

## **Centre for Human Rights Education, Advice and Assistance Blantyre, Malawi**

First and foremost, I would like to express the utmost gratitude to the Human Rights Lawyers' Association for awarding me both a bursary and the Peter Duffy Memorial Award, enabling me to undertake an internship at the Centre For Human Rights Education, Advice and Assistance in Blantyre, Malawi. Without this financial support I would have not been able to undertake this internship and gain an invaluable insight into the way human rights law functions on the ground in a country such as Malawi.

The Centre for Human Rights Education, Advice and Assistance (CHREAA) is a sparsely funded human rights NGO dedicated to upholding the spirit and principles of human rights in Malawi. They focus mostly on assisting prisoners who have no access to legal representation, whilst also highlighting issues such as the state of health in Malawi's prisons and advocating the need for reform.

Integral to the work of CHREAA is upholding the Constitution of the Republic of Malawi and holding public bodies to account. To this end they are key stakeholders in a number of projects, most notably the Kafantayeni Resentencing Project. Following the landmark constitutional case of *Kafantayeni* in 2007, the High Court of Malawi ruled the mandatory death penalty for murder as prescribed by Section 210 of the Penal Code incompatible with Sections 14 and 19 of the Constitution. As a result, the courts were freed of the obligation to impose the death penalty in every murder case, but were allowed discretion to pass the most appropriate sentence given the factors and circumstances of each particular case.

The *Kafantayeni* decision also allowed the almost 200 people on death row the right to an individual resentencing hearing. However due to scant legal aid provisions and shortage of legal representation in the country, as of yet not a single hearing has taken place.

The project faced a number of obstacles from the outset. Locating the files for those convicted of murder was not straightforward owing to the haphazard filing and record keeping within the High Court registries, with files incomplete or missing entirely. Part of the work of the project involved interviewing prisoners about their case as well as police officers, judges, headmen and villagers to re-establish and re-document the particulars of the event. As part of these interviews I also produced a summary of mitigating factors in each case for the court to take into account at the resentencing hearing.

The work also involved typing up court transcripts from the original hearing. These transcripts were mostly handwritten, almost illegible, and translated from Chichewa. Quite often during this process I found glaring procedural or evidential issues which were not highlighted at trial, such as material witnesses not being called and fabricated or tainted evidence being used.

Part of the project also involved researching to what extent the prisoners were assessed for psychiatric disorders during trial, and the way these are diagnosed and treated within the prison system. We managed a major breakthrough toward the end of my time in Malawi when interviewing medical professionals at Zomba Prison and Blantyre College of Medicine. We learnt of a highly respected doctor and academic at a hospital in Mzuzu whose area of expertise was untreated psychosis and schizophrenia. Through the course of interviewing him we realised his knowledge and expertise could play a key role in our work. We were elated when he agreed to be a part of the project, which was a truly monumental development.

From my time in Malawi I am proud to have been a part of something as noble as the Kafantayeni Resentencing Project. Knowing that I will help secure a just rather than peremptory sentence for those on death row, and even the release of those wrongly convicted is the *raison d'être* of the human rights lawyer.

Being a part of this project reaffirmed my passion for human rights law and its incredibly rewarding career path, and the fundamentally important work of those in the field.

Once again I would like to give my utmost gratitude to the HRLA for awarding me a bursary and the Peter Duffy Memorial Award, without which this incredibly enriching and rewarding experience would not have been possible.

**Lawrence Corr, 2014**