



CHREAA Newsletter

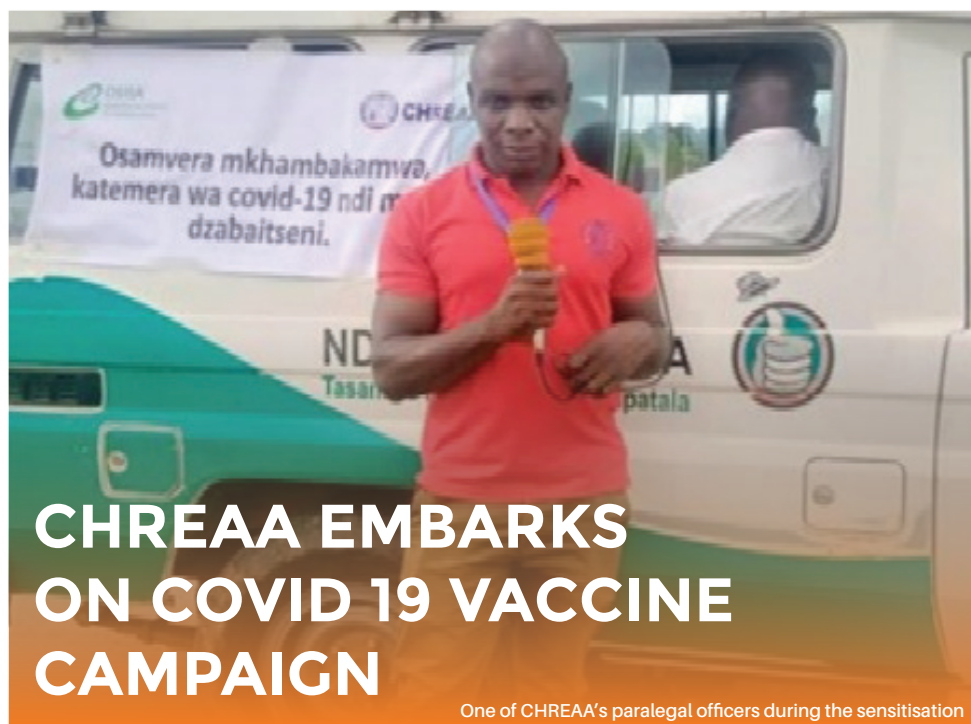
Quarter 1, 2022



TABLE OF CONTENTS

01		CHREAA embarks on Covid 19 vaccine campaign
02		Adult learning and education in prisons bearing fruits
03		Decriminalisation of vagrancy laws
04		Stop tuberculosis project
05		Combating torture in places of detention
06		One stop centre project
07		Malawi bail project
08		General complaints
09		Unconstitutionality of the death penalty





CHREAA EMBARKS ON COVID 19 VACCINE CAMPAIGN

One of CHREAA's paralegal officers during the sensitisation

As witnessed by its devastating effects such as the death of scores of people, the Covid-19 pandemic continues to pose a threat to people all over the world. Malawi has not been spared either. In an effort to curb the continuous spread of the virus, the Covid-19 vaccine was introduced.

However, as people started to create misconceptions about and myths started whirling around the vaccine, this reduced vaccine uptake in Malawi.

As a result, CHREAA felt the need to correct the misinformation about Covid-19 vaccine circulating in the public domain.

Despite Malawian government, international and local organisations advocating for mass vaccinations, there was massive hesitancy when the vaccines became the obvious way out of the pandemic.

With funding from Open Society Initiative for Southern Africa (OSISA), CHREAA, in collaboration with the District Health offices, conducted activities from 17 to 28 February in Chiradzulu, Dedza, Mwanza and Chikwawa to increase the acceptance and the uptake of the Covid-19 vaccine.

Among other things, the project included activities such as equipping people with the knowledge and counter misinformation on the

Covid-19 vaccine, encouraging community members to observe preventive measures to eradicate the further spread of the disease as well as reaching out to the most vulnerable and physically challenged.

The project yielded enormous results as witnessed by a number of success stories, a development that demonstrates CHREAA's contributions in helping to deal with some of the conspiracies that people had towards the vaccine.

CHREAA managed to reach out and sensitise people from different settings within their localities, including those who are physically challenged, managed to inoculate Covid-19 vaccines to 86 people within the community sensitization campaign period, created a good relationship with the village leaders who took the message positively and helped in convincing their subjects.

In addition, CHREAA also managed to attend to a number of questions from the communities in relation to the issue of the pandemic as well as the vaccine. At the end, CHREAA extended the project by more days as the vaccine uptake got high.

Apart from the sensitisation meetings, audio adverts were put across community radios in the country to counter misinformation of the Covid-19 vaccines and encourage individuals to go for the jab.

Despite registering a number of successes, the project faced some challenges. Some of them include; the short sensitization campaign period which made it hard to reach out to people who could, at the end, get vaccinated, conducting the campaign during the rainy season posed a limiting factor to reach out to a lot of individuals, unavailability of preferred vaccine as Johnson & Johnson was the only vaccine available during the campaign period and in some areas people could not get vaccinated because they were anticipating the second dose of AstraZeneca.

In an effort to deal with the outlined challenges, solutions have been put forward which include; a need to ask donors or government to consider stocking the needed vaccine; an increased in funding for the campaigns which has responded positively by providing more funds to all district offices for more campaigns, a need for policy formulation to allow increased mobile clinics for all diseases to help physically challenged people.

However, the project is on track and is moving according its timelines. CHREAA is willing to do more so as to ensure that the misinformation in relation to the vaccine are dealt with by helping people to understand the need to get the jab for their lives to be secured.



Aged woman who previously could not travel long distances to get inoculated with covid-19 Vaccine getting her jab.



DVV and CHREAA officers on the graduation day

In an effort to prevent the inmates from re-offending after being released from prisons, DVV and CHREAA embarked on a project to equip inmates with various sets of skills.

The project also seeks to decongest prisons in that when inmates have been equipped with skills, the intention is for them to serve their communities.

The project, which started at Zomba Prison after a needs assessment in prisons across Malawi, encompasses barbering, carpentry, tailoring, communication and conflict resolution.

November 21 2021 was a remarkable day for the DVV project as a graduation ceremony was held at Zomba Prison to celebrate the 27 inmates who graduated from the carpentry training.

Ever since the project started, it is on track and inmates are still being equipped with various set of skills. With this happening, the lives of inmates are being reshaped.

Despite registering such success, the project is facing some challenges. Recently, the Covid-19 pandemic had affected the operations of the project. This disrupted the project as there

were some restrictions which made it hard for trainers and inmates to engage in the project. In addition, food shortages and water problems affected the project's execution as it was hard for the inmates to attend some training sessions due to insufficient meals.

Additionally, a shortage of human resource in terms of trainers with updated skills also pose some challenge towards the progress of the

project. In an effort to curb some of these challenges, CHREAA has made interventions in advocating for food and water among the inmates to ensure the sustainability of the project. CHREAA also did an evaluation of the project and is still discussing with funders of the project to sort out issues of human resource both internally and externally. Efforts are also being made to consider extending the project to other central prisons.



Some of the graduating inmates



DECRIMINALISATION OF VAGRANCY LAWS

SALC and CHREAA Banners on display

CHREAA partnered with the Southern Africa Litigation Centre (SALC) to conduct research regarding the use of outdated vagrancy laws to arrest and detain persons.

Revelations indicated that Police officers were overstepping their authority by, among other things, arresting persons under section 180 of the Penal Code for being drunk, urinating in public, kissing in public, loitering without purpose or engaging in prostitution. However, section 180 does not cover such activities. Similarly, it was discovered that section 184 of the Penal Code was inconsistently interpreted by Police officers.

Police officers who were interviewed during the research, expressed an entitlement to arrest persons who stood on the road without doing anything or who were outside late at night or who did not carry proper identification.

As part of a sensitization campaign to reverse the status quo, CHREAA engaged the public and relevant stakeholders through lobbying government for law reforms, consultation meetings with key stakeholders, media campaigns, litigation and training.

Among other people, sex workers have also been major victims of vagrancy laws and, as such, CHREAA has been making efforts to promote and protect their rights.

Sex workers have been facing stigma and discrimination from communities, negative attitude from service

providers, ill treatment at the hands of Police when a sex worker is in conflict with the law or is reporting any matter on what she has faced in life and unconstitutionality of section 184 (B) of the penal code that was restricting movement of people including sex worker rights as rouge and Vagabond. On 1 June, 2021, CHREAA in collaboration with Southern African Litigation Centre (SALC) conducted an interface meeting with sex workers, vendors and Police to discuss the discrimination and violation of the human rights of the minority.

The meeting gave the sex workers an opportunity to state their grievances, some of which include discriminatory remarks by the Police, denial of right to bail, ill-treatment when they are in custody. CHREAA also learnt that the Police have a tendency of raiding sex workers at hotspots without any justifiable reasons and in most cases, demand money or sleep with them if they are to be released.

On the side of the Police, the Station Officer for Chileka Police narrated that when a Police officer sleeps with a sex worker for them to be granted their freedom, it is rape and this is a serious offence and officer must be arrested. He further added that when this happens, the sex workers should report the offence to a higher authority, a Police station or any of the human rights organizations like CHREAA.

As part of a success story, 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 the bar and charged and convicted under section 446. 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 as a way to embarrass and harass them, which is unconstitutional. In Mwanza, CHREAA paralegal officers have been conducting outreach programs targeting sex workers in different hotspots. All this is to ensure that their rights are promoted and protected.

However, there have been some challenges that the project has been facing. Some of them include lack of information on repealed laws like Rogue & Vagabond law, abuse by Police officers as well as the devastating impact of Covid-19 for the past two years where all public gatherings were banned, including the closure of drinking joints where sex workers interact with their clients. In an effort to deal with some of the challenges, CHREAA is trying to engage community leaders in some meetings to deal with discrimination. CHREAA is also coming up with non-funded activities in efforts to reach out even remotest areas with the information.



Station Officer of Chileka Police Station emphasizing a point

The Daily Times FRIDAY, March 25, 2022

FRIDAY SHAKER

Human rights, medical ethics on trial

While it is common knowledge that every citizen, including prisoners, has a right to take part, or not, in medical research, including the right to know the medication that is being administered to them when sick, this was not the case for two prisoners who were diagnosed with Multi-Drug Resistant tuberculosis (TB). WEZZIE GAUSI writes.

Four years is relatively a long time but thirty-five-year-old Uze Hamisa of Likuni, Lilongwe, still experiences fatigue, something he attributes to medical treatment he was exposed to while serving his 10-year sentence at Maula Prison.

He was convicted of theft in 2015.

"I was diagnosed with tuberculosis" in 2018. To make matters worse, medical personnel told me that it was Multi-Drug Resistant TB," he said.

Immediately after the prognosis, he was separated from the 289 inmates who were on his section of the prison.

He understood the situation pretty well.

"Chances of transmitting the disease to others were high, considering that all of us were using one toilet and one bathroom," Hamisa said.

It was not just him that tested positive for Mycobacterium tuberculosis, the bacterium that

causes TB; five others did, too.

Mycobacterium tuberculosis attacks any part of the body such as the kidney, spine and brain.

However, according to the World Health Organisation, not everyone infected with TB bacteria becomes sick.

"In my case, however, being

diagnosed with that type of TB had implications. MDR-TB was relatively new in this country. I got depressed by the news," he said.

After a while, they were taken to Bwaila Hospital for treatment.

Since MDR was a new kind of TB, the six inmates were used

as case studies for testing drugs.

"Come to think of it; we could get an injection and 21 tablets of drugs a day. Whenever we were given the medication, we could lose consciousness immediately.

"I don't know how we survived that procedure. I don't even know what kind of medication I was receiving but all I know is that we were given the injection early in the morning. After receiving the injection, everyone could fall unconscious

until around 5pm—meaning we were doing everything, in terms of answering to the call of nature, where we were sleeping," he lamented.

Hamisa was not alone in the predicament. Another ex-prisoner who tested positive for MDR-TB, 36-year-old Anthony Masitala, claimed that he was forced to take medication he did not know.

"As a result, my skin complexion got darker than before because of the medical processes I went through when they were experimenting on me and others at Bwaila Hospital in Lilongwe. I suspect that, for the two years I spent at the hospital, I received tablets equivalent to three buckets of 50 litres of water and about 200 injections.

"The experiment that was conducted on us was very bad. We went through stigma and discrimination as our relatives were not allowed to come closer to us," Masitala said.

Centre for Human Rights and Rehabilitation Executive

KEPT IN THE DARK ABOUT MEDICATION—Hamisa (right) and Masitala—Pictures by Wezzie Gausi

KAIYATSA—Medical people could have informed the inmates

NATIONAL Page 4

Media advocacy towards TB

STOP TUBERCULOSIS PROJECT

While it is expected for every human being to have good health living condition regardless of their status, prisoners continue to be subjected to great harm due to poor living conditions in prisons. Prisons in Malawi are very congested and have poor ventilation.

This poses a great risk among inmates to contract diseases such as TB. In an effort to improve the health condition of those living with TB in prisons, CHREAA is working on the Stop TB Project.

The project aims to empower prison

health groups to be aware of their rights and that they should be able to sensitise fellow prisoners on TB related issues.

CHREAA is also working with the Inspectorate of Prisons so that they should monitor conditions in prisons and produce a report and make recommendations about the state of prisons in the country.

The recommendations will be brought before Parliament to see if the laws governing prisons are in line with TB standards.

Lastly, the project is advocating for an increment towards the health budget for prisons and that prisons should also have good ventilation and that inmates need to be given enough food considering that those living with TB need to eat enough food because of the medicine they take.

However, they eat only once a day and this does not work well with their medication. In its continuous efforts, CHREAA is still making a lot of media advocacies to achieve the most needed goal towards the project. All in all, the project is on track and moving according to its timeline.

4 | NATIONAL NEWS

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30 years for rape

By Gary Samati

A year's search for justice for a 17-year-old girl who was raped by a police officer in Limbe, Blantyre City, has finally materialised after High Court Judge Vikocho Chima yesterday sentenced the culprit to 30 years imprisonment with hard labour.

The rape perpetrator, Andrew Chagaga, committed the ordeal in December 2020 while serving as a police officer. During early court proceedings, the victim testified that she was arrested for being found at an awkward hour while

going to a night of prayer.

As such, she was taken to Limbe Police Station, where, the court heard, Chagaga raped her twice during the night of December 12 and early hours of December 13 2020.

The former law enforcer was, in July last year, found guilty of rape by Blantyre First Grade Magistrate Soka Banda.

However, lawyer for the rape victim asked the court to move the case to the High Court for Chagaga to receive the highest punishment possible. The plea was granted.



FREEDOM CURTAILED—Chagaga (right) being taken to prison.—Picture by Gary Samati

Chagaga sentenced to 2 years in prison

COMBATING TORTURE IN PLACES OF DETENTION

Since 2021, CHREAA has been implementing the 'Combating Torture in Places of Detention' project with funding from United Voluntary Funds for Victims of Torture (UNVFVT).

During this implementing period, CHREAA has assisted over 500 victims of torture through legal advice and assistance as well as and psychosocial support.

CHREAA also devised a brochure containing torture messages which was distributed to torture victim's family during screenings at Police stations and during other human rights awareness activities CHREAA conducted in various communities.

Further, CHREAA conducted Periodic Justice Visits in various Prisons and Police stations in Blantyre and Zomba districts, accompanying senior magistrates, Police Commissioners and Malawi Human Rights Commissioners.

Through this project, CHREAA joined the prosecution of a Police officer who raped a 17-year-girl in Police custody. The Police officer was convicted and sentenced to 30 years. During this project implementation, therapy sessions to torture victims who were found at Police stations.

Even though the paralegals were allowed to meet the prisoners, they were not allowed to stay in prison for a

long time and were therefore not able to screen all targeted victims of torture. The restrictions of Covid-19 have also contributed to a delay in proceeding of cases at court as the availability of judicial officers were minimal and case adjournment took long. CHREAA faced some difficulties during the time the prison department banned visitations due to the rise of Covid-19 cases as only doctors, lawyers and paralegals were allowed to meet the prisoners.

CHREAA paralegals were able to meet and screen inmates who had been tortured but it was difficult for the psychosocial counsellor to meet the prisoners to provide them with therapy sessions because of the visitation ban.



An awareness meeting for one stop centre.

ONE STOP CENTRE PROJECT

Cases of sexual violence or abuse among children still continue to emerge in some parts of Malawi in partnership with Queen Elizabeth Central Hospital, social welfare and the Police.

CHREAA continues to fight against sexual violence related issues under the One Stop Centre Project. CHREAA felt the need to engage in the project due to the high prevalence rate of offences and lack of trial progress on the sexual violence cases against children.

The main goal of the project is to protect children from different forms of sexual abuses by enhancing the quality of health services and also enable speedy and effective justice for children victims affected by sexual abuse or violence-related offences.

CHREAA has been conducting a number of activities which include creating awareness on the child sexual abusive activities in Malawi.

Through this project, CHREAA managed to obtain 12 cases in the urban and rural areas of Blantyre. The other activity involved conducting awareness campaigns in schools in the Southern Region and conducting Police and magistrate trainings.

There has been a lot of successes noticed in the One Stop Project which include the increase in sexual related cases reported, increase in the number of people arrested because of the sexual related cases, the completion of the cases that are

sexually related and willingness of the doctors to testify because at the doctors were not cooperative and were escaping from testifying against the acts.

Lastly on the success, there has been a change in the sentences given to the offenders. This has been noted because, previously, the offenders were given a short sentence compared to now where they are given longer sentences.

Despite registering such achievements, the project has also been facing some challenges which include failure to track complainants from remote areas.

The other challenge that was encountered in this project was that parents of the victims had a tendency of withdrawing the cases that they had brought. After putting this aspect into consideration, CHREAA decided to sensitise the public on the importance of reporting such cases and not withdrawing them.

Some of the success stories for One Stop Centre project.

1. A 15-year-old girl from Machinjiri in Blantyre, was defiled in the month of May by her uncle Boniface Maganga. She narrated to CHREAA paralegals that the uncle defiled her 10 times on different days.

Upon examination by the doctor, it was concluded that she was sexually abused. With the perpetrator being a member of the family, her relatives

were hesitant to report the matter to Police as they thought they could just discuss the matter as a family.

CHREAA paralegals offered the family legal advice and enlightened them that criminal matters are supposed to be reported to the Police and not to be discussed at a family level and that defilement is a felony so protecting the perpetrator is also committing an offence which is punishable by law.

The relatives then proceeded to report the matter at Mapanga Police station, which resulted in the perpetrator being arrested. He appeared before court and denied the charges. The relatives, who in this case were the State witnesses, were offered Paralegal Aid Clinics (PLC) by the Paralegals preparing them to testify in court. After a long battle in court, Boniface Maganga was convicted and sentenced to 10 years imprisonment with hard labour.

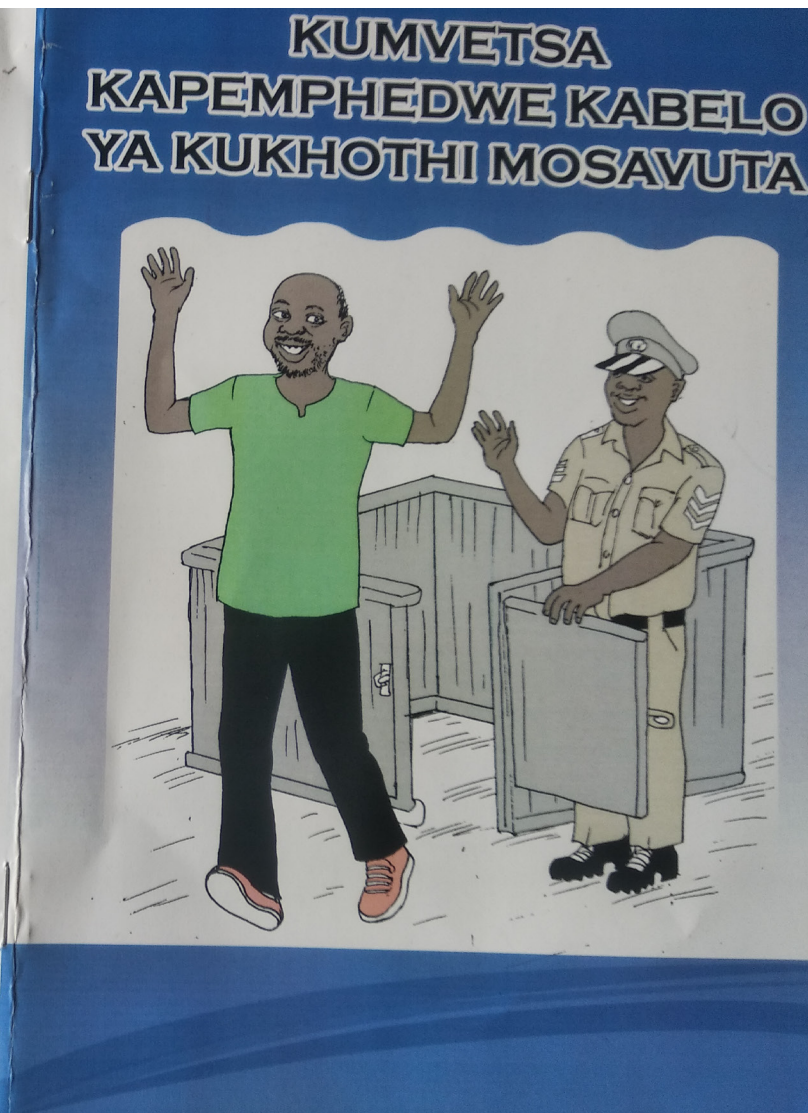
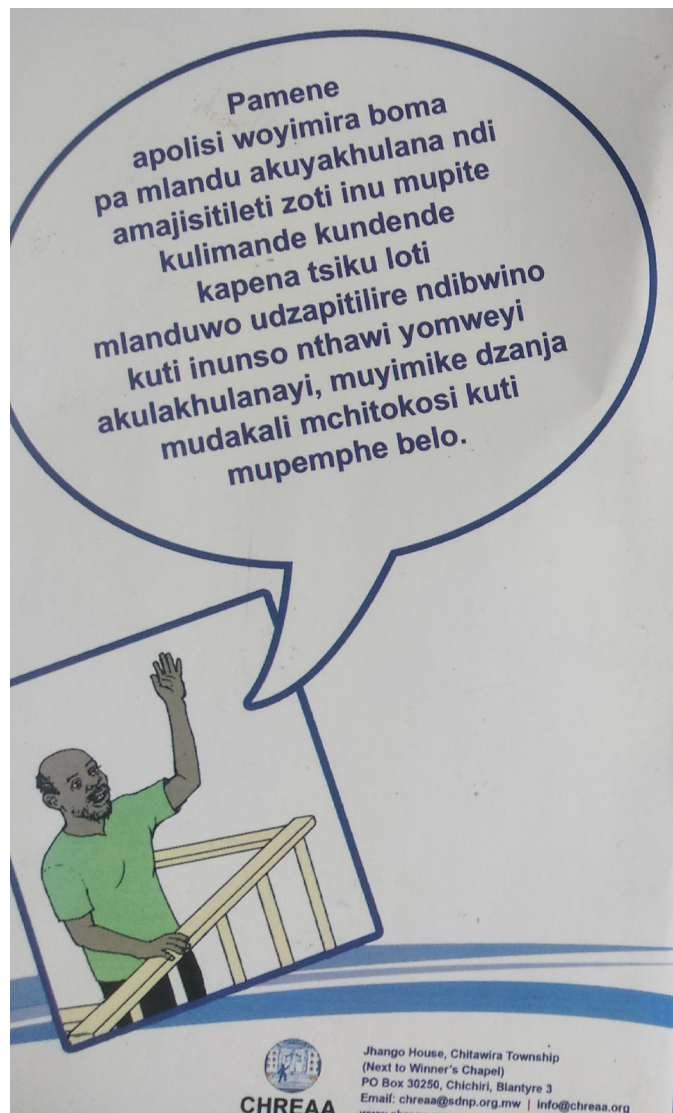
2. Six-year-old was defiled by Kingsley Zaindi who lives in the same neighbourhood in the month of July. The matter was reported at Bangwe Police and the perpetrator was arrested.

The victim and the mother were referred to the One Stop Centre for Medical examination and assistance. When trial started, the prosecutor's efforts to trace the witnesses proved futile.

He then engaged the One Stop Centre for assistance knowing that the centre has partnered many organisations, including CHREAA, who can help with the matter. CHREAA, together with social welfare and Girl Guide, worked hard to trace the victim's mother.

She had a given a phone number which was not in use at the moment. After a long search, the witnesses were traced. CHREAA offered PLC to the witnesses and when attending the court proceedings at Midima Court until the case was concluded.

The perpetrator was convicted and sentenced to 12 years imprisonment with hard labour.



Bail guide booklet

MALAWI BAIL PROJECT

In 2012, CHREAA conducted a research to understand why inmates that had committed minor offences could not be released on bail.

The findings of the research indicated that 75 percent of prisoners interviewed were not aware of the right to bail and had not been informed of the opportunity to apply for bail either at the Police Station or during their first court appearance at the magistrate court.

To help address the challenges stated, in 2014 CHREAA implemented a project called Malawi Bail Project which has been running ever since. The aim of the project is to empower vulnerable populations arrested for minor offences to apply for bail by using basic skills acquired through reading a bail guide booklet or from listening to a bail application guide audio.

The booklet and audio were designed to increase the amount of bail

applications made and granted at the first court appearance or at the Police Station prior to detention and consequently reduce the number of people unlawfully imprisoned in prolonged pre-trial detention in overcrowded prisons and Police stations across Malawi. The project has proved to be a huge success although there was minimal funding

One recent success story is that of Cosmas Banda who was arrested on the offence of malicious damage by Blantyre Police.

He was convicted by Blantyre magistrate court, and was charged a K10,000 fine, and 6 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 releasing the inmate, stating that his committal warrant had no indication that he could be released upon paying the fine.

The relatives took the matter to CHREAA for assistance. CHREAA managed to follow up the issue and realized that indeed the committal was wrongly worded and did not confer with the magistrates' judgement.

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 is being punished twice on the same offence, since he is serving a custodial sentence even though he paid the fine.

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



CHREAA paralegal officer, giving money to a complainant as part of payment for his terminal dues from his former employer.

Among the complaints received, labour matters topped the list with 59 cases followed by 31 child maintenance or child support cases, 17 cases of access to justice, 14 cases of criminal matters, 9 cases of gender-based violence, 8 civil matters, 8 cases of land disputes, 5 cases of property damage, 5 cases of torture, 3 cases of personal injury/assault, 2 of family disputes and the least of all being chieftaincy wrangles with one case.

GENERAL COMPLAINTS

Apart from a wide range of projects and activities that CHREAA works on, it also receives a wide range of complaints from its various clients. CHREAA helps to provide the much needed assistance that the clients are looking for.

The complaints range from labour issues, land disputes, civil matters, torture, chieftaincy matters and many others. In 2021, CHREAA has received 162 general complaints.

Out of the 162 complaints, 117 were dealt with and were closed while 45 cases are still on-going. The 116 cases were dealt with through various mechanisms that CHREAA put in place in handling general complaints such as mediation between the concerned parties, writing of demand letters to

the defendants that were honoured, legal advice, and referrals to relevant authorities such as the Courts, Ombudsman, Legal Aid Bureau, Labour Office, Police and District Commissioner's office.

Among the complaints received, labour matters topped the list with 59 cases followed by 31 child maintenance or child support cases, 17 cases of access to justice, 14 cases of criminal matters, 9 cases of gender-based violence, 8 civil matters, 8 cases of land disputes, 5 cases of property damage, 5 cases of torture, 3 cases of personal injury/assault, 2 of family disputes and the least of all being chieftaincy wrangles with one case.

The organization has seen a

successful working year in terms of handling general complaint matters through its various paralegals' team in providing inspiration for human rights activities.

Through CHREAA, many people have been helped and this has provided confidence in the lives of many people to keep referring matters to CHREAA whenever needed.

A complainant came to the office and claimed that he was unfairly dismissed from work by his employer but was not paid his terminal dues. CHREAA engaged the employer by calling her and wrote a demand letter which she acknowledged to pay the complainant. We advised the employer to pay the complainant.



UNCONSTITUTIONALITY OF THE DEATH PENALTY

Naturally, every human being is supposed to enjoy the right to life because it is only when a person is alive that he or she can enjoy all other rights or freedom.

However, there seems to be an aspect of torture to some prisoners where they are charged with a death sentence under section 176 of the Penal Code.

Based on the facts, it is clear that since the coming in of multiparty system in Malawi, no one has ever been executed after being sentenced to death.

By analysing the torture aspect that the death sentence brings to some prisoners, CHREAA, in partnership with Reprieve with funding from the European Union, embarked on a two-year project which started in 2021 under the theme

“eliminating torture and other cruel, inhumane or degraded treatment or punishment connected to the use of death penalty in Malawi criminal justice system”

The core aspect of the project centres on challenging the use of torture under section 176 of Penal Code.

The project focuses on those on death row and the extent to which their evidence makes them to be under

such punishment.

The project is advocating that there should be a life imprisonment not death penalty because the death penalty presents a sense of mental torture to the convicts in the sense that they do not know what tomorrow will bring as they usually have a feeling that they can be executed anytime.

In addition, the project is also advocating that prisons should be reformatory centres not places for punishment. This is in line with the poor living conditions in all prisons in Malawi, including eating once a day and the availability of limited space where inmates live in a congested environment which makes it easy for them to contract diseases like TB.

The project has clocked a year and efforts are still being made in the courts by CHREAA to phase out the death penalty. In addition, the project is also advocating that prisons should be reformatory centers not places for punishment.

This is in line with the poor living conditions that are in all prisons in Malawi including eating once a day and the availability of limited space where inmates live in a congested environment and this makes it easy for

them to contract diseases like TB.

On 28th April 2021, the Malawi Supreme Court of Appeal effectively ended the death penalty in Malawi by ruling that capital punishment is an unconstitutional derogation of the right to life. The Supreme Court’s decision was based on the right to life as enshrined in Malawi’s Constitution. Prisoner Charles Khoviwa had appealed against his mandatory death sentence, arguing that he was entitled to a re-sentencing hearing.

The court agreed, in an 8-1 decision, and ruled not only that all prisoners on death row should be re-sentenced, but that no further death sentences may be imposed.

The ruling reiterates that as the “death penalty is unconstitutional”, sections of the penal code that include death must now be read as having life in prison as a maximum sentence.

Background

Charles Khoviwa was sentenced to the mandatory death penalty in September 2003.

At the time, every person convicted of murder in Malawi was automatically sentenced to death without consideration of their life history or circumstances of the offence. In 2007, this was struck down as unconstitutional in *Kafantayeni v. Attorney General*.

As a result of the *Kafantayeni* decision, every man and woman given a mandatory death sentence was entitled to a re-sentencing hearing, at which they could present mitigating evidence such as good character, youth, mental illness. This applied to 168 people.

The project was incredibly successful. After hearing the life stories of prisoners and weighing the circumstances of the offences, the courts reduced the sentences of every single prisoner. None were re-sentenced to death. 146 prisoners have been released into the care of their families and communities.

LITIGATION CASES UNDER WAY

THE STATE VS ANDREW CHAGAGA

On 12th December 2020, minor X was arrested for idle and disorderly offence under Section 180 (d) of the Penal Code. The arrest took place at around 18:30 hours at a place close to a cemetery near Limbe Township. X was in the company of her two friends (a boy and a girl) whilst waiting for public transport on their way to attend overnight prayers in Bvumbwe township.

The Police officers allegedly accused them of intending to steal from the graveyard and demanded cash from the three if they wanted to be released. The girl paid the Police officer K8,000 and was immediately released whilst X and the boy were arrested and taken to Limbe Police.

At the Police station, they locked the boy into a cell and Officer Andrew Chagaga took X from the cell area towards the offices where he raped her twice before initiating release their release the same night.

X reported the incident the following day and Chagaga was subsequently arrested for rape. The trial commenced on 17th February 2021 and officer Chagaga was convicted of rape on 15th July 2021. The Court delivered its judgment convicting officer Chagaga for raping the child twice in Police custody. The convict is yet to be sentenced. Currently, an application was made on 25th August to commit the convict to the High Court for sentencing. Ruling on the same is to be pronounced on 31st August 2021.

THE STATE VS MAHOMMED HANNIF

Mahomed Hannif is a Pakistan national who is accused of defiling a 14-year-old girl. Following the corrupt acts that led to the withdrawal of the rape charge against Mahomed Hannif in March 2020, CHREAA followed up the matter and reported the same to Anti-Corruption Bureau for their action.

CHREAA had several meetings with the Malawi Police Service authorities which managed to re-instate the case at Dalton Magistrate Court. CHREAA then applied to the DPP Chambers for private prosecution which it was granted. Plea taking was done on 27th November 2020 before His Worship Masonga.

The matter was adjourned for hearing on 21st January 2021 but hearing never took place as the defence could not avail itself. On 23rd April, CHREAA was served with a letter written by the accused person's son addressed to the presiding magistrate, his Worship Masonga informing him that the accused person had gone missing.

On the set date of hearing, 26th April, a warrant of arrest for Mahomed Hannif was issued by the court and the Regional Prosecutions Officer undertook to ensure that the search for the accused is effected immediately. CHREAA is now in the process of ensuring that a civil suit against Malawi Police Service and the government is instituted to hold the Police accountable for the misconduct by Prosecutor Abubast and Singano.

To date, there has not been any news in relation to the whereabouts of Mahomed Hannif. The matter was being prosecuted by Ruth Kaima together with the Regional Prosecutions Officer for Southern Region of Police. It is to be noted that as the matter was also referred to the Anti-Corruption Bureau, there is another corruption case proceeding being prosecuted by ACB against the Hannif, two Police officers and another woman who was also involved.

ALEX JIMU VS THE REPUBLIC CRIMINAL REVIEW CASE NUMBER 5 OF 2021

CHREAA, in conjunction with Southern Africa Litigation Centre, is challenging the constitutionality of the offence of defilement under section 138(1) as it applies to consensual sexual relations between adolescent

children, which only penalises the boy child.

The Application was made before Justice Patemba who, following a preliminary objection by the state referred the matter to the Chief Justice for certification as a constitutional matter on 13th August 2021.

CHREAA is now in the process of processing the case for certification. The matter is being handled by counsel Ruth Kaima for CHREAA and Chikondi Chijozi from SALC.

FRANCIS KAPU AND 7 OTHERS VS THE STATE CRIMINAL REVIEW CASE NUMBER 5 OF 2021

CHREAA in conjunction with SALC made an application challenging the detention of children in Police custody. This followed a revelation that 8 children were detained at Limbe Police for various offences ranging from theft, robbery and house breaking and had been detained for different periods ranging from a week to more than a month.

It was further discovered that most of these were being detained under an order of child court to continue remanding the children at Police. The court agreed with our arguments and stated that the orders of the lower court for the detention of the Applicants in Police custody at Limbe Police station are contrary to section 96 of the Act and thus unlawful as proper place of detention for children are safety homes.

