

Chapter 4 : Results and Discussion

Chapter 5 : Summary, Conclusions and Recommendations

## **1.8 Chapter Summary**

This chapter has introduced the research project and provided a brief discussion to justify the importance of doing the study. The chapter has further outlined the research aim, research objectives, research questions and limitations to the study. The following chapter will review the relevant literature on the theoretical framework and the key performance indicators of a good judicial system.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter is an evaluative report of information found in the literature related to court users' satisfaction. The review begins by defining key words in the study, before presenting the theoretical framework of service satisfaction. Finally, the chapter presents elements that lead to satisfaction of court users.

#### **2.2 Definitions of Key Words**

Parker, Berry and Mathews (2007) defined satisfaction as a process of evaluation between what was received and what was expected, which is the most widely adopted description of satisfaction in most current literature. Satisfaction can be viewed as an outcome of a consumption activity or experience, which is also referred to as a process.

Court users may be individuals or institutions that seek court services, either as complainants or respondents.

#### **2.3 An overview of court system in Malawi**

Machika (2008) identified two court systems within the judiciary as it existed in 1983. These are High Court System, comprising the Supreme Court of Appeal, the High Court and Magistrate courts and the Traditional Courts System, comprising the National Traditional Court, Regional Traditional Courts and Local Traditional Courts.

Under the new Constitutional framework, this distinction no longer exists. Firstly, it is observed that under the old, pre-1994 system, the Supreme Court of Appeal comprised the Chief Justice and other judges of the High Court appointed on a case by case basis to sit as a bench of Justices of Appeal on the Supreme Court. Under the 1994 Constitution, the Supreme Court of Appeal and the High Court are established separately under sections 104(1) and 108(1) of the Constitution respectively; and both courts have permanent Justices of Appeal and Judges respectively (Constitution of Malawi, 1994).

The Chief Justice, except in unique cases specifically designated by statute, is part of and sits in the Supreme Court. Hence, it is submitted that on this basis alone, the new system cannot admit of the High Court system as including the Supreme Court. It would clearly be anomalous to identify and classify the Supreme Court of Appeal with the High Court as the frame of reference (Constitution of Malawi, 1994).

Secondly, the Traditional Court System under the 1994 Constitution is clearly subordinate to the Supreme Court and the High Court. The framers of the Constitution consciously ensured that no parallel court system to that of the High Court and the Supreme Court should exist as was the case under the 1966 Constitution. Thus Section 103(3) provides that ‘there shall be no courts established of superior or concurrent jurisdiction with the Supreme Court of Appeal or High Court.’

In the result, it is submitted that there is only one civilian court system in Malawi. The following comprise Malawi’s court system:

### **2.3.1 The Supreme Court of Appeal**

As mentioned above, the Supreme Court of Appeal is established under section 104 of the Constitution. According to the Constitution of Malawi (1994), the section provides that:

1. There shall be a Supreme Court of Appeal for Malawi, which shall be a superior court of record and shall have such jurisdiction and powers as may be conferred on it by this Constitution or by any other law.

2. The Supreme Court of Appeal shall be the highest appellate court and shall have jurisdiction to hear appeals from the High Court and such other courts and tribunals as an Act of Parliament may prescribe.

This provision shows that the Supreme Court of Appeal is the highest court in Malawi and that its jurisdiction is exclusively appellate. It has no original jurisdiction.

### **2.3.2 The High Court**

The High Court is established under section 108 of the Constitution (Constitution of Malawi, 1994). Section 108(1) provides that ‘There shall be a High Court for the Republic which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law.’

It is pertinent to note that the High Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law. It is curious that this apparently clear position has been the subject of contest in the courts.

Originally, under Section 9 of the Courts Act, all proceedings in the High Court were heard and disposed of by or before a single judge. However, in 2003, section 9 of the Courts Act was amended, whereupon the original section 9 became section 9(1) and new sections 9(2) and 9(3) were introduced (Constitution of Malawi, 1994).

### **2.3.3 Industrial Relations Court**

The Industrial Relations Court (IRC) is established under section 110(2) of the Constitution. The section provides that:

There shall be an Industrial Relations Court, subordinate to the High Court, which shall have original jurisdiction over labour disputes and such other issues relating to employment and shall have such composition and procedure as may be specified in an Act of Parliament.

In terms of jurisdiction, this provision shows:

- That the IRC is a court subordinate to the High Court;
- That it has jurisdiction to hear and determine labour disputes; and
- That it has jurisdiction to hear other employment issues.

It is unclear in this regard, as to why the provision used the words 'such other issues'. Perhaps they were intended to convey the sense that the court would have jurisdiction over such employment issues if a dispute arises, but then that is probably almost as good as obvious.

The Act that specifies the composition and procedures of the IRC is the Labour Relations Act of 1996. Section 66(1) of the Act defines the composition of the Court as comprising the Chairperson, the Deputy Chairperson, five persons nominated by the most representative organisation of employees (the employees panel) and five other members nominated by the representative organisation of employers (the employers panel). The quorum of the Court is formed by the presence of either the Chairperson or Deputy Chairperson, and one member each from the employees and employers' panels respectively.

The IRC has some unconventional procedural and evidentiary provisions. It emphasises economy, informality and dispatch of cases in its procedures at the expense of technicality. Section 71(2) provides that the IRC is not bound by the rules of evidence in civil proceedings. Section 73 restricts the right to legal representation. It essentially provides that a party to proceedings in the IRC may only be granted leave to be represented by a legal practitioner if the other party is also represented.

A number of questions still linger in respect of this provision. For instance, what happens if a legal practitioner for one of the parties withdraws mid-stream through the proceedings. Does the Court then have to order that the legal practitioner for the other party withdraw also? Or is the position that this is only a requirement at the point of granting leave, and that once leave is granted, then legal representation will persist irrespective of whether both parties continue to have legal practitioners?

### **2.3.4 Magistrate Courts**

According to the Constitution of Malawi (1994), Magistrate courts are established under section 110(1) of the Constitution. The section provides that:

*There shall be such courts, subordinate to the High Court, as may be prescribed by an Act of Parliament which shall be presided over by professional magistrates and lay magistrates.*

There are four categories of magistrates in Malawi. These are prescribed under section 33 of the Courts Act as follows, in order of seniority:

### **2.3.5 Courts of Resident Magistrates.**

According to section 34(3) of the Court Act, these are the highest of all other magisterial categories, and they have oversight responsibilities over the lower levels. They are presided over by professionals who are qualified to be admitted as legal practitioners under the Legal Education and Legal Practitioners Act (Constitution of Malawi, 1994).

According to section 35 of the Courts Act, all magistrate Courts have territorial jurisdiction throughout Malawi. Hence they can hear any criminal or civil case regardless of where the crime was committed. In practice, however, they ordinarily defer to the magistrate court in the area where the crime was committed.

In terms of civil jurisdiction, section 39(1) of the Courts Act provides jurisdictional limitations in terms of the civil cases that the various categories of magistrates can hear and dispose of based on the monetary amounts involved. Further, Section 39(2) provides an ouster of jurisdiction for magistrate and other subordinate courts in various matters, including matters relating to titles or ownership of land, issues of injunctions, and the granting of declaratory orders relating to the rights and duties of the parties.

As for criminal jurisdiction, magistrates can try any offence prescribed under any written law, unless otherwise provided for in another law. For instance, section 13(1) of the Criminal



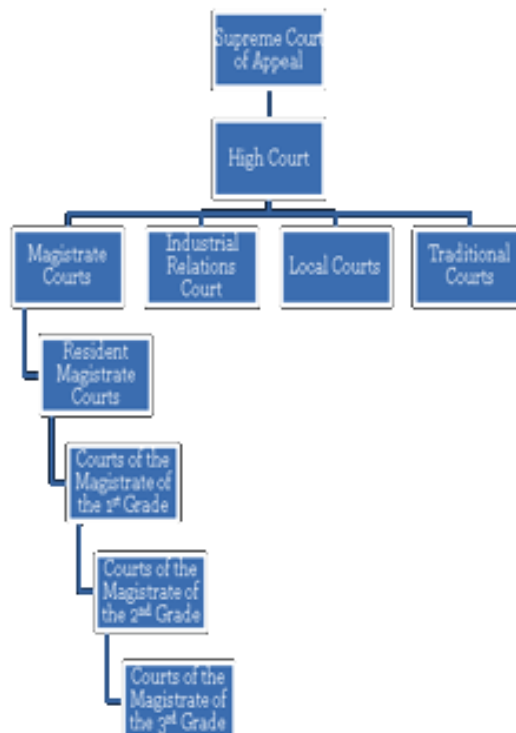
Procedure and Evidence Code (CP and EC) expressly provides that magistrate courts have no jurisdiction to hear cases involving treason, murder or manslaughter.

Further, in terms of section 14 of the CP and EC, no magistrate may pass a sentence of death or life imprisonment, and the maximum term of imprisonment that can be imposed by a Resident Magistrate or a Magistrate of the First Grade is fourteen years. Magistrate Courts are courts of first instance and they have no appellate jurisdiction.

### 2.3.6 Traditional Courts

Traditional Courts in Malawi are recognised under the 1994 Constitution. Section 110(3) of the Constitution provides that ‘Parliament may make provision for traditional or local courts presided over by lay persons or chiefs,’ and a proviso to the provision states that the jurisdiction of traditional courts is ‘limited exclusively to civil cases at customary law and such minor common law and statutory civil cases as prescribed by an Act of Parliament.’ Currently, the Malawi Law Commission (MLC) is reviewing the Traditional Courts Act in order to bring it in conformity with the provisions of the Constitution.

The following is a pictorial representation of Malawi’s court system:



## *Figure 2.1: Malawi's Court System*

### **2.4 Empirical Review**

Bleuenstein (2010) conducted a survey to test satisfaction of court users in the United States of America. Data were gathered from 1406 people exiting the courthouse for any reason in 2007 and 2008. The exit survey data were used to test a logistic regression model to empirically investigate whether race or ethnicity is a significant predictor of court user satisfaction. Level of satisfaction was operationalized by assessing responses to questions regarding the accessibility to, and perceived fairness in, the court. Mean satisfaction ratings affirmed the findings of other researchers in the field that the main determinants of satisfaction include access to justice, fairness in the court, clearance rate and waiting period.

Another similar study was done by Kent (2013). The study explored whether education or sex was a significant predictor of court-user satisfaction regarding fairness of the Court. Specifically, the perceived satisfaction of accessibility and fairness of court users who interacted with the Court for any matter within the jurisdiction of the Court was explored via archival data from a public satisfaction survey that was administered to 2000 court-users exiting the courthouse in 2007 and 2008. The study concluded that court users whose education levels was diploma or below and female court users were generally satisfied with the access to justice, fairness, clearance rate and waiting period.

### **2.4 Customer satisfaction and service quality**

Kotler and Keller (2000) defined satisfaction as “a person’s feeling of pleasure or disappointment resulting from comparing a product’s perceived performance (or outcome) in relation to his or her expectations.” Hoyer and MacInnis (2001) asserted that satisfaction can be associated with “feelings of acceptance, happiness, relief, excitement, and delight.” Similarly, Hansemark and Albinsson (2002), established that “satisfaction is an overall customer attitude towards a service provider, or an emotional reaction to the difference between what customers anticipate and what they receive, regarding the fulfilment of some need, goal or desire”.

Service quality and customer satisfaction can be agreed to have a link. This is so because going through the work of other scholars in the service literature and customer satisfaction literature, it was observed that customer satisfaction is derived when customers are satisfied with the services rendered to them by the service provider. In other words, this has also been mentioned in another way to mean the same that, in a situation where customers' expectations are greater than their perceptions, they are classified as unsatisfied customers. Meanwhile, in a situation where customers' "perceptions exceed their expectations they are said to be satisfied" (Parasuraman et al, 2002). It has been attested by researchers how important the concept of service quality and customers' satisfaction is for researchers, marketers and businesses as a whole and this has caused greater attention in this area of literature during the past years (Donnelly et al., 2006). This debate has also been an issue in the marketing literature, debating what to give more attention to-- service quality or customer satisfaction (Kotler & Keller, 2000).

In the domain of service literature and customers' satisfaction, there has been a lot of debate on how customers' satisfaction and service quality are related; this was confirmed by (Cronin & Taylor, 1992). Stating the differences between service quality and customer satisfaction is important to managers and researchers alike because it is also important for service providers to know whether their objective should be to have "satisfied" consumers, with respect to their performance, or whether their objective should be to deliver the maximum level of "perceived service quality." Due to the significance of the issue about the relationship between service quality and customer satisfaction, several efforts have been made to illuminate the relationship between satisfaction and service quality (Parasuraman et.al, 2000, Bolton & Drew 1991). In as much as ample research and studies have been conducted on the relationship between service quality and customers' satisfaction, Bolton and Drew (1991) confirmed very little theoretical/empirical research on the relationship between customers' satisfaction and service quality, taking into consideration an individual and the duration he or she has acquired services from the services provider.

The concepts of service quality and customer satisfaction have been the two main points in marketing theory and practice that have drawn the attention of both researchers and marketers (Sureshchandar et al., 2002). The delivery of optimum service quality by service providers could

fetch competitive advantage if services delivered match consumers' expectations and create customers' satisfaction. According to Cronin and Taylor (1992) customer satisfaction is regarded as "one-item" scale that seeks to know how what customers think and hold as impressions about a service provider. Customers' satisfactions have been accredited by researchers as multi-faceted, with general processes that enable the overall satisfaction of customers resulting from multiple experiences or encounters with the services providers (Sureshchandar, 2002).

Where service quality is perceived by customers as more than expected, it turns to affect their level of satisfaction positively, and, in a case where customers perceptions is far lesser than what they expect, they turn to be dissatisfied. In a nutshell, a rise in service quality leads to a rise in customer satisfaction and a fall in service quality leads to a fall in customer satisfaction (Oliver, 1981). A study conducted by Sureshchandar (2002) indicated that despite the concrete connection between service quality and customer satisfaction, these two concepts are different and demand the service provider deal with these two concepts distinctively. Customers' satisfaction is actually what the customer feels after acquiring services from the service provider and how he/she expresses these feelings, which are derived after a comparison between what is actually perceived and what was expected from the service provider.

Researchers have confirmed that there has been a continuous investigation in the realm of service quality and customer satisfaction to enable clarity about the link between customer satisfaction and service quality. Countless results have shown that these two concepts are inter-related, that is an increase in one leads to an increase in the other. Satisfaction is derived where service quality is equal to or exceeds expectations. On the other hand, dissatisfaction occurs where expectations are below perceptions (Sureshchandar, 2000; Su et al, 2002).

However, all these arguments are valuable and have contributed to the field of knowledge and practice immensely. What stands out is that a satisfied customer might not be loyal to a certain service company but might still give positive word-of-mouth endorsement depending on past experience. Companies, in order to stay alive and running, should not neglect any aspects, especially those that might have greater impact on their operations. Considering other literature and studies on this issue, it could be seen that in all the attempts made to distinguish or bring out

the differences between customers' satisfaction and service quality they have, in one way or another, mentioned customer satisfaction influenced by service quality or higher perceived service quality leading to customer satisfaction. In this case a picture of both having a link or one affecting the other is presented.

As earlier mentioned and digesting from other reviews, it is understood that organizations uncontestedly use service quality to assess customer satisfaction. It could be agreed, in line with other studies, that service quality is an element that leads to customer satisfaction (Benlian, et al, 2011; Bolton & Lemon, 1999). In another study, with an attempt to establish the causal relationship between service, relationship and design quality and customer satisfaction in the value chain of public services in the Republic of Korea, scholars showed that there is a causal relationship between service quality and customer satisfaction. In addition to their findings, they proved that relationship and design quality had a stronger effect on satisfaction (Rha, 2012).

These notwithstanding, several researchers have done a great deal of work trying to measure service quality. Consequently, they developed comprehensive models such as the SERVPERF (Cronin & Taylor, 1992). Services had become a pivotal concern in the 1980s, and apprehensive with the idea that unlike tangible goods, where quality is described and measured through the product features and the fact that quality of services remained unidentified and unsearched, decided to explore this field. According to Japanese philosophy, quality is a case of "zero defects or doing it right the first time." Quality is "conformance to requirements." (Farner, 1996). He was of the opinion that quality of services cannot be likened to quality of tangible goods because services were intangible, heterogeneous, for services that require heavy personal involvement, and that production and consumption of services was inseparable, which is also the reason why it is important to consider consumers' interaction with the service and the service provider when measuring service quality (Parasuraman, et al., 2002). In order to come up with a model, they organized executive interviews and focus groups in order to identify service categories. They realized that even though there were key differences regarding how executives perceived service quality across industries, there were also common issues, which provoked the urge to come with an instrument for measuring service quality, which was, in the end, achieved (Parasuraman, et al., 2002).

## **2.5 Theoretical Review**

### **2.5.1 Assimilation Theory**

Lewin (1994) originally formulated the theory of cognitive dissonance. The dissonance theory forms the basis of the assimilation theory. The dissonance theory asserts that the users of a particular product or service make some kind of cognitive comparison between expectations about the product and the perceived product performance. If there is a discrepancy between expectations and perceived product performance then dissonance or negative disconfirmation arises. This view of the consumer “post-usage evaluation” was introduced into the satisfaction literature in the form of assimilation theory by Anderson (2013) in his work on consumer dissatisfaction, the effect of disconfirmed expectancy on perceived product performance.

Consumers can also reduce the dissatisfaction resulting from a discrepancy between expectations and product performance, either by altering expectations so that they coincide with perceived product performance or by raising the level of satisfaction by minimizing the relative importance of the dissatisfaction experienced (Olson & Dover, 1979).

### **2.5.2 Contrast theory**

The Contrast theory was first introduced by Hovland and Hansemark (2003). The theory presents an alternative view of the consumer “post-usage evaluation process.” In contrast to the assimilation theory, which hypothesized that post-usage evaluation leads to outcomes in opposite predictions for the effects of expectations on satisfaction. The contrast theory argues that consumers would exaggerate any contrast between expectation and product evaluation. Whereas assimilation theory suggests that users will seek to minimize the discrepancy between expectation and performance, contrast theory argues that a surprise effect arises, leading to the discrepancy being exaggerated. This theory was further developed into the assimilation-contrast theory by Anderson (2013).

### **2.5.3 Assimilation-Contrast Theory**

The Assimilation-Contrast model founded by Peyton and Kamery (2003) has been proposed as yet another way to explain the relationships among the variables in the disconfirmation model.

This model is a combination of both the assimilation and the contrast theories. The model postulates that satisfaction is a function of the magnitude of the discrepancy between expected and perceived performance. Generally, consumers of any product have “zones or latitudes of acceptance or rejection with respect to their perceptions.”

## **2.6 Key Performance Indicators of a Court System**

This section looks at some key performance indicators in the court system, including efficiency, accessibility, quality of dispute resolution and geographical distance.

### **2.6.1 Efficiency**

According to Budd and Colvin (2008), an efficient court system is one that is expeditious in resolving disputes, with high settlement rates in a minimum of time. Systems that are slow and that take a long time to produce a resolution are inefficient; systems with shorter timeframes that produce a relatively quick resolution are efficient.

Efficiency with respect to conciliations and arbitrations relates to the time it takes the system to conclude cases. The South Africa Labour Relations Act, 1995, requires conciliations to be concluded within 30 days of the date of referral whereas in Malawi the Labour Relations Act, 1996 stipulates that industrial disputes should be resolved within 21 days.

### **2.6.2 Accessibility**

Accessibility in dispute resolution means the ability to effectively access redress systems and to participate in the redress processes in order to achieve just outcomes (Genn, Lever, Gray & Balmer, 2006). A founding tenet of the legal system is that access should be easy and free, and that justice is not a function of either formal education or disposable income (Leeds & Wöcke, 2009).

The ability to access redress systems effectively means that personal characteristics, such as educational levels, and situational characteristics, such as the availability of service centres or the

cost of legal services, do not constitute barriers preventing a party from invoking the dispute resolution system (Genn *et al.*, 2006). In this sense, accessibility is a function of the informality of dispute resolution, the absence of costs of dispute resolution and the widespread coverage of dispute resolution providers independent of resources or expertise.

Informality facilitates the ability to participate effectively in dispute resolution processes. An informal dispute resolution institution is one in which dispute resolution procedures/processes are so simple that the users themselves can start a case, prepare it for submission to the institution and present it at a hearing, with little or no support or assistance (Genn *et al.*, 2006). In other words, informal dispute resolution ensures the simplicity of the process of referral and the simplicity of the actual dispute resolution proceedings: that is, an absence of the formalities (strictness in conforming to law) typical of courtroom proceedings. The process is user friendly, even for individual, non-unionised employees without legal representation (Genn *et al.*, 2006).

Unlike an ordinary court, which involves dense technicalities and compels legal representation, an informal dispute resolution process presupposes less formal, less technical and less complicated procedures, and legal representation is, or should be, unnecessary (Roberts & Palmer, 2005). Specifically, informal dispute resolution processes do not strictly apply, or permit proceedings to be loaded with principles of law, thereby reducing the chances for an ordinary employee to approach the institution virtually unaided, present his/her own case in simple, non-technical language and obtain relief.

Informal dispute resolution processes do not strictly adhere to or permit parties to raise rules of procedure or courtroom tactics of formal legalistic reasoning (Roberts & Palmer, 2005). Neither do they adhere to or permit parties to adhere to strict rules of evidence. An informal system dispenses with standards of evidence and the application of formal rules of evidence to offers of proof, which characterise court proceedings. In informal dispute resolution processes, the parties prove their cases on a balance of probabilities (Brand, 1997). This means that the arbitrator will weigh the respective cases of the two parties, and that the party whose version is more probable will be successful. The arbitrator will be guided by questions such as ‘what probably happened?’



Also, ‘which version is more probable or likely?’ Thus, an award could probably be based on evidence that is normally inadmissible in a court of law.

The second element of accessibility entails the costs of dispute resolution. According to Hay *et al.* (1996), the costs of dispute resolution stem from legal fees, orders of costs to the other party and the actual dispute resolution service fees. These costs have the potential to bar employees who cannot afford them from accessing dispute resolution institutions.

### **2.6.3 Quality of Dispute Resolution**

According to Ury *et al.* (1988), a disputant’s satisfaction with dispute resolution depends partly on how much the resolution fulfils his or her interests, including whether the disputant believes that the resolution is fair (quality of outcome). Regardless of outcome, however, a disputant’s satisfaction with dispute resolution depends largely on the perceived fairness of the dispute resolution procedure (that is, quality of the actual process of dispute resolution).

In the Republic of South Africa, section 138 of the Labour Relations Act, 1995 (RSA, 1995b) vests commissioners with the discretion to decide on the manner in which the dispute resolution process is conducted in order to determine the dispute fairly and quickly, and with an obligation to deal with the substantial merits of the dispute with the minimum of legal formalities. According to Benjamin (2007), the wording ‘fairly and quickly’ emphasises the obligation to balance the requirements of fairness and expedition to ensure that disputes are resolved quickly without depriving the parties of their rights. Where these two considerations conflict, the arbitrator must promote the requirements of fairness to prevent injustice.

Brand *et al.* (2008) express the same idea when they argue that efficiency and accessibility are not ends in themselves. Hence, efficiency or expedition does not mean that commissioners should proceed in a rough and ready manner, merely rushing through the proceedings in order to resolve the dispute at all costs while ignoring the interests, actual needs and rights of the disputing parties. Likewise, the quest for informality does not justify disorderly or simplistic proceedings. The essence of informality is simply that disputes should be dealt with in a less formal, less

complicated manner, and that as little time as possible should be devoted to compliance with procedural formalities or technicalities.

An award or ruling can be varied or rescinded for the following reasons: if it was sought erroneously or made in the absence of any affected party; if it is ambiguous, contains an obvious error or omitted a material aspect that should have been included; or if it was granted as a result of a mistake common to the parties to the proceedings (Le Roux, 2007). An award or ruling is made erroneously if there is an irregularity in the proceedings, or if it is not legally competent for the court to make the award or ruling, or if there existed at the time of issue a fact of which the judge was unaware that would have precluded the granting of the award or ruling and that would have induced the judge, if he had been aware of it, not to grant the judgment (Le Roux, 2007).

#### **2.6.4 Geographical distance from legal services**

In most Sub-Saharan countries, the accessibility of legal services is limited by the size of the country, the small number of functional jurisdictions, and the small number of lawyers practising in the country (for example, Chad, with a population of 11 million, has only 90 lawyers, all practising in the capital of N'Djamena (Benjamin, 2007). Avocats Sans Frontières (ASF) has developed models, which have since been drawn upon by numerous organisations, allowing information, advice and legal aid (judicial and non-judicial assistance) to be provided in the most remote areas. In the Democratic Republic of Congo (DRC), ASF introduced mobile tribunals (mobile courts) in 2004.

#### **2.6.5 Waiting Times**

Not only are long waits for a case to reach trial stressful for court users, they also have the potential to undermine the effectiveness of the trial itself. Leveson (2001) notes in his recent review of efficiency in court proceedings that where there is a long period between offence and trial “memories will be affected and the direct evidence less persuasive.” (Machika, 2008).

## **2.7 Chapter Summary**

The chapter presented literature review on satisfaction studies by reviewing customer satisfaction theories and indicators of customer satisfaction. It presented the relevant theories and how they inform the study. Particular attention was put on the relationship between customer quality and customer satisfaction. The chapter also presented the court system in Malawi.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research methodology that was followed and adopted in the process of conducting this study. The chapter therefore focuses on the following aspects of the research: research design, population and sampling design (population, sampling design, sampling frame, sampling technique, and sample size), data collection methods, research procedures, and data analysis methods.

#### **3.2 Research Design**

The research design used was a descriptive research design. Research design can have a number of classifications which could integrate the degree to which the research question has been crystallized, the method of data collection used, the ability of the researcher to produce effects in the variables which are being studied, the purpose of the study, the time dimension, the scope of the study and also the research environment. The classification of the particular research design for this study is the purpose of the study. We have three options under this which include; Reporting study, Descriptive study, and Causal study and these can be said to be either causal-explanatory study or causal-predictive study.

A descriptive study is based on making findings concerning questions of; who, what, where, when, or how much? Descriptive studies are always handled with hypothesis which are clearly defined or investigative questions and they serve a number of objectives in the study which include making descriptions of phenomena or characteristics associated with a subject, making estimates of the proportions of a population that have these characteristics, and also discovery of associations among different variables which is sometimes referred to as a correlation study, a subset of descriptive studies (Cooper & Schindler, 2011). The researcher found it appropriate that a descriptive research design was appropriate for this study because this study was concerned with finding out what the factors influence the satisfaction of Industrial Court users.

### **3.3 Research Method**

A quantitative research approach was adopted for this research. Quantitative methods emphasize objective measurements, and the statistical, mathematical, or numerical analysis of data collected through polls, questionnaires, and surveys, or by manipulating pre-existing statistical data using computational techniques (Babbie & Mouton, 2007).

The research sought to establish whether court users at IRC-Blantyre Registry from 2012 to 2016 were satisfied with the services that were rendered to them when they sought the services. To do this there was a need for numerical analysis of data hence the choice of a quantitative research approach.

### **3.4 Population**

A population is a complete set of elements (persons or objects) that possess some common characteristic defined by the sampling criteria established by the researcher. It is composed of two groups, namely, target and accessible population. The target population is the entire group of elements to which the researcher wishes to generalise the study findings. Accessible population is the portion of the population to which the researcher has reasonable access, maybe a subset of the target population.

For this study, the population comprises of all those people who sought the services of the Blantyre Registry of IRC from 2012 to 2016, and the accessible population is those people who can be reached due to the fact that the court has their contact details. It is estimated that the Blantyre Registry of IRC has handled 15,000 cases, which make up the population of this study.

#### **3.4.1 Sample Size**

The sample size is 377. The size of the sample has been calculated using the following formula outlined below. The formula was suggested by Watson (1962). However, only 112 users were accessible.

### **An Equation for Determining Final Sample Size**

$$n = \frac{\left( \frac{P[1-P]}{\frac{A^2}{Z^2} + \frac{P[1-P]}{N}} \right)}{R}$$

Where:

n = sample size required  
N = number of people in the population  
P = estimated variance in population, as a decimal: (0.5 for 50-50, 0.3 for 70-30)  
A = Precision desired, expressed as a decimal (i.e., 0.03, 0.05, 0.1 for 3%, 5%, 10%)  
Z = Based on confidence level: 1.96 for 95% confidence, 1.6449 for 90% and 2.5758 for 99%  
R = Estimated Response rate, as a decimal

### **3.5 Sampling**

Sampling is defined by Bajpai (2011) as the process by which inference is made to the whole by only examining only a part. It has been generally commented by different researchers that studying the entire population is not possible due to various factors such as time, budget and the size of the population.

The researcher used purposive sampling. Purposive sampling is also known as judgmental or selective or subjective sampling. It is a type of non-probability sampling technique. The main goal of purposive sampling is to focus on particular characteristics of a population that is convenient, which will best enable you to answer your research questions (Vaidya, 1994). This sampling method was chosen for convenience because the population is dispersed.

### **3.6 Data Collection Methods**

According to Cooper and Schindler (2011), Data collection Methods refer to the process of gathering data after the researcher has identified the types of information needed which is; the investigative questions the researcher must answer, and has also identified the desired data type (nominal, ordinal, interval, or ratio) for each of these questions and also ascertained the characteristics of the sample unit that is, whether a participant can articulate his or her ideas,

thoughts, and experiences. This study focused on the use of primary data which was collected from the target sample. The study used a structured questionnaire and face to face interviews.

### **3.6.1 Structured Questionnaire**

The questionnaire was divided into four sections: The first part was designed to analyze demographic data, which was focused on collecting the respondent's personality characteristics deemed to impact the factors that influence their job satisfaction and how it impacts on their performance. The second, third and four part addressed the first, second and third objectives respectively. There were multiple choice options for each question, representing five levels of preference; Strongly Disagree, Disagree, Neutral, Agree, and Strongly Agree.

The third objective singled out gender and education. Although the dissatisfaction with the judicial system is abundant, cases of dissatisfaction are only highlighted in references to individuals who are generally well educated and in many cases males (Tyler, 2000). The third objective therefore seeks to assess whether education levels and sex of court users play a role in the satisfaction levels of the court users.

### **3.6.2 Face-to-Face Interviews**

An interview is an interaction in which oral questions are posed by the interviewer in order to solicit information from the interviewee. The interviews were conducted face-to-face. They can be structured or unstructured. The researcher used structured interviews to elicit information from officers at IRC. The researcher has opted for structured interviews because of the following benefits. Firstly, structured interviews are easy to replicate, as a fixed set of closed questions are used, which are easy to quantify – this means it is easy to test for reliability.

Secondly, structured interviews are fairly quick to conduct, which means that many interviews can take place within a short amount of time. This means a large sample can be obtained, resulting in the findings being representative and having the ability to be generalized to a large

population. The study held interviews with court users who were identified with the assistance of the court clerk at IRC – Blantyre Registry.

### **Bluebook Rule 11**

Users, the study created dependent variables by asking a series of questions. The questions were structured to measure the performance gap. These questions formed two dependent variables namely access to justice and fairness to justice. These dependent variables were created by summing the series of questions that ask the respondent about their satisfaction. Questions 1 to 10 of the survey formed the first dependent variable which is *access to justice*. The other dependent variable was created by summing a series of questions that ask the respondent about how fairly they have been treated by the Court. This dependent variable is identified as *Fairness of Justice*. The respondents had to show either that they strongly agree, agree, neutral, disagree or strongly disagree on the Rikert Scale.

### **3.7 Data Analysis**

Data analysis involves reducing accumulated data to a manageable size, developing summaries, looking for patterns, and applying statistical techniques (Cooper & Schindler 2011). This study used statistical methods to analyze data that is, descriptive statistics; measures of central tendency which included the mean, mode, and median, and measures of dispersion which will include, standard deviation and variance. Inferential statistics were also used to draw inferences about the population from a sample as well as conduct statistical tests of correlation. Statistical Package for Social Scientists (SPSS) version 21 was used to facilitate the data analysis. Once the data were analysed, they were presented using tables and graphs.

### **3.8 Reliability and Validity**

Reliability, according to Burns and Grove (2007), is concerned with the consistency of the measurement technique, thus, a measure of the amount of random error in the measurement technique. The researcher ensured that the study was reliable by the use of approved technique, namely, questionnaires and face-to-face interviews. Validity is concerned with how well an instrument reflects the abstract concept being tested, like how well a test measures what it is



supposed to measure (Burns & Grove, 2007). This was achieved by prior test of the data collection tool developed. The study administered the questionnaire selectively on court users who came either for hearing or as a follow up to their cases. These were excluded from the sample that was administered at the end.

### **3.9 Ethical Issues**

According to Resnik (2011), one way of defining ethics is by looking at acceptable and unacceptable conduct during a study. The main principles of research ethics, which were considered, in this research study were:

- the principle of beneficence
- the principle of respect for human dignity
- the principle of justice

The participants were asked to indicate consent after the objectives of the study had been read out to them. Respondents were not being coerced to participate in the study, and they will be told that they are free to withdraw from the study during any stage of data collection. The researcher also ensured the following: comfortability by the respondents, confidentiality during the process, and an atmosphere free from intimidation.

### **3.10 Chapter Summary**

This chapter has highlighted the methods that the researcher used in data collection and analysis in order to come up with findings from the study. Information required for sampling and data collection has been explained.

## **CHAPTER FOUR**

### **FINDINGS**

#### **4.1 Introduction**

The study used the survey questionnaire method to collect data. This methodology was explained and justified in the previous chapter. This chapter presents the results of the data analysis relating to responses from the complainants and respondents of IRC in Blantyre.

The study had a sample size of 377 but only 112 court users were accessible. The court users were accessed at the court where they came either to attend a court hearing or were filing a suit. If a user agreed to participate, the volunteer undertook the survey and recorded the responses.

The other set of data, i.e., secondary data, was retrieved from the archives of the court. The study also got information from the officers at the court especially from the desk staff at the reception.

#### **4.2 Profiles of the Respondents**

The personal background questions help to categorize respondents by asking them about their age, level of education, net monthly income, etc. These data help to gain insights on other dependent variables regarding satisfaction with court experience. This allows the researcher to make valid conclusions regarding the responses to the questionnaire.

The demographic variables measured in the study consisted of four items, namely, gender, age, monthly net income and education level.

#### 4.2.1 Gender of the Respondents

*Table 4.1: Gender of the Respondents*

<b>Sex</b>	<b>Frequency</b>	<b>Percentage</b>
Female	<b>40</b>	<b>36%</b>
Male	<b>72</b>	<b>64%</b>
<b>Total</b>	<b>112</b>	<b>100</b>

Source: Field Data. 2017

The study established that 36% of the respondents were female and 64% were male. The reason for the wide difference between the number of males and females that seek justice at the IRC is that cases drag for years before they are concluded.

#### 4.2.2 Educational Background

*Table 4.2: Educational Background*

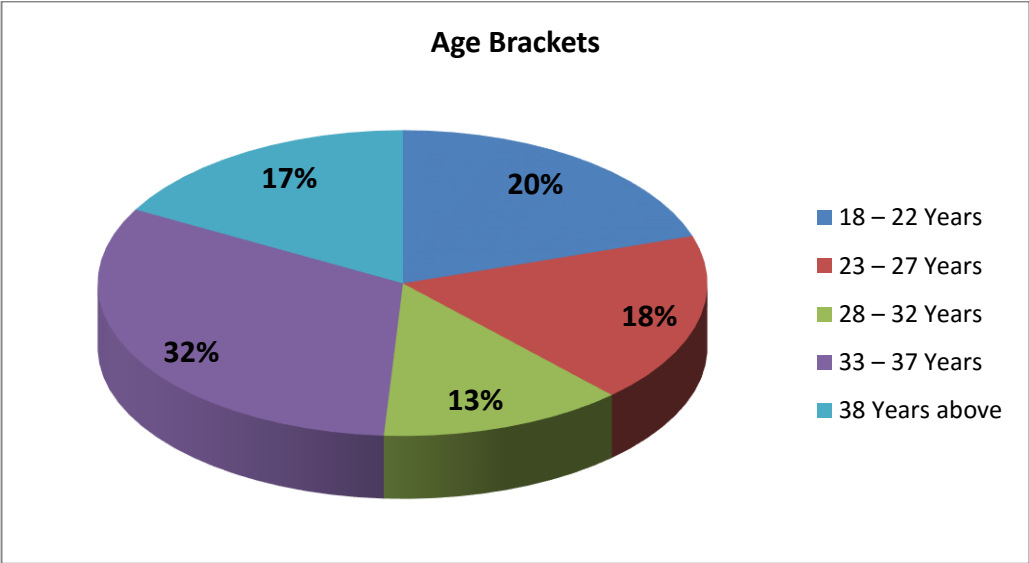
<b>Qualification</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Cumulative Frequency</b>
Primary School	11	10	10
Secondary	21	19	19
Diploma	39	35	54
Degree or Higher	41	36	100
Other			
<b>Total</b>	<b>112</b>	<b>100</b>	<b>100</b>

Source: Field Data

The study established that the majority of the respondents (36.61%) were graduates followed by diploma holders (34%). Only 11% of the respondents had completed primary school and 18.75% indicated that they had completed secondary school. The trend suggests people whose educational qualifications are higher are more likely to go to the IRC than those people whose

educational qualifications are lower. These findings are similar to the findings of court users' survey in Australia (2015).

**4.2.3 Age**

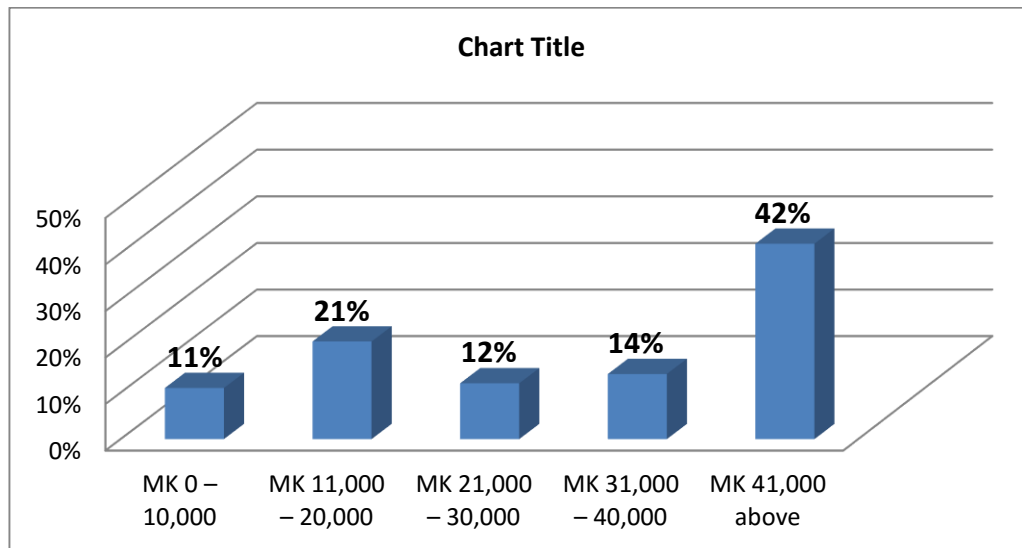


*Figure 4.2: Age Bracket*

The analysis of the age of the respondents established that most of the respondents were in the age bracket of between 33 and 37 years (32%) followed by the 18 and 22 years age bracket (20%). It was further revealed that 18% of the respondents were between 23 and 27 years older and that 17% of the respondents were either 38-years-old or older than 38 years. The age brackets did not follow any pattern.

**4.2.4 Income**

The applicant and respondent interviewees were asked about their family income, to which they gave the following responses.



*Figure 4.3: Income*

#### 4.2.5 Response Rate

The study sampled 377 and administered a total of 150 questionnaires as follows:

*Table 4.3: Response Rate*

Period	Number of Questionnaires	Questionnaires Returned	Cumulative Responses
2016	30	27	27
2015	30	27	54
2014	30	19	73
2013	30	23	96
2012	30	16	112
<b>Total</b>	<b>150</b>	<b>112</b>	<b>112</b>

From the table, a total of 150 questionnaires were administered and 112 were returned, representing a response rate of 75%. The response rate is valid for analysis. Mugenda (2009) argued that a response rate of at least 50% is valid for analysis.

### **4.3 Analysis of the Data**

The major objective of the study was to assess the satisfaction levels of IRC users. The questionnaire had quantitative elements and consisted of 43 substantive questions. The survey included research variables, which were influential in measuring the interviewees' levels of satisfaction with their court experiences. For each variable, there were five options, which were listed as **strongly agree, agree, neutral, disagree** and **strongly disagree**.

Disagreement indicates dissatisfaction, and agreement indicates satisfaction with a particular service or facility. The number of responses in which the 'neutral' option was selected was treated as not agree.

#### **4.3.1 First Objective**

The first objective was to investigate whether IRC delivers an expedited and efficient settlement of disputes. There are two variables for this objective, namely, disposal rate and case age.

##### **4.3.1.1 Disposal Rate**

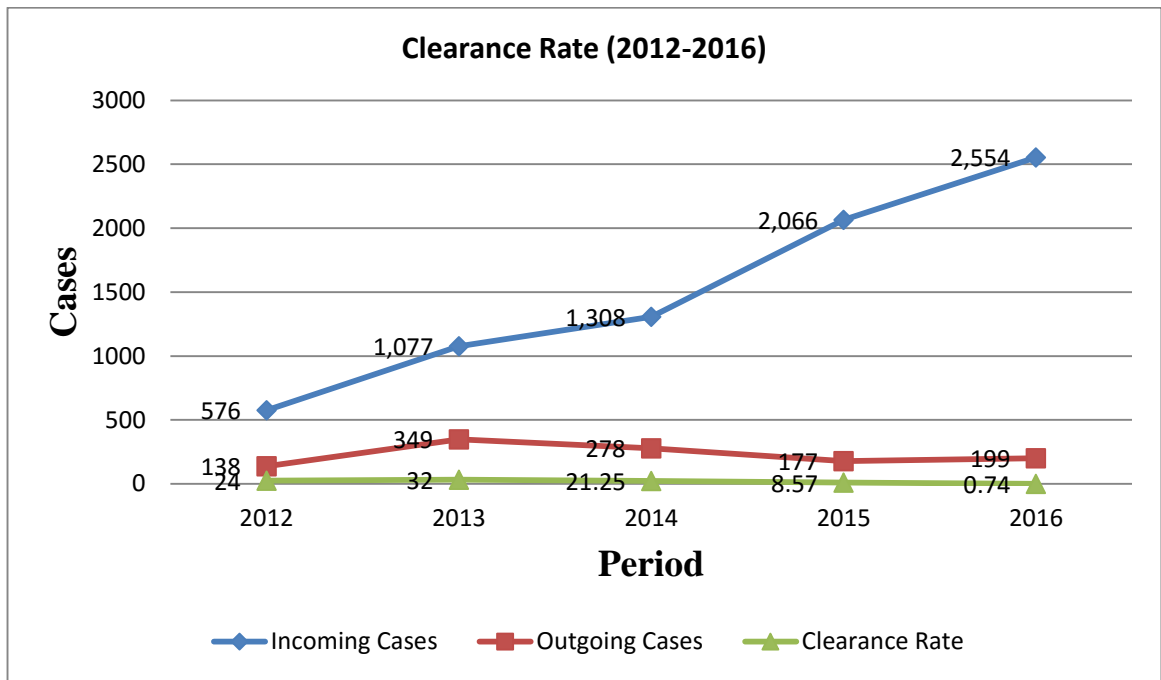
Disposal or clearance rates measure the extent to which the court is keeping up with the number of cases filed. They also tell if the court is creating or resolving a backlog. Clearance rates are calculated by dividing incoming cases by outgoing cases. Incoming cases are new filings, reopened cases, and reactivated cases in a particular time frame, often a year. Outgoing cases are those that have an entry of judgment, a reopened disposition, or have been placed on inactive status, also from the same time frame. (See Figure 1 below) The resulting number is a percentage of cleared cases. If the number is more than 100 percent, then the court has disposed or cleared more cases during that time frame than were opened. This means that the court is reducing a backlog of cases. If the number is less than 100 percent, the court did not clear as many cases as were opened and is creating a backlog.

<b>Formula for calculating Clearance Rate</b>	
<b>Outgoing Cases</b>	
Entry of Judgment	X
Cases Transferred	X
Dismissals	X
<b>Total</b>	X
<b>Incoming Cases</b>	
New Filings	X
Reopened Cases	X
Reactivated Cases	X
<b>Total</b>	
<b>Clearance Rate</b>	<b>Outgoing/incoming cases%</b>

*Table 4.4: Disposal Rate*

<b>YEAR</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Incoming cases	576	1,077	1,308	2,066	2,554
Outgoing cases	138	349	278	177	19
Clearance rate	<b>24%</b>	<b>32%</b>	<b>21.25%</b>	<b>8.57%%</b>	<b>0.74%</b>

The data presented in the table above shows that each year from 2012 to 2016, the number of unresolved cases transferred to the next year was very high. During 2012, new 576 legal cases were filed with the IRC in Blantyre. In 2013 alone, 639 cases were filled, added to the 438 unresolved cases from 2013, the 2013 caseload rose to 1,077, 728 of which were transferred to 2014, thereby increasing the total caseload to 1,308. The case load in 2015 swelled to 2,066, out of which 177 were disposed of, representing an 8.57% clearance rate. This is displayed in the figure below.



**Figure 4.4: Disposal Rate**

#### 4.3.1.2 Case Age

The case-age rate, also called time to disposition, is the percentage of cases disposed or otherwise resolved within the time guidelines for all cases available to be disposed. It is calculated by dividing the cases disposed within the time guideline during a specific time period by the cases disposed during that time period and the cases pending over the time guideline at the end of that time period. It is calculated based on each calendar year.

The study randomly selected five files for the purposes of computing case age using the formula below, and the results are presented in the following chart.



**Sample formula**

**Table 4.5: Case Age**

Case Event	Date	Clock	Case Age												
Case was filed	March 1, 1994	Starts													
Prehearing Conference	May 6, 1994	Pauses	66 Days												
Adjourned waiting for date for full trial	February 6, 2015	Resumes													
Disposed by Judgment	February 21, 2015	Stops	1,975 Days												
<b>Case Age =</b>			<b>2,041 Days</b>												
<p><b>Case Age for Randomly selected Cases</b></p> <table border="1"> <caption>Data for Case Age for Randomly selected Cases</caption> <thead> <tr> <th>Case Sample</th> <th>Days</th> </tr> </thead> <tbody> <tr> <td>Case A</td> <td>2,041</td> </tr> <tr> <td>Case B</td> <td>900</td> </tr> <tr> <td>Case C</td> <td>1,721</td> </tr> <tr> <td>Case D</td> <td>600</td> </tr> <tr> <td>Case E</td> <td>257</td> </tr> </tbody> </table>				Case Sample	Days	Case A	2,041	Case B	900	Case C	1,721	Case D	600	Case E	257
Case Sample	Days														
Case A	2,041														
Case B	900														
Case C	1,721														
Case D	600														
Case E	257														

**Figure 4.5: Case Age**

Clearance and case-age rates are affected by numerous events, some of which are outside of the court’s control. For example, the size and distribution of case types on a court’s caseload certainly affect case age and clearance rates. Some case types simply take longer to dispose than others, and a court with a disproportionate number of lengthy case types may have more difficulty meeting the time guidelines for those case types, resulting in cases remaining open

longer and pulling down the court's clearance rate. Likewise, a court that is understaffed may struggle with disposing of a heavy caseload in a timely fashion. The staffing issue may be related to a contraction in the court's budget.

The supply of services by the courts in response to the demand of cases filed can be seen from the clearance rate-the percent of filed cases that are actually resolved. Only when the clearance rate is greater than one hundred percent are the courts able to catch up on case backlogs. It appears, however, that even the most efficient systems, such as Germany and Singapore, are not always able to reach beyond the hundred percent level. When the clearance rate is much less than one hundred percent, the case backlog grows. This backlog then enlarges the overall caseload of each judge, which may create additional delays in the case processing system. The clearance rate, thus, can measure both the productivity of courts in resolving disputes and the productivity per judge (Minnesota Annual Report, 2011).

The time needed to dispose of a case at the first instance level is an indicator of efficiency. In many developing countries, the public considers the time required to resolve cases excessive, and a large majority of judges surveyed agree that it is too long. Not all countries measure the duration of cases regularly. It has been found, however, that the accrual of pending cases is related to the time needed to resolve a case. Countries with the lowest growth rates of pending cases tend to take less time to dispose of cases. In Germany, for example, the average duration of a case in the courts sampled is five months: approximately forty percent of the cases are disposed of in under three months and only three percent last longer than twenty-four months. In Chile, the average duration is sixteen months (Dokolias, 2014).

### **Conclusion of Objective 1**

Case age and disposal rate are principal satisfaction factors of court users. In view of the foregoing court users are greatly dissatisfied with the services of the Industrial court. The disposal rate of the court is 0.74%. The case age is 1,975 days. The recommended case rate is 100% and the recommended case age is 180 days (6 months) (Bleuenstein, 2009).

### **4.3.2 Analysis of the Second Objective.**

The second objective of the study was to identify levels of satisfaction from the court users, using efficiency and effectiveness as metrics. Overall, general satisfaction with users' visit to court indicates that the courts satisfactorily meet users' needs and expectations. The variables for satisfaction include court building and facilities, client service, court processes and information services. To measure the satisfaction of the court users regarding court facilities and buildings, the study used the Common Measurement Tool (CMT). The CMT is a set of State Services Commission (United States of America) endorsed standardized questions used to measure satisfaction with public services.

#### **4.3.2.1 Accessibility**

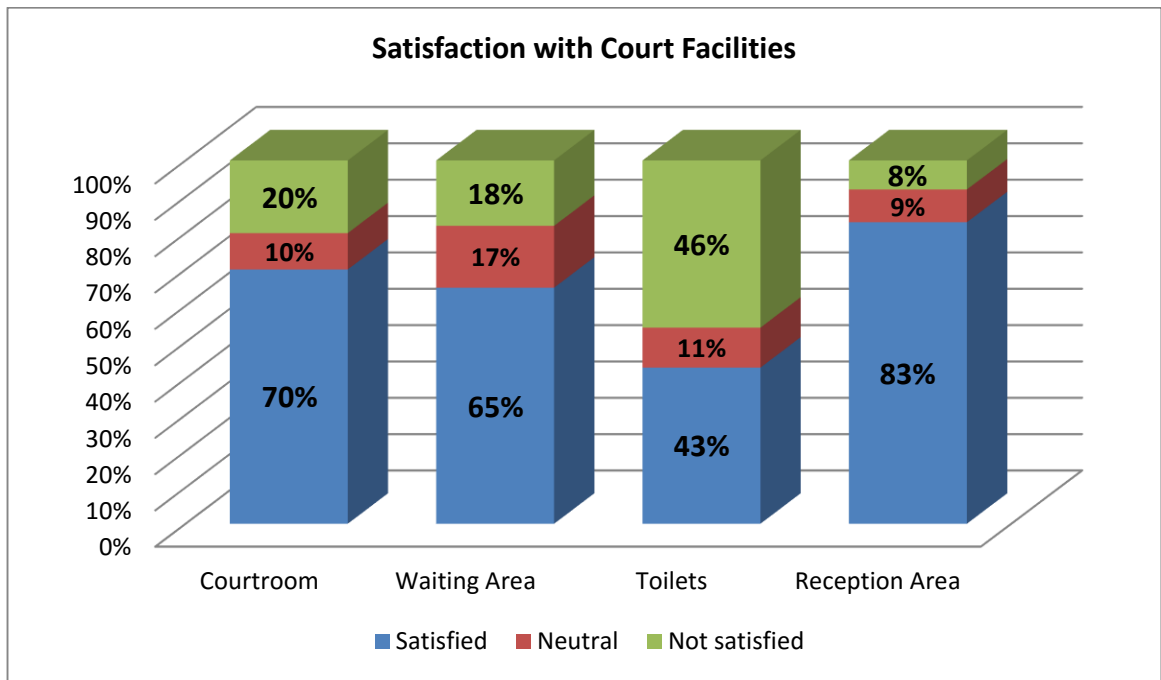
Most users were satisfied with the opening hours of court buildings (81%); while just over half (55%) were satisfied with the convenience of the court hearings start and finish times, and 72% were satisfied with easily identifiable staff being available to deal with queries.

#### **4.3.2.2 Safety**

All respondents were asked how safe or unsafe they felt at court. In total, 91% said they felt safe, 6% said they felt neither safe nor unsafe, and 3% said they felt unsafe. Respondents who felt unsafe were asked where it was that they felt unsafe. The majority (60%) found the waiting area/area outside the courtroom unsafe, followed by the court entrance (33%) and the area outside the court (31%). When asked why they felt unsafe, the most common responses were the type of people around (46%) and not enough security staff (24%).

#### **4.3.2.3 Facilities**

Respondents who used each facility were asked to rate them from very good to very poor. The proportions rating each facility as good varied as indicated below.



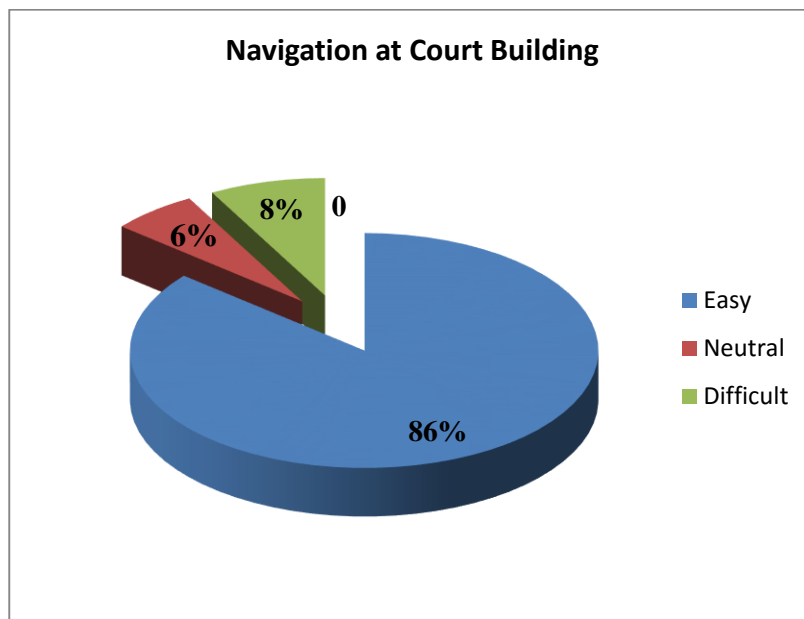
**Figure 4.6: Satisfaction with Court Facilities**

**4.3.2.4 Information**

It was found that 58% of respondents had difficulties getting information or assistance at court. The study also established that 32% said they experienced difficulties when seeking information about the progress of their cases, 29% when seeking legal advice, for example appealing against judgment, and 28% when seeking information about who they needed to see.

**4.3.2.5 Ease of navigating through the Court Building**

All respondents were asked how easy or difficult it was to find where to go in the courthouse. The respondents were asked to indicate one of the five options on the Lickert scale: it was very easy, easy, and neutral, it was difficult and it was very difficult. The responses were simplified to three: easy, neutral and difficult. The responses are displayed in the diagram below.

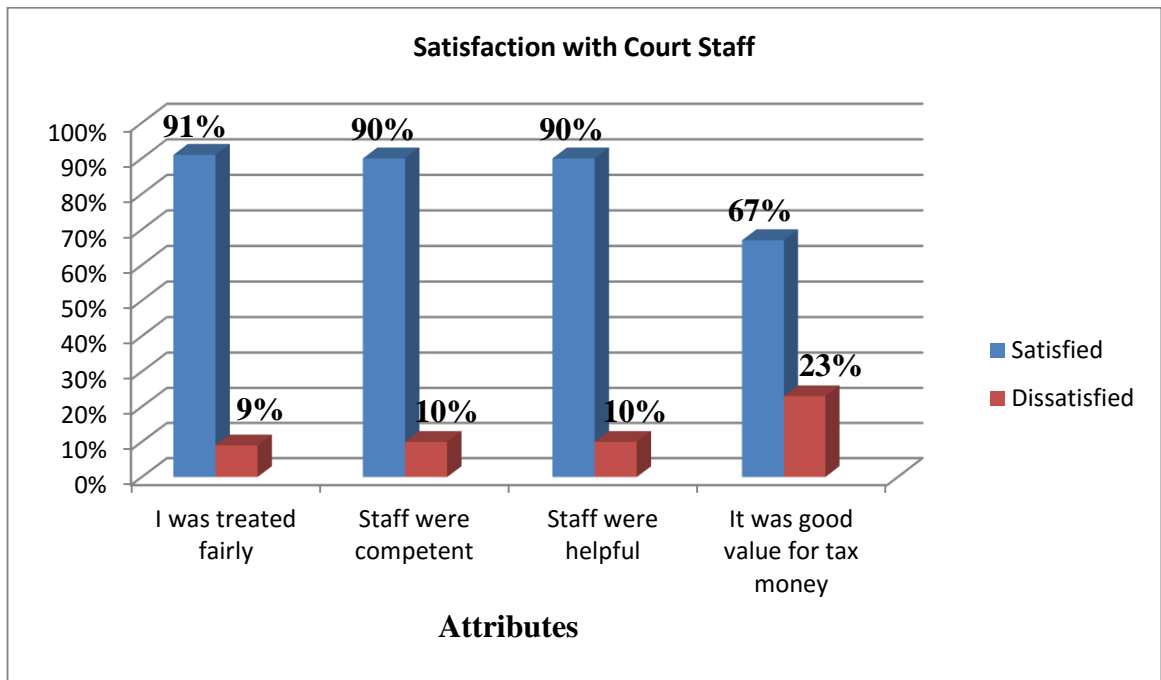


***Figure 4.7: Navigating Through the Court Building***

It was found that 86% of the respondents found it easy, 6% said it was neither easy nor difficult, and 8% said it was difficult. When asked how they found out where they needed to go within the court building, the most common answer was that they were already familiar with the building (40%). About 28% asked someone, and another 24% looked at signs.

#### **4.3.2.6 Court Staff**

The study also asked the respondents to indicate their satisfaction with the staff. The attributes of satisfaction were the competence of the court staff, the fairness of the court staff and whether the experience of the court users was value for their tax money. Their responses were captured on a Likert scale where they had to indicate either very satisfied, satisfied, neutral, not satisfied, very unsatisfied. Responses of satisfied and very satisfied were added and interpreted as satisfied. The results are displayed below.



*Figure 4.8: satisfaction with the staff*

#### 4.3.2.7 Expectations of Service

All court users who had contact with staff were asked what service they expected, and what service they received. It was found that 71% expected good service, 25% expected an average level of service and 4% expected poor service. The study also established that 61% said the service they received was better than expected, 33% said the service was in line with their expectations, and 6% said it was worse than they expected.

According to the World Bank (2012), a good judicial system should be rated highly by the citizen of the country. Any rating below 80% shows that people are not satisfied with the services that are being offered. In the case of the Blantyre Registry of the Industrial Court, the respondents rated it at 61%. This is below the average. There is more that needs to be done to meet the expectations of the litigants.

#### 4.3.2.8 Conclusion of Objective 2

Respondents were asked overall how satisfied or dissatisfied they were with the services and facilities provided. 80% were satisfied, and 6% were dissatisfied. Some groups were more or less

likely to be satisfied. The groups less likely to be satisfied also tended to be more negative about other aspects of the court user experience, including information, navigation around the court building, staff contact, and the facilities.

### **4.3.3 Analysis of the Objective 3**

This objective was included to investigate whether gender, level of education, and level of income are associated with court-user satisfaction. The research question was as follows: Is the perceived satisfaction of the court experience based upon gender, level of income and level of education? The independent variables were gender, level of education and level of income.

When the perceptions of males and females are compared for question by question of the survey there is little discernable difference between male and female. The largest difference was 5% which does not represent a significant trend. The study therefore concludes that the perception of both males and females about the court is the same. This is in sharp contrast with the study done elsewhere. Hirsh and Donohue (2013) conducted a similar study among the Hispanic and Latino living in the United States. The study concluded that the Hispanic/Latino respondents perceived they have less access and are treated less fairly by the Court if they are male. The variable of gender was found to be significant and positively related to both the access to justice variable and to the fairness of justice variable. That is, males tend to have lower levels of satisfaction regarding their accessibility to the Court and tend to believe they are treated less fairly as compared to females. Another similar study was conducted by Easton (1965). Easton (1965) established that gender has an effect on an individual's perception of fairness and subsequently several researchers have argued that the social construction of fairness is different for men and women.

The second variable of the study was education. Table 4.6 ascertains the perception of the court users and their level of satisfaction. Satisfaction scores less than 80% would indicate respondents perceive they are not being treated fairly by the Court. A satisfaction score more than 80% (combination of strongly agree and agree categories from the Likert scale) indicates higher levels of satisfaction, which translates into high satisfaction.

**Table 4.6: Comparison of Satisfaction by Gender and Education**

Element	Satisfaction Levels					
	Male	Female	Variance	Non Graduate	Graduate	Variance
Finding the courthouse was easy	91%	89%	2%	89%	91%	3%
I felt safe in the courthouse	95%	92%	3%	92%	71%	22%
My case was done in a reasonable time	8%	13%	5%	13%	7%	5%
The forms were easy and clear to understand	91%	90%	1%	90%	91%	1%
The court staff paid attention to my needs	87%	91%	4%	91%	87%	4%
I was treated with courtesy and respect by the court staff	88%	88%	0	90%	93%	3%

The second variable of the objective was education. The study wanted to find out the association between education and satisfaction. The education variable is defined as years of formal education, which is a measure by the respondent selecting one of three categories. The categories are non-graduate, made up of primary and secondary school, and graduate, made up of first degree and postgraduate degree.

The data suggest that level of education is an approximate indicator of what respondents might be feeling, yet the relationship is not statistically significant. The variable of level of education is not statistically significant, but is positively related to the satisfaction variable. In other words, respondents with a lower level of education have higher levels of satisfaction, as this study found that respondents with a degree perceive that they are treated less fairly by the Court as compared



to respondents with less education. This is in agreement with results found by Bleuenstein, (2009). Bleuenstein, (2009) established that the variable of education is significant and positively related to the access to justice variable. In other words, as you move from low education levels to high education levels a respondent has lower levels of satisfaction with the idea of access to justice.

### **Conclusion to Objective Three**

The study found that education levels have an impact on satisfaction levels. It was established that respondents with higher education levels perceived that they were treated less fairly by the Court. Regarding gender, the study found that there was no meaningful difference between the perception of both males and females towards the Court.

## **4.4 Chapter Summary**

The chapter presented the demographics of the respondents, findings and discussion of the objectives of the study. The study found that IRC is creating a back log of cases because it is concluding lesser cases than the number of cases being filed by court users. The study, on the other hand, found that court users are fairly satisfied with the facilities and court building. Finally the study found that levels of education determine satisfaction levels of the users of the court.

## **CHAPTER FIVE**

### **CONCLUSION, SUMMARY AND RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter presents the conclusion, summary and recommendations. It also recommends areas for further studies.

#### **5.2 Research Objectives Revisited**

The principal objective of the study was to assess whether the court users are satisfied with services of the IRC. Specifically, the study pursued the following objectives:

##### **5.2.1 To investigate whether IRC delivers an expedited and efficient settlement of disputes.**

There were two variables that were used for this objective, namely, disposal rate and case age. The disposal rate is a measure of how effectively a court is disposing the cases added to its docket. A clearance rate of 100 percent indicates that the court disposed of the same number of cases during the year as were added to the docket during the year, resulting in no changes to the court's case backlog.

The study established that the disposal rate has been dwindling from 24% in 2012 to 0.74% in 2016. This shows the court is creating a backlog of cases each year, and this is affecting the disposal rate. Daniel (2000) argues that a court should have a minimum goal of achieving a civil disposal rate of 80%. On average, criminal cases should be disposed more quickly than major civil cases, so courts should maintain a lower backlog index for criminal cases than civil cases.

On the issue of case age the study found that on average a case takes 639.5 days to be disposed of from the time of lodging the complaint.

### **5.2.2 To identify the levels of satisfaction of the court users regarding court facilities and other services**

The user satisfaction level regarding the building and court facilities varied significantly. The results indicated that the safety of the court buildings were rated at 83%, and 76% of the respondents said the court staff were professional and treated them with respect. However, the results showed that it was very difficult to locate the building (54%).

### **5.2.3 To determine whether the court user's gender and education affect the satisfaction levels**

Two factors emphasize the importance of perception towards the judicial system. First, the right perception ensures that the self-interest of the individual is fully protected at all times (Tyler, 2000b). The perception of fair procedures and treatment lends credence to the benevolence of the judge, and serves to further strengthen the public's view of the system as being neutral and honest (Tyler, 1998 & 2000b). According to Cohen-Charash and Spector (2001), in cases where the individual is not satisfied or happy with decisions, just procedures will, in due course, ensure that he or she will eventually benefit from the exchange relationship between the public and the court.

The second factor relating to the importance of having the same perception relates to the procedural justice in the judicial system. The perception impact the public's compliance with decisions. Tyler's (2000b, 2001) research suggested that using fair decision-making procedures is central to the development and maintenance of voluntary cooperation. Those authorities that use fair decision-making procedures are viewed as more legitimate, and people more willingly defer to their decisions. This produces uniformity of behaviour in line with institutional rules and the decisions of institutional authorities. When authorities want people to defer their own desires to the interests of the society, authorities can obtain such behaviour by calling upon the public's perception that institutions are legitimate. Consequently, this creates an increase in commitment and identification with the institution.

Perception has been shown to be a central antecedent of institutional outcomes, such as loyalty and commitment. Not only has procedural justice been linked to a wide variety of positive outcomes, but recent research has also shown a link between procedural injustice and negative outcomes, such as retaliatory behaviours theft and rule breaking (Steelman, 2015).

A large body of research links procedural justice evaluations to judgments about one's institutional-related identity, such as their identification with the institution, pride in the institution, and perceptions of respect from the institution (World Bank, 2012). In other words, procedural justice affects how people define themselves in terms of their sense of personal obligation to legal and political authorities, which consequently affects their perception of the institution. This differential influence can be linked to the significance of procedures for institutional identity, and not to the satisfaction of the outcomes they may produce.

### **5.3 Recommendations**

#### **5.3.1 Tripartite Representation Model Challenges**

At present, labour courts in Malawi are functioning under the Labour Relations Act. According to this Act, the IRC is a unique and distinctive court, the constitution of which is based on a tripartite representation model. The Court consists of a chairman and two members, one representing the workers and the other representing the employer. The Chairman represents the State as s/he is appointed by the Government from amongst the judicial officers. There is a panel of members of the IRC from which the Chairman appoints two members to constitute the court for the purpose of hearing an industrial dispute or a dispute relating to the service/employment of the workers. The IRC in trying offences under the Act or resolving a dispute relating to the payment of wages or of compensation to workers for accidents consists only of the Chairman.

Appeal from the IRC lies to the High Court. The Court constitutes one Chairman alone or the Chairman and such other members as the Government may fix. The Chairman may be appointed from amongst the persons who are magistrates. The IRC, despite being a tripartite adjudicatory body, has not been provided in the law with such provisions as requirements of judicial knowledge, experience, or minimum qualifications for members, except for the Chairman.

Though the IRC is a specialised judicial body, there is no provision for any prior experience (in dealing with labour law matters) or minimum training for magistrates before appointing them from the lower members of the judiciary. As a result, indifference, unskillfulness, incapacity and unprofessionalism of magistrates and members hinder the proceedings of the IRC. These things should be considered for the smooth functioning of the IRC.

### **5.3.2 Establishing Additional Registries**

The Industrial Relations Act mandated the Government to establish a required number of labour courts. The Government so far established only three registries of the Industrial Relations Court in Blantyre, Lilongwe and Mzuzu. There is no labour court at Zomba and Kasungu despite the large number of industries located in these cities. Establishing more registries in districts throughout the country may improve the case disposal and case age rates.

### **5.3.3 Sticking to the Labour Law**

Though the Act mandates the IRC to complete the trial within 60 days, most cases take more than 3 years to be concluded. There are numerous adjournments of proceedings, mainly caused by employers. As a result, a worker who is being terminated from one factory, fighting for his/her unpaid wages and other dues, and joined in a new factory, by appearing in the Court frequently, has to be terminated from the new factory also. Thus, the labour adjudication system of the country should be made worker-friendly.

Delays and backlogs in the labour courts are not only due to the scarcity of courts and inadequate staffing thereof but also because of judges' aversion to sitting in benches regularly and timely. As a general practice, the IRC tends only to sit when the employers' panellists have granted them leave to attend to court matters. In resolving industrial disputes, complaints and some other labour disputes, the IRC is supposed to be composed of the Chairman and 2 other members who are the assessors.

Sometimes one or both panellists may not come. The presence of both panellists is always required during the hearing of the case. Disputes between employers and workers are inevitable

in industrial relations. Resolving these disputes peacefully, amicably and mutually while keeping the working environment intact will result in production growth. For this, compulsory court-sponsored ADR system should be introduced in the IRC to reduce inordinate delay and backlogging of labour disputes.

Another alternative is to encourage litigants to use ADR seriously. ADR is an extrajudicial processes, such as arbitration, collaborative law, and mediation used to resolve conflict and potential conflict between and among individuals, business entities, governmental agencies, and (in the public international law context) states. ADR generally depends on agreement by the parties to use ADR processes, either before or after a dispute has arisen. ADR has experienced steadily increasing acceptance and utilization because of a perception of greater flexibility, costs below those of traditional litigation, and speedy resolution of disputes, among other perceived advantages. However, some have criticized these methods as taking away the right to seek redress of grievances in the courts, suggesting that extrajudicial dispute resolution may not offer the fairest way for parties not in an equal bargaining relationship, for example in a dispute between a consumer and a large corporation.

#### **5.4 Chapter Summary**

The chapter has presented the summary and conclusion for the study. The author has also made recommendations that may assist in easing the backlog at the IRC.

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## APPENDICES

### Appendix 1: Questionnaire

#### 1. PART I. BACKGROUND INFORMATION OF THE RESPONDENTS

Please tick in the appropriate box that describes you

a. Gender F M

b. Age

18 – 22	
23 – 30	
31 – 35	
36 - 40	
41 +	

c. Monthly Income

MK 0 – MK10,000	
11,000 – 20,000	
21,000 – 30,000	
31,000 - 40,000	
41,000+	

d. Education

Primary School	
Secondary School	
Diploma	
Degree	
Other (specify)	

## PART II: SURVEY QUESTIONS

Please indicate whether you strongly agree, agree, neutral, disagree or strongly disagree by ticking in the appropriate box

Statement	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
I was able to easily find the Court Building					
I was able to easily find where I needed to go within the court building.					
The overall public facilities were of a high standard.					
I felt safe in all parts of the court building.					
I am satisfied with how quickly I was attended to by Registry staff.					
I am satisfied with the professionalism of Registry staff.					
Registry staff treated me with courtesy and respect					
Registry staff helped me with what I needed to know and/or do					
The Registry's hours of operation made it easy for me to do my business					
The information services available in the Registry area were very helpful.(e.g. pamphlets, computer access, etc)					
The information services available through the website were very helpful					
I understood what was happening in the court hearing					
I was treated with courtesy and respect by court staff, security staff and the Judge					
The court hearing started at the time I thought it would					
Did you require any support services at the court?					
I was aware of the support services provided at the court					
I was satisfied with the support services provided to me					
I used the following support services at the court					
Overall I was satisfied with the facility and services provided to me at the court					

**THANK YOU FOR TAKING YOUR TIME TO ANSWER THE QUESTIONS**

## Appendix 2: Consent Letter



PRINCIPAL  
Professor Grant Kululanga, PhD. Eng., MSc. Eng., BSc. Eng., MASCE  
Our Ref.: 34/F/2  
Your Ref:  
Date: 5<sup>th</sup> February, 2017

Please address all correspondence to the Principal  
The Malawi Polytechnic  
Private Bag 303  
Chichiri  
Blantyre 3  
MALAWI  
Tel: (265) 01 870 411  
Fax: (265) 01 870 578  
E-Mail: principal@poly.ac.mw

### TO WHOM IT MAY CONCERN

#### ASSISTANCE TO CARRY OUT AN ACADEMIC RESEARCH FOR MBA DISSERTATION: MR. CHANCY THOMU GONDWE

I write to certify that Mr. Chancy Thomu Gondwe is a University of Malawi Postgraduate student who is pursuing a Master of Business Administration Degree course at the Polytechnic.

One of the important requirements of this degree programme is that students carry out research project known as dissertation in the final semester. This introduces the student to the methodology of research, the systematic analysis of ideas, the problems of data collection and the presentation of ideas in a clear and coherent way. Mr. Chancy Thomu Gondwe is currently working on his MBA dissertation titled "Assessing Satisfaction Levels of Industrial Relations Court Users".

I am therefore writing to ask for your kind assistance in allowing Mr. Chancy Thomu Gondwe access to carry out his research in your organisation and help him with any information/literature that your organisation may have on the topic of his dissertation.

Your assistance in this matter will be of greatest importance and highly appreciated and any information that may be provided will be treated with utmost confidentiality.

  
A. KAZUMBA  
HEAD OF MANAGEMENT STUDIES DEPARTMENT

Cc: MBA Coordinator

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