



# CHREAA ACTIVITY REPORT 2020



**CHREAA**

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**OPEN SOCIETY  
FOUNDATIONS**



**SOUTHERN AFRICA  
LITIGATION CENTRE**





## ABOUT CHREAA

The Centre for Human Rights Education Advice and Assistance (CHREAA) is a non-governmental organisation which was established in 2000, registered in 2006 and is working countrywide in Malawi. At the core of CHREAA's mandate is the provision of paralegal services, community awareness and empowerment, litigation and advocacy for law reforms.

### Vision

CHREAA envisions a Malawian society that upholds human rights, justice and the rule of law.

### Mission:

Promoting and protecting human rights by assisting the vulnerable and marginalised people in Malawi

## EXECUTIVE DIRECTOR STATEMENT

As we wrap up the past year, allow me to examine at the challenges encountered as well as opportunities that have arisen over same period.

First of all, as CHREAA, we celebrate the strides we have made in changing lives in the course of implementing our projects. A CHREAA, our philosophy is that we celebrate the small strides we make because we believe that, brought together, these small steps encompass what we do as an organisation.

At CHREAA, our belief is that injustice to one person is an injustice to all of us. It is by helping one individual at a time that we are able to change the whole world. Examples abound of how we have gone about achieving this—the case of Mayeso Gwanda vs State which started with a mere arrest but ended up with the outlawing of the Rogue and Vagabond Law.

So, for us at CHREAA, every injustice against any citizen is an opportunity for us to put the law to test to ensure that it is being applied correctly to serve and protect citizens.

Over the past year, we have applied a two-pronged approach—by using advocacy to raise awareness about rights and responsibilities amongst both citizens and law enforcers as well as using litigation in cases where citizens' rights have been trampled upon.

In securing citizens' rights, we have achieved remarkable success with the Malawi Bail Project, the One Stop Centre, Discrimination of Vagrancy Laws and Protection of Rights of Sex Workers and Sanitary Health in Prison, among other projects. But where we have felt the need to correct certain wrongs, we have sought the remedy of the courts and during this time, we



have successfully litigated a number of cases, most notably the defilement case involving Pakistan national Hanif Mohammad. As always, our commitment is that we will hold steadfast in our belief to protect the most vulnerable in our society. And this is the goal that drives forward.

Victor Mhango  
CHREAA Executive Director

# ACCESS TO PARALEGAL AID SERVICES AT ONE STOP CENTRE

**Funders:** Porticus  
**Period:** 2 years



Project goal: To protect children from different forms of sexual abuses by enhancing delivery quality health services and speedy and effective justice for children-victims affected by sexual abuse and or violence related offences.

The One Stop Centre is a government initiative that provides services to children, women and men who are survivors of physical and sexual violence.

In 2018, owing to a high prevalence rate of sexual violence offences and lack of trial progress on the sexual violence cases against children, CHREAA in collaboration with partners at OSC (Social welfare, Police, QECH), designed



a project with interventions that aimed at combating the increasing cases of sexual violence offences in Blantyre, particularly

against children.

Apart from aiming to end the increasing

cases of child sexual abuse, the project was also designed to address challenges victimised children of sexual violence face when they are about to access justice and health services when sexually assaulted.

**Key successes under this project during the 2017-2019 project implementation period include:**

## One Stop Case Study

On 16 March 2020, a case was registered at the One Stop Centre involving a 14-year-old girl who had been defiled by a 57-year-old Pakistan national. The Case was registered at Limbe Dalton Court and was being prosecuted by a Police Officer from Limbe Police Station.

Subsequently, the case was discharged on the grounds that the Victim was not willing to proceed with the case as the ordeal that took place between the two of them was agreed upon and that the victim only

decided to lodge the complaint because the suspect had not treated her well.

This raised a few red flags because when it comes to defilement, it does not matter whether the ordeal was consensual or not and it is regarded as an offence regardless. This then prompted CHREAA to start investigating the matter and it was discovered that: the Police officer prosecuting the matter connived with the suspect and received money to withdraw the case; and the Police officer prosecuting the case falsely presented a bogus 25-year-old woman whom he paraded as the victim.

CHREAA took up the matter with the Anti-Corruption Bureau (ACB) who arrested the Police officer together with the perpetrator and the bogus woman who had been paraded in court.

**The case was transferred to a different court and is still ongoing.**

## Activities:

- Designing and printing of posters and booklets.
- Training of child protection officers, social welfare officers and teachers
- Nkhokwe Arts Group community performances.
- Review meeting with Magistrates for developing sentencing guidelines on child abuse cases.
- Training of Magistrates.
- 2 community sensitisations.

## Achievements:

Over 1,000 people have been sensitised about child protection and the consequences of child sexual abuse.

## DECRIMINALISATION OF VAGRANCY LAWS AND PROMOTION AND PROTECTION OF RIGHTS OF SEX WORKERS

### Goal

To enhance the protection of rights of marginalised communities and vulnerable groups.

**Project summary:** The decriminalisation of vagrancy laws campaign focuses on advocacy with government to consider law reforms, engagement of all stakeholders in consultation meetings with communities in all the regions in Malawi, media campaigns, litigation and trainings. The project is being funded by OSISA with a grant of \$250,000. The project will run for two years of which we are already in the first six months of the first year out of the 2 years. However, CHREAA has already conducted activities for the first six months in relation to the respective objectives and they are as follows:

### Objectives

To contribute towards the decriminalisation/ declassification of minor nuisance related offences in Malawi.

To contribute towards the reduction of human rights violation and discriminatory treatment against sex workers.

**Activities**

- Media awareness campaign.
- Engagement meetings with the CSOs.
- Hotspot – street outreach.
- Training of health and sex workers on health rights.

CHREAA has been implementing this project since 2014 with funding from Open Society Foundation (OSF), Open Initiative for Southern Africa (OSISA) and in partnership with Southern Africa Litigation Centre (SALC). The goal of the project is to provide law reform initiatives aimed at the decriminalisation/ declassification of minor nuisance related offences in Malawi and the region and reduction in human rights violations by the law enforcement agencies and health services providers.

The Malawi Penal Code provides for various nuisance-related offences including common nuisances (s168), Idle

and Disorderly Persons (s180), and Rogue and Vagabond (s184). Most of these offences reflect fundamental breaches of vagueness and arbitrariness in application. Several key achievements have been realised from this project:

- CHREAA, through a Constitutional challenge case, saw the declaration of section 184(1)(c) of the Penal Code as unconstitutional. This was based on the fact that the section violated the right to dignity, freedom from inhuman and degrading treatment and punishment: freedom and security of persons, freedoms from discrimination. The section was broad, hence gave too much discretion to Police officers when effecting arrests.
- CHREAA also initiated the development and launch of the Public Prosecution Guidelines on nuisance-related offences meant to reduce human rights violations by law enforcement agencies when enforcing minor nuisance related offences. These were issued by the Director of Public Prosecutions and were launched in December 2018. The

guidelines provide specific elements, specific guidelines and specific charge sheets for nuisance related offences.

- CHREAA also successfully challenged the arrest of sex workers under section 146 of the Penal Code which provided for the offence of living on the earnings of prostitution. In the case of Republic vs Pempho Banda and others (Review Case Number 58 of 2016).
- Sex workers were arrested in a bar and charged and convicted under section 46. The court, on review, stated that the section was actually meant to protect sex workers from exploitation and abuse. The cases stated that most sex workers are arrested merely as a way to embarrass and harass them, which is unconstitutional.
- The project has also seen increased awareness on the rights of sex workers among the police, health workers and the general public. This has thereby resulted in the reduction of violations of the rights of sex workers

### Case study

Rhoda is a sex worker based in Chirimba, Blantyre. On this particular day, she was

going to the one of the hotspots at Kameza Roundabout and upon reaching the roundabout around 9pm, she was approached by a client who was driving a car who she joined him and the air went together to Mango Bar.

They stayed together up to 1am and the guy decided to leave her there for another girl but she, as an escort was not paid at which point, she demanded to be paid. But the client refused to pay yet they had agreed that they would spend the whole night together. She demanded for some payment because she had rejected other clients for him which was a waste of time and money.

The client got mad and angry and started beating her so hard that blood was all over her and she could not even stand and she was left there bleeding and all alone until a well-wisher took her to Chirimba Police where she was given a letter to go to the hospital to be treated and return to the Police in the morning to be assisted.

In the morning, Rhoda narrated to her 16-year-old son who happened to now where the man works. The son went to the place and incited violence where a brother to the culprit was severely

beaten. So, they reported the matter to Police who instituted investigations into Rhoda and her son. The police issued a warrant of arrest for both the mother and son.

It was when CHREAA received a call and intervened by going to Police, that first they should not arrest Rhoda and the son but look into the matter that caused all this to happen. The Police invited both parties to appear before the Police so that they could map the way forward.

CHREAA took part in the mediation and it was discovered that the other party was the one that was in the wrong and the Police ordered them to Rhoda or they would be arrested. The culprits agreed to pay Rhoda and they also withdrew the case against her son.

Had it been CHREAA did not intervene in this matter, Rhoda and her son would have been arrested because the other party had an advantage over them since they are rich and they could have bribed the Police and Rhoda and her son could have been victims of the law.

The toll-free number 331 has really helped a lot of the sex workers who are abused by either clients or the service providers, more especially by the Police.



# INTERGRATED LEGAL SUPPORT AND MOBILE HEALTH OUTREACH PILOT PROGRAM

## FOR WOMEN AND GIRLS WHO ENGAGE IN TRANSACTIONAL SEX



**Project goal:** The integrated legal-health mobile outreach programme dwells on addressing issues of legal reporting and representation for sexual assault cases, IPV and harassment, alongside SRH promotion, contraception and screening, treatment and referrals for HIV (PEP), STI, cervical cancer, post-abortion care and mental health.

### Activities:

- Conducted 6 mobile legal and health outreach sessions
  - Conducted capacity-building trainings with Police officers and healthcare service providers
  - Innovation Refinement and Start-Up Phase (Endorsement of implementation of the project and project orientation)
- Achievements:**
- Over 250 female sex workers

and women and girls who engage in transactional sex have been provided with mobile paralegal aid and attended health clinics

- 40 police officers and healthcare workers have been drilled on human rights and equal access to health care services for women and girls who engage in transactional sex and sex workers

# ADULT LEARNING AND EDUCATION IN PRISONS

Funders: DVV



DVV, in conjunction with CHREAA and Malawi Prison Services, on 13 November 2020 launched the Adult Learning and Education in Prisons Programme aimed at reducing the number of habitual offenders in prisons.

The programme, which has started at Zomba Prison, will provide vocational skills such as Barbering, Carpentry, Tailoring, Communication and Conflict Resolution so that inmates' livelihoods are improved when they have been integrated back to their society.



# SANITARY HEALTH IN PRISONS



**Funders:** Amplify Change



AMPLIFYCHANGE

## Project goal:

To lobby and advocate for the inclusion of menstrual hygiene packages in the Malawi prison health budget for women and girls in detention.

In 2019, CHREAA with funding from Amplify Change, embarked on a project aimed at lobbying and advocating for the inclusion of menstrual hygiene packages in the Malawi Prison health budget for women and girls in detention.

This was based on the fact that prisons hold over 300 female inmates most of whom cannot afford to buy sanitary pads. As such, they end up using small pieces of clothes or old pieces of blankets which are a health hazard and result in most inmates contracting chlamydia.



CHREAA engaged in massive lobbying for the inclusion of menstrual packages for the female inmates which was a great success.

## Activities:

- Meeting with Parliamentary Women Caucus
- Meeting with the Budget Director
- Meeting with the Budget and Finance Committee of Parliament

in Salima

- Production of video documentaries
- Panel discussion radio programmes
- National budget consultation meeting at Ryalls Hotel in Blantyre
- National budget consultation meeting in Lilongwe
- Zomba Prison meeting with warders and female inmates
- Chichiri Prison meeting with warders and female inmates

Key achievements from this project included:

- An increase of K30 million in the Prison Health Budget to cater for menstrual hygiene products for female inmates.
- Donations of female hygiene products from charity organisations such as Root Charity
- Increased awareness about the plight of women prisoners.

Despite being a project that ran for a very short period, it achieved results that will benefit female prisoners in Malawi for many years to come.



# MALAWI BAIL PROJECT

## Case study of Cosmas Banda

Cosmas Banda was arrested on the offence of malicious damage by Blantyre Police. He got convicted by Blantyre Magistrate Court and was charged a K10,000 fine, and six months imprisonment in default.

Since he did not have money at that moment, he was taken to Chichiri Prison. After a week-and-a-half, his relatives managed to pay the fine at court and a release order was issued to them.

To their surprise, the prison authorities objected to release the inmate, stating that his committal warrant had no indication that he can be released upon paying fine. The relatives took the matter to CHREAA for assistance.

CHREAA managed to follow up the issue and realised that indeed the committal was written in a wrong way, as far as the Magistrate's judgement was concerned. CHREAA took the matter to the Assistant Registrar of the



High Court, who immediately assigned a Judge to review the matter, upon verifying the receipts. The Judge reviewed the case and concluded that the accused was being punished twice for the same offence,

since he was serving a custodial sentence even though he paid the fine. Cosmas Banda was released from the prison on the basis that he paid a fine and did not need to serve a custodial since as if he had defaulted.





## ACCESS TO JUSTICE



CHREAA, with funding from Mott Foundation, is implementing a project intended to reach out to vulnerable groups in the communities of Chikwawa and Mwanza districts.

In these two districts, there are high levels of illiteracy and the people have no access to legal advice.

Most people in these districts are not able to competently and vigorously demand their human rights as they are still not quite familiar with issues of rights and access to justice.

CHREAA identified gaps between the formal justice system and the informal justice systems and the challenges faced by most poor and marginalised people in accessing justice in the targeted districts.

In addressing the current challenges being faced by the communities in Chikwawa and Mwanza districts, CHREAA is conducting mobile legal clinics, which are being run by

paralegals and trained Community-Based Educators.

CHREAA has also set up Community Court Users Committee comprised of members from the formal justice system as well as local leaders/representatives and CHREAA paralegals.

CHREAA has also trained traditional leaders as well as focal points persons/clerks who will be referring cases to paralegals or the formal justice system.

This project intends to achieve the following:

- To empower the community to know and demand their rights.
- To build positive linkages between formal and informal justice systems.
- To identify and litigate special cases that would assist in bringing law reform

## SUPPORTING JUSTICE FOR NSUNDWE RAPE VICTIMS PROJECT



CHREAA conducted several advocacy meetings towards ensuring that the Nsundwe victims were accorded the justice deserving to them.

CHREAA, in collaboration with Women Lawyers Association (WLA), had meetings with other stakeholders as part of the advocacy strategy.

These included Malawi Human Rights Commission, Inspector General of Police and his team, the Director of Public Prosecution as well as the newly appointed-commissioner for the Independent Complaints Commission.

CHREAA, in conjunction with WLA and MHRC, also had engagement meetings with Traditional Leaders from Nsundwe, M'bwatalika and Mpingu after noting that the victims were being ridiculed by their fellow community members. The Chiefs therefore came up



with by-laws to ensure that community members desist from any stigma against the victims.

Successes registered:

- Meetings with several stakeholders assisted in ensuring that progress towards prosecution of the matter commences

- Victims are no longer facing ridicule from members of the communities following the enforcement of rules by chiefs.

# LITIGATION

## Summary of Litigation Cases

Inspector General of Police and 2 others exparte M&M and 17 others and Women Lawyers Association of Malawi Judicial Review Case no. 7 of 2020. (Nsundwe Case).

- CHREAA, in partnership with WLA, successfully sued the Malawi Government and the Malawi Police Services for the sexual assault that occurred at Nsundwe in Lilongwe. An order on how much compensation each of the victims should receive is yet to be passed. CHREAA plans to continue advocating for the criminal case to ensure that all perpetrators are prosecuted accordingly.





Republic v Alex Mutawira and Another Criminal Case Number 2008 of 2020.

- This is a case where two police officers from Chirimba Police Unit brutally assaulted a woman in Chirimba in Blantyre in her own home following a misunderstanding with her husband. Following the incident, the woman reported the matter to CHREAA and Times Television featured a special story on Police brutality on the same. In retaliation, Police arrested the woman and her husband the same night the story was aired and charged them with resisting arrest based on the same facts. CHREAA's litigation officer is now defending these victims of Police brutality in the charges levelled against them.

**THE NATION**  
FRIDAY, 20 OCTOBER 2020

# Chasing justice after police assault

**LUCKY MKANDAWIRE**  
NEWS ANALYST

28-year-old woman in Blantyre has turned to civil society organisations (CSOs) in pursuit of justice against two suspected drunken police officers on September 4 (2020) after of them attempted to rape her inside her marital house.

Mutawira might have survived alleged rape attempt, but the imping was serious enough resulted in grievous bodily harm. The two police officers are based at Chirimba Police Unit. The victim has now developed a health problem, but police are yet to take action on its two officers after the matter was brought to the attention of the Inspector General (IG).

The incident occurred after the woman, in civilian, allegedly forced her way into the house around 11pm to arrest her husband for alleged charges. The couple was managed to identify one another.

Mutawira said: "After they defecated my husband and defecated him outside the house, one of the officers followed me in the room. He grabbed my clothes and started undressing me while saying 'ngwamutawira mwamuna uako' [save your husband]."

"I wrestled and managed to overpower him. I pushed him to the floor and that angered him so he started punching me ruthlessly."

The woman suffered facial bruises and reported the matter to Blantyre Police Station the same night where her husband was also taken to.

Said Mutawira: "The police issued us with a report to access treatment at Gateway Clinic at Queen Elizabeth Central Hospital. The police advised us to wait at home for feedback."

"Since then, we have had no feedback from them and each time we inquire we are just told to wait because the matter is being investigated."

The Centre for Human Rights, Education, Advice and Assistance (Chreaa) has since intervened in the matter. Other organisations include Women and Law in Southern Africa (WLSA Malawi), Mother Theresa, Fact Women Empowerment Network and Stop Centre.

The grouping of Civil Society Organisations (CSOs) has written the IG George Kalinja the matter.

In their letter, the CSOs asked the IG to urgently arrest, charge and prosecute responsible officers for attempted rape and grievous harm.

Reading the letter in part: "That, for accountability transparency sake, we urge you to publicly keep the nation, victim, her relations and ourselves abreast of any actions you have undertaken on the matter since the case is of national interest."

The IG was given 14 days to respond, but, according to Chreaa litigation officer Ruth Kaima, the police head is yet to act on the matter.

She said: "We have not received any feedback either from police IG or the officer-in-charge of Blantyre Police Station. We promised to swiftly act on the matter."

"This is worrisome because police officers' mandate is to protect citizens, uphold human rights and ensure the rule of law is respected."

But National Police spokesperson James Kadadzera said the issue was still being investigated to establish what happened before action could be taken.

**Mutawira with a swollen face**

**Asked to intervene: Kalinja**

**PHOTOGRAPH: COUNTRY OF CHREAA**

**PHOTOGRAPH: NATION**

## The State v Mahomed Hannif Criminal Case Number 505 of 2020

This is a case involving a Pakistan national who defiled a 14-year-old girl at Mudi residential area in 2020. The case was fraudulently withdrawn from court but through CHREAA's intervention, it was reinstituted and now it is being prosecuted by Ruth Kaima, CHREAA's litigation officer together with the Regional Prosecutions Officer for the South. The matter is set down for hearing on the 26 April 2021.

Mahomed Hannif and others who were involved in the fraudulent

**6 NATIONAL**

# Chreaa demands justice in defilement case

**LUCKY MKANDAWIRE**  
NEWS ANALYST

The Centre for Human Rights, Education, Advice and Advocacy (Chreaa) has asked the Chief State advocate to assume prosecution of a 57-year-old Pakistan national who defiled a girl in Limbe before his case was fraudulently discharged.

Chreaa is demanding an efficient and speedy delivery of justice for the 14-year-old girl following acting Inspector General (IG) of Police Duncan Mwapasa's failure to act on his alleged errand officers three months after the incident.

The suspect, Muhammad Hanif, allegedly defiled the school girl in the Mudi Residential Area in Limbe on March 15 this year after he acted as a Good Samaritan by offering her a lift.

According to a case file we have seen, Hanif was arrested on March 16 after the girl reported the incident. The girl's medical report from One Stop Centre at Queen Elizabeth Hospital also confirmed defilement.

Limbe police prosecutor Ishmael Abubast registered it before Limbe Magistrate Court as case number 204 of 2020.

But later, the prosecutor upon appearing before the court changed the offence from defilement to rape and further requested presiding magistrate Martin Chipofya to withdraw the case.

On March 23, Chreaa reported the alleged misconduct of Abubast to Mwapasa who instantly deployed a team from the Professional Standards Unit at the police national headquarters to probe the matter.

But since then, according to Chreaa monitoring and evaluation manager Siphwe Malihera, there has been no progress on the matter.

Malihera said following the continued silence, Chreaa wrote the IG on May 5 seeking the position of the matter "but he never responded".

"Until now there has been nothing. This is very frustrating and disappointing because the girl is being denied justice. There is also uncertainty and we feel the investigations were just a cover up to show something was being done," said Malihera.

But national police spokesperson James Kadadzera said they were keen to ensure the girl child was protected by all means.

"After the matter was withdrawn in court revelations emerged that a fake victim who was older than the girl was paraded in court and that made it possible for the defilement case to be withdrawn. We are still investigating," said Kadadzera.

Ministry of Justice spokesperson Piliirani Masanjala said they were waiting for the Anti-Corruption Bureau (ACB) for the way forward.

He confirmed the Chief State advocate received the demand letter from Chreaa to take up the matter.

**Malihera: IG never responded**

**PHOTOGRAPH: NATION**

withdrawal of the case are also answering corruption charges with

the ACB in relation to the same incident. All this was due to the intervention

that CHREAA did to ensure justice prevails in this case.

## The State v Andrew Chagaga

This is a case where a police officer is alleged to have defiled a 17-year-old girl at Limbe Police Station. CHREAA's litigation officer Ruth Kaima is part of the prosecution team together with Chikondi Chijozi from SALC and Eunice Ndingo as lead counsel from the DPP chambers. Prosecution has now closed its case and matter has been adjourned indefinitely awaiting a ruling of whether there is a case to answer or not.

# Student's rape case attracts CSOs attention

LUCKY MKANDAWIR  
STAFF WRITER

Civil society organisations (CSOs) have ganged up in solidarity with a 17-year-old University of Malawi (Unima) student, who was allegedly raped by a police officer while in custody at Limbe Police Station.

The organisations have been giving moral and psychological support to the girl since the Blantyre Magistrate's Court started hearing the case last week.

The Polytechnic student is alleged to have been raped by a police officer identified as Andrew Chagaga and the prosecution team has since closed its case after parading eight witnesses.

Among the CSOs are Centre for Human Rights, Education, Advice and Advocacy (Chreaa), Southern Africa Litigation Centre (Salc), Mulelewaka Foundation, Malawi Human Rights Commission, Safety 4 all Malawi and Women Institute of Self Reliance, Peace and Development.

Chreaa litigation officer Ruth Kaima said her organisation and Salc are part of the prosecution team which is led by the office of the Director of Public



PHOTOGRAPH: LUCKY MKANDAWIR

Mulelewaka Foundation members wait for the case outside court in Blantyre on Wednesday

Prosecution (DPP) while other organisations are offering support.

She said: "The organisations want to ensure that justice for the student prevails.

"We also hope this will set a precedent that men in uniform are not immune to the rule of law, especially now that we are witnessing various abuses orchestrated by the police."

On his part, child protection officer for the Lilongwe-based Mulelewaka Foundation, Thom Phiri,

said they joined the case because their CSO mainly works with young offenders.

"We want to see a robust system that protects children from sexual abuses. The Social Welfare Department must also step up its efforts and start working with children in conflict with the law," he said.

Phiri also urged authorities to act decisively on duty-bearers such as teachers, lecturers, pastors, doctors, police and other people in positions of

authority when they engage in any form of sexual harassment and abuse.

Hearing of the case has since concluded and the court has given the parties up to 14 days to file their submissions.

The student is currently being accommodated at a "safe home" under the supervision of a social worker from the Ministry of Gender, Community Development and Social Welfare for safety after reportedly receiving death threats. ■



