

FEDERATION FOR DISABILITY ORGANISATIONS IN MALAWI

Disability Rights Unit of Malawi

Bi-Annual Narrative Report

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1.0 INTRODUCTION

In December 2011, the Federation for Disability organisations in Malawi (FEDOMA) established the Disability Rights Unit project (DRUM) with funding from OSISA. DRUM is a human rights project with the aim of establishing principles and precedents that would ensure the protection and promotion of the rights and fundamental freedoms of persons with disabilities mainly through casework and litigation. Within the first six months, the project has focussed on handling of individual cases, awareness and publicity of the project and also on accessibility audits.

2.0 REPORT SUMMARY

This report covers the period 1st March 2012 to 30th June 2012. This is the period when the main activities of the project began.

During this period, the project has received 8 cases all from within the city of Blantyre.

KEY ISSUES

Staff- one staff for the project turned down his position. The project has two personnel for now.

social work- the project has so far received 8 cases, one of which has been solved socially. The other 7 cases are still active.

accessibility audits- access audits were conducted around the city of Blantyre

legal cases work- the project has not referred any case to court yet.

awareness raising and outreach- DRUM has continued to publicise the project so that it reaches the general public.

3.0 PROJECT ACTIVITIES

3.1 Staffing:

The project is being managed by two full time paralegal caseworkers, one of which is also the project Manager. Previously, the project had three personnel, but one decided to quit because of personal reasons. The executive director of FEDOMA is part and parcel of the team.

3.2 Awareness creation:

Since the project began its operations, it has carried out a number of awareness activities. For instance, on the 21st of March 2012, DRUM conducted a press briefing at FEDOMA office. Representatives from different media houses were invited. These were briefed on the establishment of the new project, its activities and expected outcomes.

Secondly, DRUM has had individual meetings with the different Disability People's Organisation (DPOs) which are affiliate organisations of FEDOMA. These have all been briefed about DRUM as a project. Some of the cases that DRUM has received so far have come from the DPOs because of the meetings that were conducted.

3.3 Outreach:

The project has so far conducted one outreach activity. On the 21st to 22nd of June, DRUM had an outreach campaign at Namiwawa primary school within the city of Blantyre and also at N'deka, T/A chigalu in the rural areas of Blantyre.

At the primary school, teachers, parents of children with disabilities and the children with disabilities were brought together. These were briefed on the establishment of DRUM, its activities and expected outcomes. They were encouraged to work together with the project and also to pass on the message to other people in the community. Teachers were sensitised on how they should make the school accessible for persons with disabilities

A number of possible individual cases were brought forward at this meeting.

On the 22nd of June 2012, DRUM also conducted another awareness activity at N'deka, T/A chigalu. Parents of persons with disabilities and persons with disabilities were sensitised on their rights as persons with disabilities and also that DRUM as a project would take up their cases for litigation if they are based on disability.

3.4 Individual casework:

The project received about 8 individual cases within the review period. One case has been solved at case work level. A matter in which a client (deaf) wanted to be enrolled into a school for the deaf but was not given a place in the school because she did not perform as expected to the standards. The client was only advised to sit for the entrance examinations again.

The other 7 individual cases are still active. Clarity letters have been written to perpetrators. Some have responded and the project will take the next step. Some perpetrators have not responded yet. The summary of each case has been written in appendix 1.

3.5 Strategic litigation:

The project did not handle any strategic litigation case. However strategic litigation cases might arise from the individual cases that the project has received.

3.6 Access audits:

The project conducted disability accessibility audits of 13 buildings around the city of Blantyre during the period under review. The buildings audited included four institutions of higher learning, two shopping malls. One bank, the chileka international airport, four hotels and the st Columba CCAP church. The standard Bank denied DRUM to conduct the access audit at their premises.

The audited buildings are yet to be served with reports and recommendations for adjustments. Short, medium and long term recommendations will be given. Failure to comply with the recommendations will call for litigation after nine months from the time of serving the reports.

3.7 Advocacy/campaigns:

The project has embarked on advocating for an accessible electoral process. Since Malawi will in 2014 hold presidential elections, the project has just begun to review challenges that are encountered by persons with disabilities during elections. The Malawi Electoral Commission will be enlightened on the same so that the electoral process can be accessible for all in 2014.

4.0 project meetings

DRUM staff met every week to review the cases. The team comprised the Project Manager, and the paralegal caseworker.

The Executive director of FEDOMA was briefed and updated of any developments of the project

DRUM took advantage of any meeting that was conducted at FEDOMA to brief the participants about the project and in a way publicising it.

4.1 External meetings:

The project held external meetings with DPOs around the city of Blantyre. The main objective of the meetings was to brief them on the project and its activities.

The project also had external meetings with Abeda Bhanjie who is a project lawyer from SALC, and also

Louisie from OSISA. Through these meetings, the project was linked with local lawyers from Malawi who would work with the project on individual cases. The project lawyer for SALC assured the project that she would assist in all possible ways and also that SALC would handle some of the projects strategic litigation cases.

4.2 Workshops/trainings:

Within the month of May 2012, the project conducted one training with the access audit team. The team comprised of 10 persons with different disabilities. These were representatives from all the DPOs in Malawi. The purpose of the training was to equip the audit team with accessibility audit skills.

5.0 projects outputs and successs

The project output are outlined in the tables below;

5.1

RESOLVED AND PENDING CASES		
		Total solved
Social casework	1	1
Number of cases with caseworker	7	0
TOTAL	8	

5.2 Cases per gender disaggregation and groups

Cases	Male	Female	Total
Received in Blantyre	6	2	8

5.3 Cases per disability disaggregation

Disability	Number
Physical	4
Blind	1
Deaf/Speech impairment	2
Albino	1
Total	8

5.4 Sector disaggregation

Sector	No.
Employment	02
Education	01
Health	01
Compensation	03
Commerce and trade	01
Total	08

- ❖ Apart from the cases, other successes of the project are that it has managed to conduct access audits of 13 buildings within the city of Blantyre. Being the first time to do the activity, it is a success for the project.

6.0 project challenges

- ❖ Since the project has began to receive cases, clarity letters have been written and some perpetrators have since responded to the letters. The major challenge the project is facing right now is what step to take next since the project does not yet have a well defined group of lawyers who can assist on handling individual cases.

- ❖ Another challenge is that the project does not make proper follow up of cases because it does not yet have its own vehicle. The project shares FEDOMA vehicles which are most of the times busy.

- ❖ In addition, the project is run by two personnel. There is still need for one more person. As more cases come, there will be need for two caseworkers to share the cases.

7.0 conclusion

DRUM is proving to be a very succesful project as indicated by the response it has received since its establishment. It will directly or indirectly change the lives of persons with disabilities. With the enactment of the disability bill into a law, DRUM will carry out most of its activities successfully.

Apendix 1

CASE SUMMARIES

DRUM001/2012**Date:** 10/04/12**Sex:** Male**Age:** 31years**Disability:** physical**Field:** Compensation

The client worked for Finance Cooperative Limited (FINCOOP) since July 2006 to November 2010. He was promoted to the position of trainee credit officer from that of an office assistant in August 2009. However, he got involved in an accident while on his way to report to his place of promotion in mzuzu. He was hospitalised for almost 80 days and got his leg amputated. When he reported back for duties, he got a letter offering him the position of a receptionist which he felt was a demotion but signed for it in fear of losing his job. After working for some months, he was called for a disciplinary meeting and then received a warning letter that he was reporting for work drunk. Finally in November 2010 he got a dismissal letter for reporting to work drunk. Mr Dombola stated that he had never reported for work drunk but rather this was done because of his acquired disability.

He was fully compensated for the accident but he thinks his dismissal was unfair.

ACTION TAKEN

DRUM has written clarity letters to the perpetrators to seek clarity and they (FINCOOP) have so far responded.

The response has been attached.

DRUM 002/2012**Date:** 21/04/12**Sex:** Female

Age: 10 years

Disability: Deaf

Field: Education

The client has been denied the opportunity to be enrolled at Mary View School for the deaf. Despite sitting for a number of entrance examinations and passing, Lucy has not been given a place to study with reasons that she is under age. Esther stated that in the year 2010, Lucy sat for another entrance examination which she passed with 67% and was promised to be given a place. However, up to now she has not been enrolled in the school.

ACTION TAKEN

A clarity letter was written to the headmaster of Mary View School for the Deaf on the 5th May, 2012. The head teacher responded on the 8th June, 2012. In his response he included all the tests that our client wrote. The results indicated that she did not perform very well as compared with others pupils. He also indicated that the school can only enrol a limited number of pupils per year because it has limited resources. The headmaster suggested that Lucy should sit for the exam again which is scheduled for the 20th July, 2012. The client has so far been communicated to.

DRUM 003/2012

Date: 18/05/12

Sex: Female

Age: 47 years

Disability: physical

Field: Compensation

The client has been a student at Soche Technical College since May, 2010. Her examinations fees are paid by Malawi Council for the Handcapped (MACOHA). When MACOHA paid her examination fee in the year 2011, she did not get the notification from the school if her fees were paid. This was two weeks before the commencement of the examinations. When she phoned the school, she was told that the cheque had not been sent by MACOHA. She then asked MACOHA on the

same, and was told that the cheque was sent to the school. It was later discovered that the financial manager at MACOHA had kept the cheque in his drawer until the exam time. MACOHA asked the school to pay the fees for her with an agreement that they would refund, the school did not.

In April, 2012, she went again to the school administration to find out if her fees were paid since the time for exams was approaching. She was told that her examination cheque was there. Later, she got a notification that she had not paid for the exam. When she called the school to ask, she was told to wait because they had not sent her fees yet. When she checked her account on 17th May, 2012, she found it inactive. This meant that she would not sit for the exam again which was commencing on 29th May, 2012.

The client feels she has wasted time, energy and money.

She wants to be compensated for the time she has wasted preparing for exams that she has never written and to be paid for the two exams that she has missed.

ACTION TAKEN

A clarity letter has been written to the school. We are waiting to hear from them.

DRUM/004/2012

Sex: male

Disability: physical

Age: 48

Field: employment

Issue: unfair dismissal

The client used to work for Malawi against Physical disabilities (MAP), as a clerk officer, from 1992 to 1999. At first he was given a house to live in at Naperi. This place was near the work place and he did not have problems going to the office on a

wheel chair. Later, he was moved to another house situated in Ndirande. This increased the distance from his home to the work place. Despite the increase in the distance, there was no transport arranged for him. He still had to use a wheel chair from Ndirande to the office. One time he complained to the company about the distance but it did not help. One time the person who was pushing him on a wheel chair got sick and was admitted. So he could not go to work for three consecutive days. The following day he got a letter that he was fired. He was not compensated. He was only given three months notice.

The client wants his job back.

DRUM 005/2012

Date: 04/05/12

Sex: Male

Age: 23years

Disability: totally blind

Field: Business

The client is blind and is a musician. In June 2011 he produced an album which he brought to Afri Music Company so that it could be taken to the market. He states that after the company had listened to his music, they asked him to start doing promotions with the music. After he had finished doing the promotion, our client states that the company asked him to come up with 5000 cover designs, 2000 which he gave to Afri Music and he kept the rest. He was then asked to wait for the reproduction of his music which took so long because there was shortage of materials.

Our client states that in April this year he was asked to come to Afri Music offices because his music was almost ready. When he came, our client says he was given a letter which was addressed to the manager of Limbe consumers who was supposed to give him k60, 000.00 for the 2000 inlays which were supplied to Afri Music.

However, our client states that when he took the letter to Limbe consumers, he was assaulted and got the letter torn apart by Mr Salim and was then sent back without

the money for no apparent reason. Since then our client has been calling and sometimes coming to Afri Music to make follow ups on his money but he has not been assisted until now.

Our client wants the following;

- His k60,000.00 for the 200 inlays
- He also wants to be refunded for the money which he has wasted in making follow ups since he lives in Balaka.

ACTION TAKEN

A clarity letter has been written to Afri Music Company on the 6th of June 2012. We are waiting to hear from them in two weeks.

DRUM 006/2012

Date: 05 /06/12

Sex: Male

Age: 31 years

Disability: physical

Field: Compensation

The client has a physical disability. He was learning at Soche Technical Collage. He started in the year 2008. At first his fees was paid by MACOHA and later the ministry of elderly and disabilities took over.

In the year 2008, January – June semester, MACOHA paid the exam fees to the school. The client wrote his exams without being assigned membership and sitting number. His examination results never came because his fee was not paid to the examination board by the school. In July 2008 he asked the man responsible for the payments why they he did not get the results. He was told it was because they did not send the money in time. In July, he got the membership and sitting number. He wrote the exam.

In 2009, January –June semester, he wrote exam without sitting number again. He got a letter saying his paper will not be marked because the examination board did not get his money. He asked the course coordinator and he was not convinced with the way he was answered. He then wrote a letter to ministry of elderly and disabilities asking them to be sending him the money so that he pays for the examination on his own. He was told that it would not be possible because government's money cannot be given personally. The coordinator asked the client why he had to write the ministry about the money issue. This time he wrote the exam that was not marked.

In 2010, July – December, he wrote an exam of a subject that he failed earlier. He did not know the results because there was a credit of 25 pounds (annual subscription). He wrote a letter asking MACOHA to pay the money which they did. They sent a cheque and the course coordinator confirmed of getting the cheque. The client was told that the bank draft was sent. He waited for two weeks. When he asked the course coordinator to give him the bank draft details, he was never given. He asked to meet the course coordinator personally on issues concerning the bank details; he was never given a chance to meet him. Sometimes the client could be kept waiting for him and he never showed up.

He is supposed to pay every year for the account. Now the money has accumulated to 55 pounds. He managed to raise money and paid 35 pounds. Since then his account has been deregistered and there is need for him to get registered again otherwise he will not sit for any other exam.

ACTION TAKEN

A clarity letter has been written to the perpetrators and we are waiting to hear from them.

DRUM 007/2012

Date: 19/06/12

Sex: Male

Age: 40years

Disability: Deaf

Field: Employment

The client has worked for Malawi against Physical disabilities (MAP) as a messenger for the general manager since 1997 to February 2012 when he was dismissed. He was dismissed from work on allegations that he was found with a pail of flour from the kitchen and also that he was coming to work over the weekend which he refuted. The client explained that while office a cook came to ask for a broom. When the client asked the cook what he was going to use the broom for, the cook told him that he had dropped flour on the floor and so he wanted to use it for cleaning. The client helped the cook with the cleaning. Then the cook wanted to throw the flour away, but client asked him not to throw it away but rather give it to the guards. The client took the pail of flour to give it to the guards. Unfortunately, one of the bosses found one of the guards with the pail of flour, and he reported the case to the officials that the client had stolen the flour. He was immediately dismissed without any notice.

On the issue of coming to work over the weekend, the client used to go over weekends upon being asked to wash cars by the company's mechanics and drivers. On one weekend he saw a lady in his boss's office and upon wondering how she had entered into the office; he took spare keys and opened the office. He recognised the lady as his boss's girlfriend. He talked to the lady and as he was coming out, he met one of the employees, who later reported the issue to the boss that he had caught the client with a woman in the office. The boss did not like it that the client saw this. He then blamed him for coming to work over weekends and took it as one of the reasons for his dismissal.

The client wants to be re-instated or else paid the following:

- A one month notice salary
- Salary for the days that he had worked

- Compensated for the unfair dismissal
- Accrued leave days

ACTION TAKEN

So far DRUM has not yet taken any major action. Research is however underway to get facts of the case.

DRUM 008/2012

Date: 20/06/12

Sex: Male

Age: 34years

Disability: albino

Field: medical

The client has a locally advanced cancer of the skin on the left parotid region. He was assessed and seemed inoperable and chemotherapy was resorted to. His doctor told him that once he finished his treatment, he will have to refer him to a hospital outside Malawi for radiotherapy. The client has since finished the chemotherapy but his doctor has refused to write him the referral letter. He has instead instructed the client to go for another chemotherapy with a more expensive medicine which he has to buy with his own money. The client's condition is worsening yet he has people willing to help him to get medication outside Malawi as long as he brings forward the referral letter.

ACTION TAKEN- research is still underway as to finding out why the doctor is refusing to give this client a referral letter.

Submitted by: **Naomie Kalua**

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