

# An Evaluation of the Project “Regional Human Rights Law Clinics to Increase Access to Justice for Vulnerable Groups in Africa”



Commissioned by the Human Rights Development Initiative (HRDI)

Andante - tools for thinking AB

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## Acknowledgement

In the course of this evaluation we have travelled to several countries and visited universities, NGOs and communities. We would not have been able to do so without the kind support of the partner organisations in these countries; in Zimbabwe, Namibia, Mozambique, Uganda, Rwanda and Kenya. The persons who helped us had not asked for an evaluation and were not under any obligation to assist us, but nevertheless received us, arranged programmes, and answered all our questions with patience and endurance. We are grateful to them all and would like to thank them specifically. We are also grateful to the board, staff and management of HRDI who gave us their support, responded to questions and provided complete access to files and documents, and also took the heavy workload of organising the practical details and the itinerary of our travels in the region.

The picture on the cover page shows a legal consultation between a member in a self-help community, one of the participants in the training programme, and a lawyer from an organisation that also takes part in community outreach. That's what the reality of providing legal services to vulnerable groups may look like.

Strängnäs, Sweden, September 2009

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## Executive summary

### *Background*

The Human Rights Development Initiative (HRDI) was established in 2004 to work in the field of human rights. Since 2006 Sida and Danida have financed a project of HRDI entitled "Regional Human Rights Law Clinics to Increase Access to Justice for Vulnerable Groups in Africa". The overall goal of HRDI and the project is to contribute to the protection, promotion and respect for the rule of law and human rights in Africa, through increasing access to regional and international human rights forums. The aim is to work with poor and vulnerable groups in society.

### *Purpose of Evaluation*

The project had a budget of SEK 18 million and is extended through 2009. This evaluation has been commissioned by HRDI to provide guidance on future direction and to assess the effectiveness. The evaluation was undertaken in July and August of 2009 and is based on visits to HRDI in Pretoria and to six countries of the ten countries where the project has been active.

### *Achievement of Objectives*

The objectives of the project were relevant, but not possible to reach within three years time. The project was based on an implementation plan that was not realistic; it presupposed organisational set-up and a network of committed partner organisations that did not exist at the start. The objectives have been approached rather than reached.

### *Training Programme*

The most visible success of the project is the training programme that was implemented in 2006, 2007 and 2008. Former participants unanimously praise the programme and have benefited significantly - they have learnt new skills and it has meant fundamental changes in values and attitudes. It has had a significant impact. Those who have been trained apply what they learnt.

### *Community Outreach*

As a result the community outreach activities have been carried forward when the participants returned after the training. Large numbers get access to legal advice – a service they did not have in the past. The information on rights and related advocacy work is significant

and several persons have been reached, and through the training of trainers many more are reached indirectly. The outreach programmes reach vulnerable groups through choice of location and use of mobile services.

### *Legal Services*

It takes longer to develop jurisprudence than could be completed within the life time the project and this work has merely started. The project has been partly successful in working with university law clinics and affecting what these do. It would take longer than three years to develop a common understanding of the objectives and develop ownership of project activities, and it should be considered a reasonably good result that there is a network with some institutions that do have a stake in the continued activities of the partnership.

### *Networks*

The time has come to devote more time to thinking about the network structure, and the evaluation concludes that a more formally developed network structure, with a governing body, a constitution, rules around membership, etc. needs to be developed if the activities.

### *Strengths and Weaknesses*

Analyzing organisation and management, the evaluation concludes that the main strengths were to be found in; relevant and pregnant formulation of vision, mission and values; strong and competent board and a clear governance structure; robust and well-working financial systems; a core of committed and competent staff members, and a learning organisation. The main weaknesses of the organisations were found to be: a top-heavy administration, initially a lack of realistic planning; lack of useful M&E systems; difficulties in recruiting and in assessing partners in the region.

### *Scenarios*

The evaluation presents three scenarios for the future, on expansion, consolidation, and closing shop, respectively. The pros and cons are outlined and it is concluded that a scenario based on consolidation of the network activities is well in line with the vision, mission and values of HRDI and makes good use of the past experiences.

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## Abbreviations

Abbreviation	Text
ART	Anti-Retroviral Treatment
CLAN	Children's Legal Action Network
Danida	Danish International Development Agency (of Danish Ministry for Foreign Affairs)
DKK	Danish crowns
HIV/AIDS	Human Immune Deficiency Virus/Acquired Immune Deficiency Syndrome
HRDI	Human Rights Development Initiative
JAT	Justice Aids Trust
KIPOTEK	Kibera Post Test Clubs Network
M&E	Monitoring and Evaluation
NACWOLA	National Community of Women Living with HIV/AIDS
NGO	Non Governmental Organisation
NIMR	National Institute for Medical Research
PLW	People Living with HIV/AIDS
PMC	Project Management Committee
SADC	Southern African Development Community
SEK	Swedish crowns
Sida	Swedish International Development Cooperation Agency
ULC	University Law Clinic
UPMB	Uganda Protestant Medical Bureau
USD	United States Dollars
WLSA	Women and Law in Southern Africa
ZAR	South African rand
ZNNP+	Zimbabwe National Network of People Living With HIV and AIDS

## Currencies

The report uses Swedish crowns for the discussion of budgets and costs, as this is the currency the organisation had most of its incomes in. The exchange rates have fluctuated sharply during the lifetime of the project, from SEK 5.94 to SEK 9.10 to the USD. At the time of writing, the exchange rates between the major currencies that are of relevance to the project are:

USD 100 = SEK 704  
SEK 100 = USD 14.2  
SEK 100 = DKK 73  
SEK 100 = ZAR 110

## Chapter 1. Introduction

### Background

The Human Rights Development Initiative (HRDI) was established in 2004; it was set up as a non-profit, non-governmental organisation to work in the field of human rights, and it is based in Pretoria, in South Africa. During the first years of the operation the founding members developed a project proposal that came to be financed by the Swedish International Development Cooperation Agency (Sida) and the Danish Ministry for Foreign Affairs (Danida). The project, entitled “Regional Human Rights Law Clinics to Increase Access to Justice for Vulnerable Groups in Africa” was at first designed for a three year period from 2006 through 2008, but has since been extended through 2009.

The overall goal of HRDI is to contribute to the protection, promotion and respect for the rule of law and human rights in Africa, through increasing access to regional and international human rights forums. The aim is to work with poor and vulnerable groups in society. The project has a more limited set of objectives, which are to:

- Contribute to the development of a regional human rights jurisprudence within the African Commission and soon to be established African Court of Human and People’s Rights, and other vital institutions;
- Contribute to the development of centres of excellence within African university based law clinics that will contribute toward discourse within the regional and international human rights institutions; and
- Proactively address key socio-legal and ethical issues within the region.

University law clinics provide one channel for access to justice for people who do not have the means to pay the fees that are generally asked for by legal professionals. The HRDI-project intended to create a cadre of lawyers guided by international and regional human rights norms and standards in their daily work. HRDI work with a focus on access to justice for people discriminated against on the basis of their HIV/AIDS status within the SADC and Great Lakes regions.

The intervention strategy of the project focuses on working with university based law clinics on the use of international and regional human rights instruments and mechanisms to protect the rights of people living with HIV/AIDS. The project has so far involved participants from the following ten countries; Zimbabwe, Namibia, Mozambique, Botswana, Zambia, Tanzania, Uganda, Rwanda, Kenya and the Democratic Republic of Congo. The main areas of intervention are; (1) training programme for lawyers, (2) community outreach and, (3) provision of legal services.

The goal of the *training programme* was to build a cadre of lawyers who have sufficient knowledge, information and skills to integrate the use of international and regional human rights norms and standards in their law clinics. The participants in the training programme were expected to be committed and able to challenge elitism and social, economic and political injustices generally, and more specifically unfair discrimination against people living with HIV/AIDS, and enable them to better secure the socio-economic rights of vulnerable groups. Towards the end of the project, they should be part of a formal or informal network of social justice lawyers within their region and develop regional strategies in collaboration with each other where appropriate. HRDI emphasises that participants should not solely be motivated by the prospect of earning money.

The second component was to develop a comprehensive *community outreach programme*. This was necessary since the university law clinics are often situated on campuses that are far away from the communities that they intend to serve. The challenges faced by the vulnerable groups in accessing the services of university law clinics are considerable and hence the need for effective outreach. The aims of the outreach programme were to reach the most vulnerable groups, such as people living with HIV/AIDS, to help build strong relationships between the Law Clinics and organisations in the communities, and to provide free legal assistance.

Finally, the *legal services component* included larger projects of public interest litigation and regular provision of legal services to the community. The public interest litigation meant that the participants in the training programme have consulted with local communities on pressing issues of which a number were intended to evolve into larger impact cases. The participants have used these cases both during the training and in the follow-up afterwards. The cases should in the end form a set of references for the further application of human rights in the region.

During the project period three training programmes have taken place; in 2006, 2007 and 2008 respectively. A total of 23 persons have finished the training and 15 persons remain in the programme today. Each training programme lasted for 20 weeks and contained a mixture of theoretical lectures, workshops and seminars, practical work, case study development, voluntary work and study visits. The participants of earlier years have returned for one month during the following years, to expand the network of lawyers and keep up to date with developments within the field.

The Swedish and Danish agencies funding development cooperation provided a total of around SEK 17.2 million<sup>1</sup> (approximately USD 2.4 million) for the duration of the project. The funds cover costs for the organisation as well as direct project costs. Although it was meant to be a three-year project, the funds that were not spent in the initial years have been used for no-cost extension of

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<sup>1</sup> Sida contribution is SEK 11 million and the Danida contribution is DKK 4.5 million.

the project activities, and at present it seems that the remaining funds can last at least through 2010.

### **Purpose of the Evaluation**

The present evaluation has been commissioned by HRDI itself, not by the funding agencies. The purpose of the evaluation is to determine the extent to which the project intervention has achieved the results contemplated in the proposal, both qualitatively and quantitatively. It is further intended to assist HRDI to map out its future direction. In other words it is meant to assist HRDI to determine whether to deepen its work in the partner countries, to broaden its scope geographically and/or to deepen its work programmatically. It is expected to assist existing and potential donors to determine whether the outcomes it contemplated were achieved and whether to continue, deepen and expand or to terminate the support of the programme. The full terms of reference for the evaluation are enclosed in annex 1.

### **Evaluation Methods**

An evaluation can in principle make use of four different sources of data; document analysis, interviews, questionnaires and observation. In this evaluation we have primarily used interviews, document analysis and observation, in that order, as our sources of data. We have not sent out any questionnaires.

### **Interviews**

Our interviews can be sorted into five different groups; (1) the participants in the training programme, (2) stakeholders in the community outreach programmes, (3) managers and colleagues of the participants in the training programmes, (4) teachers on the training programme, and (5) the HRDI representatives. The latter form two different groups - management and staff of the organisation and board members. Annex 2 contains a list of persons met for the interviews. We used an open but structured interview format.

### **Document Analysis**

The HRDI and its project are well documented. We have perused the founding documents of the organisation, the project proposal, annual progress reports, implementation plans, and audit reports. We have also looked at protocols of board meetings, protocols of the Project Management Committee, and correspondence on management issues. The training programmes are documented in the form of course plans, power point presentations of lectures, project proposals and papers written by the participants, as well as evaluation formats. HRDI provided us with CD-ROMS of relevant documents before the work started and we have since also obtained documents from the archives and DVDs of sessions in classes.

### **Observation**

On the field visits we have been able to see, for example, the progress and lack of progress in respect of voluntary work, the changes in terms of interaction with community-based organisations, the interaction between participants in the

training and people in the communities, in particular people living with HIV/AIDS. We have also been able to see the organisation at work and to observe interaction between team members during several days of work in Pretoria.

### **Sampling and Country Visits**

Out of the ten countries where there were project activities, it was decided to undertake evaluation visits in six countries. HRDI management took this decision and the selection was made so as to have a representative number of countries from both the Great Lakes region and from the SADC region. Furthermore, there were to be countries that had been present in both the 2006 and 2007 training programmes, while it was considered too early to have meaningful follow-up in those countries that joined in 2008. The country visits have taken between one and three working days, and generally included interviews with participants in the training, visit to University Law Clinics or the places where the participants now work, visits to the community outreach partners, and at times, visits to other stakeholders in the programme (for example board members).

### **Organisation of the Evaluation**

HRDI awarded the contract for the evaluation to us, Andante - tools for thinking AB, a Swedish company specialised in evaluation research. The evaluation has been undertaken by Kim Forss and Charlotta Forss. Further details about Andante - tools for thinking AB can be found at the website, [www.andante-evaluation.com](http://www.andante-evaluation.com).

### **Limitations, Validity and Reliability**

The evaluation has been completed from mid-July to the end of August 2009, during a total of 30 working days. This is a short period of time in which to assess a comprehensive and multi-faceted project in a highly specialised professional field. There are still many aspects of the project that we have not been able to cover. Furthermore, neither has the project come to an end nor have all the funds of the project been spent. It is of course not possible to conclude that objectives were fully reached, or not, until the activities have come to an end (and ideally, until some time has passed). However, the evaluation process has been made easier by having focused terms of reference, which highlights effectiveness rather than any other dimension that results could be assessed in.

It is a fairly homogeneous picture of results that emerge. After a total of some 50 interviews, we get a consistent and clear picture of achievements as well as of where the major problems lie. Document analysis, interviews and observation point in the same direction. The reliability of our findings is high and we doubt that anyone else, using the same instruments and process of inquiry, would come to other conclusions.

The validity of findings is, in some instances, more open to doubt. We have only met a small sample of community groups, and we have not met all participants in the training programmes or visited all countries. The validity of the assessment could have been affected, and could also have been affected by the fact that

English is the second language of both us and the respondents, hence misunderstanding may occur. There are also cultural differences in the interview situation, for example on how criticism is expressed and understood. The reader should bear in mind these problems, but, on the other hand, quite a lot of the analysis rests on written materials and interview in an environment of skilled personnel, used to methods of inquiry and research. The validity of findings and conclusions of that information is less open to doubt.

### **A Guide to the Reader**

Following this introduction, the evaluation report has been structured into six chapters. The central chapters, 3, 4 and 5, present our findings on the three key activities of the project; the training programmes, community outreach, and legal services, respectively. Each chapter describes the activities, presents data from our field visits and takes the reader through the analysis of the intervention strategy. This is not as easy as it may sound. The three components interact closely with each other and they cannot stand alone, as this presentation may suggest. The effectiveness of each is strongly dependent on the effective implementation of the others.

These three chapters present the results, but it is also necessary to analyse management and organisation in order to understand how the results were produced and what our recommendations for the future of HRDI could be. The three results chapters are thus framed by two organisational chapters. Chapter 2 discusses the organisation of HRDI itself and how it relates to the project. Chapter 6 discusses the network that appears to emerge from the programme. The latter chapter brings in elements of network theory to discuss the design options. The report ends with a chapter on conclusions and recommendations. In many ways the future of HRDI, the network and the project activities are wide open and range from closing the organisation, consolidating it and maintaining some parts, or growth, development and expansion. All have risks, benefits and weaknesses. Rather than recommend a particular course of action, the final chapter sets out three scenarios and discusses the pros and cons of each.

## Chapter 2. Organisational Assessment

### HRDI and its Project

As mentioned in the introduction, HRDI was established in 2004. It was the practical outcome of ideas<sup>2</sup> on developing and strengthening human rights in the region – ideas that were translated into the vision and mission statement of HRDI. In the beginning, the organisation had no funds but was based on the voluntary work of the founders. Following contacts with Sida, a proposal for a start-up grant for three months was developed. This initial grant of SEK 300.000 was support to develop a full-scale proposal. The total budget for the three month start up period was approximately SEK 830.000 and Sida thus financed around 30% of the budget to develop the full-scale project, the rest being contributions of time and other resources from the founders<sup>3</sup>.

A full project proposal with an implementation plan was approved by the donors in late November 2005. The cost of the programme was expected to be SEK 18.5 million and Sida agreed to finance 60% of the total, or SEK 11 million<sup>4</sup>. HRDI also approached Danida and secured finances for most of the remaining part of the project, a total of 4.5 million DKK (equivalent to SEK 6.2 million). The project costs are mainly in South African rand and US dollars, but the incomes are in Swedish and Danish crowns and the exchange rates have fluctuated during the lifetime of the project. These budget figures show the two major sources of finance even though the percentage shares may have come to differ. It also shows that some 5% of the total project budget was not funded.

The vision and mission statement of the organisation are quoted in Table 1. It is a very generally held vision but it is at the same time concrete. It can be subject to interpretation and discussion, but the overall meaning can hardly be disputed. The mission statement is also clear and it narrows down the vision to a very specific field – undertaking activities that challenge elitism – in society generally as well as in the legal profession, and to equip partners with knowledge and tools to challenge elitism in their societies. This is based on the assumption that elitism is one of the major obstacles for impoverished and vulnerable groups' access to justice. HRDI has chosen to work on the subject of elitism and that can be justified in many ways. It is undoubtedly an important issue, and - compared to other obstacles - there are not many other organisations that have this focus.

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<sup>2</sup> (Both founding members wrote theses on access to justice issues) One of the founding members had written a thesis on the subject on regional cooperation among university law clinics as a way of developing the jurisprudence on human rights and vulnerable groups, and the access to justice of vulnerable groups.

<sup>3</sup> Agreement between Sida and Human Rights Development Initiative on Support of Human Rights Development Initiative During October to December 2004.

<sup>4</sup> Agreement between Sida and HRDI on Support of "Regional Human Rights Law Clinic to Increase Access to Justice for Vulnerable Groups in Africa" during 2006 – 2008 (Agreement no: A2150044)

The project has a set of objectives and expected results that focus the organisation even more. These are discussed more below. The point we want to make here is that the organisational mandate is broader than the objectives of the project. The organisation could, according to its mandate, engage in many other activities in parallel and supplementary to the project. HRDI has chosen to operate one project only and there are many reasons for that. Management has taken a prudent approach not to promise more than it thought it could deliver. The aim has been to undertake a project of high quality, and diverting attention to other activities should not jeopardize that quality. There has been a strong focus and that has contributed to the effectiveness of the project. On the other hand, the evaluation questions that this focus on the one project has been the best for the HRDI as an organisation. When the project comes to an end there is no obvious follow-up and there is, in the short run, no alternative source of financing. The project can be extended through 2010 and thus new sources of financing would need to be secured for early 2011. The experience of starting up this project suggest that it can take long to develop project proposals and secure financing, but that is of course something one doesn't know until it has been tried. The evaluation has no information or insight into how prepared or willing potential financiers are to fund continued HRDI activities starting early 2011, some 15 months from the time of writing this report.

### **Table 1. Vision and mission of HRDI**

**HRDI's *vision* is an Africa where universally accepted standards of human rights are applied to everybody and where all people's value and dignity are respected.**

HRDI's *mission* is to challenge political, economic and social elitism and promote equality of people regardless of race, place of origin, gender, social status, class, religion, sexual orientation, belief, ethnicity, HIV status or any other quality or trait that might be used as a basis for unfair discrimination, using international and regional human rights standards as the barometer. Constantly bearing in mind that human rights is not about what we write or say, but what we do.

Source: Annual Progress Report for the Year End 2008.

The management of HRDI has been concerned with accountability and sustainability. It has emphasised that the organisation of HRDI is not an end in itself. HRDI should contribute to a cause and it should try to make itself redundant. Whether HRDI is sustainable or not is thus of secondary importance, and there is, a priori, no reason to expect that the organisation would not be sustainable. If the the board, managers and staff focus on raising finances and develop projects for funding, they could probably succeed in that. If it takes a second project phase to accomplish the task and reach the objectives, HRDI would be in a good position to raise finances. So far, the focus has been on implementing the project and it is now, when the project comes to an end, that HRDI starts planning for the future, for example by commissioning this evaluation and arranging a stakeholder workshop to discuss the future later this year.

## Organisation and Management

What is then HRDI as an organisation? It has first and foremost been a vehicle to implement the project and that must be said before we start the traditional organisational analysis that follows. In order to structure the analysis, we use a framework for organisational assessment that has been developed to assess NGOs in development cooperation<sup>5</sup>. The framework assumes that an organisation needs four key abilities to be effective – abilities that determine organisational performance. The four abilities are summarised in Table 2. The argument is that a high score on only one or two of the abilities is not sufficient. It is the successful combination of all four that provides the basis for high performance.

**Table 2. Analytical framework**

### **AN ABILITY TO BE**

- meaning to maintain an identity reflecting important purposes, values and strategies, and leadership to direct and manage the organisation. HRDI needs to know what it wants to achieve – both in terms of a long-term vision and more short-term objectives and targets. These values are important for staff and partners and should be understood and shared. There is a need for an effective governance structure that gives overall direction and advice and that ascertains the accountability of the activities.

### **AN ABILITY TO DO**

- meaning to establish effective managerial systems and procedures, and ensure that human and financial resources are available. A clear identity is a necessary condition, but not sufficient for NGO's who want to make an impact on society. They also need capacity and capability to organise and establish effective systems and procedures for translating objectives into activities and results. HRDI must also have sufficient human and financial resources to implement its policies. For a rights-based organisation, it is in particular important to assess to what extent it has the "right" staff and relevant systems and working methods.

### **AN ABILITY TO RELATE**

- meaning to respond and adapt to new demands among its users and changing needs in society, and retain standing (legitimacy) among its stakeholders. Most organisations need to cooperate with others to achieve their objectives. HRDI needs to cooperate with academic institutions as well as NGOs, with communities and with international organisations. The ability to work in, to create and maintain networks is crucial.

### **AN ABILITY TO SHOW RESULTS**

- to provide relevant services for its users and/or members. The three former abilities are not sufficient. HRDI may have a strong identity, a vocal leadership, well established systems (high quality plans, monitoring and reporting procedures, etc.) and relate to other organisations, but could possess less ability to implement and carry through their good intentions and deliver results at the end of the day.

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<sup>5</sup> Stein-Erik Kruse, "How to Assess NGO Capacity", Oslo 1999.

## The Ability to Be

In comparison to many other organisations, HRDI has a strong identity. It is quite remarkable that during our interviews nobody expressed any doubts about the identity of the organisation, nor did anyone raise questions concerning split mandates, roles that could not be combined, or other similar issues that reflect problems with the identity of an organisation. Over the past ten years we have completed several organisational analysis on the domestic scene in Sweden and amongst international organisations. Very few have as clear an identity as HRDI, and the clarity rests on both the understanding of the vision and mission of the organisation and its fundamental values, such as these are expressed in Table 1 above.

In terms of governance there are several structures in place. HRDI has a board with seven members. There are two board meetings annually; one of them is a physical meeting and the other virtual. The board is composed of seven persons that all have a strong background in international human rights; they have a legal background and work experience in international human rights organisations. While that is excellent in itself, it is also somewhat of a problem. A board is often used to bring a diversity of experiences and competences to an organisation. HRDI's board brings excellence but it does not bring diversity to the organisation.

The board has overall responsibility for the organisation. There is a set of documents that delineate the responsibilities of the board on the one hand and management on the other<sup>6</sup>. These documents take a rather theoretical approach to these responsibilities and in practice the board has a more complex relation to the founders/management of the organisation. Overall, on paper the board has more detailed supervisory functions than one would normally expect of a board that only meets twice a year. The board has remained the same over the life of the organisation, but it would be prudent to have a strategy for changing board members at regular intervals, so that continuity and change can be combined. According to HRDI's management, they are presently looking for two new female board members from other fields than law, and that is exactly what we would have recommended.

The board is a decision-making board rather than advisory or representative (a board could be either the one or the other, and sometimes several in combination though this would normally lead to confusion over the board's role and its relation to management). In addition to the board, HRDI planned to have an advisory committee and a project management committee (PMC) of 10 members. Fortunately the advisory committee was never set up.

The project management committee has caused some confusion. The participants expected to be part of a managerial committee, but the function of the PMC is actually advisory, something which the board of HRDI was careful to

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<sup>6</sup> HRDI; Duties of Office Bearers, 2006-03-19, HRDI; Basic Responsibilities of the Board of Directors, 2006-03-19

emphasise. While the role has been made clear to the PMC members, those that we interviewed were still not convinced that was the correct approach. First, the name is misleading as to manage means to take decisions, not merely to provide advice. Second, if the partner institutions represented on the PMC are to develop ownership of activities, they need at some point to take over decisionmaking responsibilities<sup>7</sup>.

The fact is that there are two governance bodies, one for decision-making (the board) and the other with an advisory function (PMC), consisting of altogether some 17 persons. This is quite a lot for an organisation of six to seven employees and one project. We have not found any evidence of conflicts between these bodies and in fact they seem to have served the organisation well. Nevertheless, there remains some uncertainty about the role and function of the PMC among its members, and in particular, some would expect to have more influence on project management decisions. A second point is that it is a costly governance structure that involves a lot of international travel, and it could potentially lead to contradictory strategic advice.

In sum, as far as the ability to be is concerned, the strength of HRDI lies in its strong formulation of purpose and a board of well chosen persons in the field of human rights. Its major weaknesses lies in the lack of diversity and that there is no overall plan for change and turnover. The governance structure may be more costly than necessary. It would be necessary to develop the governance function of the PMC to ascertain ownership of the network activities in the long run. Yet another potentially problematic issue is the fact that the organisation is essentially a vehicle to deliver a project . The organisation has recently started developing plans for the future and the evaluation cannot say much of the outcome – but time is short and 15 months pass quickly and hence there is a need to speed up action if HRDI will need finances from early 2011.

### The Ability to Do

Since the beginning, HRDI has prepared management work-plans on a yearly basis and there have been three annual progress reports that follow-up on the plans. As mentioned above, the project proposal that Sida and Danida decided to finance also consisted of a management plan. This plan, and the plans that have followed, fulfil the expectations of what plans should be like. There are objectives, expected results, activities and budgets. In terms of planning and budgeting systems, no organisation of this size and extent of activities could be expected to have more. The only criticism that can be directed at the planning systems is that they tend to be overly ambitious and not always grounded in a strong appreciation of the practical realities that are being planned. That being said, the great success of HRDI is of course to have planned and

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<sup>7</sup> The problem arises because the organisation is similar to the project, and hence the governance of the one cannot be seen as separate from the governance of the other. Larger organisations with many projects can easily have a board with overall strategic decision-making functions in relation to the organisation, while projects may have their own governance system.



*The office building of HRDI, where the training programmes take place. The building accommodates a group of 10 to 20 persons during the training programme.*

conducted three highly appreciated and effective training programmes for some 10 students/participants each time and that is no mean achievement. But a number of other activities were also planned and they took far longer to do. The budget in the proposal outlines a staffing structure that has not yet been realised. A website was expected to be completed year one, and it would have been essential for building the network that we will talk more about later. It was not yet in place by mid-2009.

Accounting procedures were rapidly put in place and the bookkeeping of the organisation has been immaculate. HRDI has prepared financial statements and annual reports according to the requirements in South Africa. Price Waterhouse Coopers Inc has audited the financial statements. There were, as far as we have seen, never any serious errors to correct, or other questions or issues related to bookkeeping. HRDI has done what it should do in terms of bookkeeping, accounting and financial control. Still there have been problems arising in respect of the funds that were transferred and spent among the partner organisations – the law faculties, legal clinics, and/or human rights centres at law faculties in the ten programme countries. HRDI has been clear about rules and regulations and expectations for quarterly reports. Nevertheless, it has not always received accurate and reliable reports on how funds were spent. HRDI has been consistent in following up all questions, for example during visits to partners, ongoing feedback, and during PMC meetings

In terms of human resource management, HRDI never managed to recruit the staff that it was expected to have in order to implement the project, but as we will see later, the activities have still been implemented. It probably means that management and staff have worked longer hours and more intensely than was expected. This pace of work is not sustainable in the long run, but as we are talking about a project rather than an organisation, it should perhaps be accepted. However, from a human resource management point of view, there would be more effective approaches to management. The long-term professionalism, creativity, organisational learning, and reflective capacity, etc.

may suffer when few do the work that was supposed to be shared by a larger team<sup>8</sup>.

The working culture of HRDI is characterised by a participatory approach to doing things. The HRDI staff work closely together, and at many times the working team is described as a family more than anything else. This means that everybody is involved in decisions, that a lot of labour is shared. Consequently the organisation is resilient, when someone is away others can take decisions because they have been involved. But it may also be a difficult working culture to fit into and thus it makes recruitment more difficult. The working culture may lead to more deliberation on issues than is actually necessary. However, the process is of value to the organisation and is seen as a way of breaking elitism. There is a trade-off between the deliberative process and the short-term efficiency and one cannot have both. HRDI has been clear on its choice and it is motivated from the overall statement of vision, mission and values.

In sum, the strengths concerning the ability to do are primarily the strong accounting and financial systems. The planning and budgeting systems are fine in theory, but could be improved in terms of the realism of work-plans. The human resource management must be understood in terms of project management rather than organisational management. In the respect of the former they function well, but otherwise would not be sustainable.

### **The Ability to Relate**

The external relations of HRDI could be divided into four main categories. Some of these relations have been very strong and vibrant, others have been weaker. Some were fraught with problems, others have been running smoothly.

The first set of relationships was (and is) with the law faculties and the legal clinics of universities in South Africa. As HRDI was set up to work with legal clinics in two regions, the Great Lakes and SADC, a solid cooperation with similar institutions in South Africa seemed essential. Initially, HRDI sought close cooperation with the University of Pretoria and a memorandum of understanding was developed. However, the cooperation could not be as close as originally envisaged for formal reasons. Still, individual lecturers and researchers have been involved in the training programme and have contributed to the project. Professional relations between individuals are maintained and work very well. In addition, during the training programme participants are expected to spend some time with the legal clinics of South African Universities. The partnerships with academic institutions in South Africa work well and do bring the resources that are needed. In the interviews we had, it came across that HRDI is appreciated as an organisation that is very professional and committed and that does good work.

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<sup>8</sup> HRDI's budget for 2008, the last year of the full scale training programme, takes up 8 positions (6 managerial/professional and 2 administrative assistants), but during the year, the organisation had at first 3 and later 4 in the former category, and 1 person in the latter category. But still the whole programme of work was implemented.

The second set of relations was with the faculties of law and legal clinics of the countries in the two regions. It was clear from the beginning that HRDI was to work with faculties of law and legal clinics, or possibly human rights centres. These relations have by and large not worked as well as wished. There are several reasons for that:

- Several of these institutions have not been able to receive, use and account for funds in a manner that is acceptable to HRDI (and of course, to general accounting standards).
- University politics have led to problems where and how the project activities were to have a home. The ramifications of project activities were specified in the agreements between HRDI and the partners and these were clear in writing and clear to HRDI, but sometimes not clear to the partners – or there were issues around how to interpret and implement the agreements. At times there were also misunderstandings or conflicts of interest between the returning participants and their organisations.
- Communication has not worked as expected and consequently messages between HRDI and its partners have been misunderstood, have not arrived, and have caused delays. Sometimes that might have been for technical reasons – computers and internet connections out of order.
- The selection, performance and activities of students have, in some cases, been problematic and caused tension between HRDI and the universities.
- The fact that the students going for training at HRDI could be seen as rather privileged, particularly in comparison with some older faculty members, could cause jealousy and rivalry.
- From HRDI's point of view the partners have not always abided by the agreements, but at the same time, some of the partners don't think HRDI has abided by the agreements. The lesson may be that the texts of the agreements are not as clear as they might have seemed at the time of signing the agreements and it is difficult to foresee all the expectations and the motives that arise in the course of implementation.

While the relations to these academic institutions and building a network with them were crucial to the project idea, this has not worked fully. Though it is a relationship it hardly reflects on HRDI's ability to relate as such. But it does reflect that because of the above reasons, the possibility of building a network with all of the current partner organisations in the ten countries, such as the project implies, may not be a realistic option.

The relationship to participants in the training is a special case and can partly be subsumed under the relationship to the faculties of law and the the human rights centres. The participants in the training were expected to cement that relationship, but as we will see, some of them have moved beyond these organisations and are now found in other positions. HRDI has a close relationship to some of them, but not to all (further analysed in chapter 3).

The third set of relations was with the community partners, that is, organisations that in some way represent or consist of the vulnerable target groups whose

access to justice the project is about. Organisations for people living with HIV/AIDS, NGOs working in health and social development, community based organisations, are examples of the kind of partnerships that HRDI and the participants returning from training, would be expected to relate to. As HRDI works closely with the participants in the training, their relations to these organisations also become those of HRDI. There is no doubt that HRDI has been able to manage these relations well. Our impression from interviews is that HRDI staff has been visible and active, and their presence and their support have been appreciated. HRDI also works with community-based organisations in South Africa, in particular to organise the voluntary work that is an important part of the training programme.

HRDI has since its beginning had a good relationship to its funders. There have been regular review meetings. Progress reports and annual reports have been timely and of high quality. The style of managing and the reporting has inspired the confidence of those organisations without whom the project would not have been possible. Our interview with one of the funding agencies indicates that their main concern has been that the project has not been implemented on time and the budgets have not been spent as planned.

In sum, the main strength in terms of the ability to relate to significant partners has been the organisation's relations for community outreach as well as to the funding agencies and those of the former participants who remain the project. HRDI has also, through its commitment to the cause of human rights in Africa, been able to work well with individuals in universities, in research centres, etc. and to enlist their support for the training programme (and also to serve on the board). The major weakness has been its relations to faculties of law in the region, as these have not been able to live up to the expectations HRDI had of them as partners in the project – particularly where the MoU and Cooperation Agreements state that HRDI and the partners should work together where synergies are identified and where they can achieve a common agenda. The process of identifying such synergies and to develop the common agenda seems to be a much more difficult task than first anticipated.

### **The Ability to Show Results**

The actual results of HRDI and its project will be discussed in the three chapters to come. The analysis here concerns HRDI's monitoring and evaluation systems. These are not yet developed. There are no means of monitoring either community outreach or the provision of legal services. The quarterly reports, the ongoing feedback, the visits to partners, the PMC, the annual workplan and the spreadsheets used to look at partner institutions, etc. are all tools that could be used to gather and analyse information on results, but as far as we have seen, they mainly follow activities on a narrative basis. It would be possible to use more specific quantitative and qualitative indicators to assess progress on the impact cases, community outreach, advice and legal services provided, etc. There are no such systems in place and thus no way to detect and analyse patterns of performance or whether problems tend to be unique.



*The legal aid clinic of the university of Namibia, situated in a well chosen location on the outskirts of the major township in Windhoek, but on the other end of town from the university.*

In the agreement with Danida, the project proposal was complemented by a set of quantitative indicators of performance. According to information from HRDI these have been followed up with information on whether they were achieved or not. We have not seen those discussions documented, but according to the same information, the deviations from plans have been approved by both the donors and the board. During the first year of operations, a monitoring and evaluation system for the training programme was developed. It consisted of two parts; an initial format with questions to participants and a final programme evaluation format. The first format with evaluation questions was used during the first year, but not in the years that followed. Most institutions that engage in training and education use a systematic approach to monitor the opinions of participants and these opinions are also systematically compiled and used in the development of their programmes. Even though the number of participants in HRDI's training has been low, it can be worthwhile to solicit their opinions in a standardised format and to analyse these in aggregated forms. The overall picture of opinions may hold surprises that are not seen when the focus is on the individual narratives

However, the ability to reflect critically on activities is more important than the use of formal instruments. HRDI is a reflective organisation. The protocols of board meetings, protocols of the project management committee, and the annual reports together demonstrate an ability to reflect critically on performance and a high degree of transparency around problems. That is worthwhile and if it was supplemented by systematic gathering of facts and a structured analysis, it would be perfect. In sum, HRDI's ability to document results have as its major strength the ability to reflect critically on performance, but in terms of systematic data gathering and analysis, it has not lived up to its plans and the initial development of systems.

Our task of analysing results is complicated by the fact that it is not quite clear what the project is to achieve. The way the project's activities are structured has been changed since the writing of the project proposal in 2005. In the proposal

the specific objectives of the programme are intended to create three results within three years of operation. These results were:

- Lawyers from university based law clinics in the target countries use international and regional human rights instruments and mechanisms, generally, and more specifically with respect to discrimination against people living with HIV/AIDS
- Domestic, regional and international judicial structures address the issue of discrimination of people living with HIV/AIDS more effectively
- Community based organisations and paralegals have greater awareness of and use international and regional human rights standards and mechanisms in their work with grassroots communities within the sub region

The project proposal identifies a number of activities that together will lead to these intended results. In the agreement with Danida a set of indicators of results are listed. Later the structure of describing the project's activities has shifted to a distinction of three areas of intervention: the training programme, the legal service and the community outreach (which is also the structure we use in this report). The actual work has not changed, but the way in which it is described. (The changes were discussed, accepted and approved by the board and funders).

This shift makes evaluating the effectiveness of the project more difficult, since effectiveness is defined as an analysis of whether objectives have been reached. The expected results in the original proposal would be results of both training, community outreach and legal services in combination, and they cannot be seen as results of any one of these activities. On the other hand, the division of the project's activities into three main areas is clear and relevant. The annual reports describe objectives in respect of two of the activities (Training and community outreach - but not for legal services). This evaluation matches the initially intended activities with the later formulated areas of intervention. It also refers to goals that have been established later and expressed in the Annual Progress Reports. While the evaluation is structured around the three areas of implementation, it is important to bear in mind the links between them. Many times issues can be raised equally well in, for example, both the chapter on legal services, as in the chapter on community outreach, or on training programmes.

## Chapter 3. Effectiveness of Training Programmes

### Structure and Objectives of the Training Programme

The training programme is a central part of HRDI's activities since it creates the framework and foundation for later implementation of the project. The training programme is expected to provide the network of committed lawyers who will develop the jurisprudence on Human Rights and HIV/AIDS. The Annual Progress Report from 2008 explains that the goal of the training programme is to build a cadre of lawyers who:

- have sufficient knowledge, information and skills to integrate the use of international and regional human rights norms and standards in their law clinics;
- are committed and able to challenge elitism and social, economic and political injustices generally, and more specifically unfair discrimination against people living with HIV/AIDS, and enable them to better secure the socio-economic rights of people living with HIV/AIDS, using international and regional human rights norms and standards as the barometer;
- are part of a formal or informal network of social justice lawyers within their region and develop regional strategies in collaboration with each other where appropriate; and
- are not solely motivated by earning lots of money.

### Quantitative Objectives

The first task in the assessment of effectiveness is to analyse whether these goals were reached. With goals formulated like this, it is not always easy to assess whether they were reached or not. For example, "not solely" being driven by money might mean that a person is prepared to work fulltime without payment, but it might also mean that the person would chose a community oriented position if it offered an *almost* equal salary as a more commercial post. The definitions of what constitute "committed" and "sufficient" may also vary, and one must ask how many individuals it takes to make a "cadre of lawyers". The problem with goals such as these is that they cannot be used to monitor progress. The project would have been better served with goals that don't contain such vague and unclear statements.

In other words, while the goals display the essence of what HRDI wants to achieve, they are not expressed in terms of tangible and quantitative results that can be used to assess the effectiveness of the training programme. The goals need to be supplemented to be useful in day-to-day work. Nevertheless, HRDI have specified what results they want to achieve with each subpart of the programme, as one interview respondent said "*we make goals for almost down to every single class.*" The many goals are a testimony of HRDI's careful approach to planning, but since they are not systematically followed up in the monitoring

system, the number as such is superfluous. It would be better with fewer objectives that are closely monitored and systematically analysed.

The agreement with Danida from 2006 can be taken as a source for more specific formulations about intended achievements. One of the indicators in the agreement with Danida corresponds to the training programme and it specifies that through the HRDI project “30 lawyers from 15 countries in the Great Lakes and SADC regions are effectively trained and able to work proficiently within the international and regional human rights law framework.”

To what extent has this objective been reached? The training programme has taken place in three consecutive years; 2006, 2007 and 2008. Each training programme has started in July and ended in December, comprising five months of work. In 2007 and 2008 the participants from previous years have returned for the last month, and all participants will return in 2009 for one month. The table below shows the number of participants.

**Table 3. Achievement of quantitative training objectives**

	Number of participants who started training	Number of participants who finished training	Number of participants who remain in the project
Participants 2006	10	10	7
Participants 2007	7	7	3
Participants 2008	8 + 1	5 + 1	5
<b>Total</b>	<b>25 +1</b>	<b>22 +1</b>	<b>15</b>

The “+1” indicates a participant who partook in the training at the expense of one of the partner organisations, and who was not planned to formally continue within the project after finishing the training. Those we count as remaining in the project are the participants who have finished the training, who are still employed by the partner organisations, and who work onwards with community outreach and legal services. Some of the participants who have finished the training and do not remain in the project still work within HRDI’s partner organisations and remain in contact with HRDI and therefore in reality the number of remaining participants could be higher with a broader definition.

When one looks at the total of 25 +1 lawyers who started the training, the goal of 30 trained lawyers is close to being achieved, though when one looks at the number of lawyers who finished the training the number is lower, and only 50 % of 30 still remain in the programme (though 65% of those who completed the programme). Considering that people in general change plans, or get their plans changed by unforeseeable events, it is to be expected that some will leave, and in that respect the numbers are not alarmingly low. One must on the other hand ask why only 26 participants started the training when the goal was to fully train 30 within three years and have all being part of a cooperating network. It should

have been logical to foresee that some would quit the programme. This is partly explained by HRDI encountering difficulties in finding partners to work with. The process has taken more time and effort than anticipated, and cooperation has been terminated in cases where HRDI realised that the partners were not willing or capable to fulfil their part of agreements. This cautious route has led to a lower number of participants, though it might have been worth it, considering that the implementation stage of the programme is very dependent on the nature of the partner institutions. An alternative approach would have been to bring more participants into the training and have less of a commitment at the start, and then gradually develop relationships with the partnership institution – if synergies and the prospects for a shared agenda emerge<sup>9</sup>. There would be pros and cons with each approach, and we cannot know if an alternative approach would have worked better – but a future programme may be more experimental and try out a looser arrangement initially.

HRDI intended to operate in 15 countries in the Great Lakes and SADC regions. Today participants still in the project are active in Zimbabwe, Botswana, Democratic Republic of Congo, Zambia, Tanzania, Kenya and Uganda. Close relationships are also maintained with the partner clinics in Mozambique and Rwanda while the participants of the training programme are on leave for master studies. In Rwanda HRDI is currently working with a lawyer who has not taken part in the training. HRDI is also in contact with the legal aid clinic in Namibia, but the former participants have quit the programme and nobody seems to take over the tasks. The lower number of countries can be explained by; (1) the difficulties to find suitable partner organisations, (2) participants have quit the programme and, (3) the political situation has forced HRDI to postpone work in some countries (Burundi). In addition to this, HRDI felt that they wanted to be sure that they had functioning relationships with existing partners before extending their scope. While this is an understandable approach given the constraints in staff, we must also note that the failure to recruit all the expected staff resources for HRDI from the beginning has constrained all parts of the operation and certainly also the achievement of this target.

### **Selection of Participants**

HRDI initially intended to train already practicing lawyers with employment in the university law clinics in the partner countries. As it was difficult to find experienced lawyers HRDI accepted newly examined law students from the partner organisations and even some who had not yet graduated. The partner organisations did not always have employees in their legal aid clinics, or if they did, these could not be away for five months. Instead the partner organisations sent graduate students whom they had an interest in employing in the future. Consequently some of the participants were not yet able to take cases to court, a circumstance that has slowed down the implementation of the project – in particular the development of impact cases as they have not been able to file

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<sup>9</sup> There are many training programmes to compare with in development cooperation and Sida has many programmes in different countries - and many of them have been evaluated. We would in particular point to the International Training Programmes, information is available at the Sida website.

court cases. The question of language is another important factor in selecting students for a training programme. The HRDI-training is conducted in English and this is the second or third language of the participants. Most are used to communicate in English, though not necessarily study in a foreign language. Both interviewed participants and teachers testify that the participants who did not speak English fluently prior to the programme improved their language skills impressively during the training. The process of selecting participants is important and the responsibility for selecting the right candidates has to be clear. HRDI and its partners need to agree on the selection. In most countries the partner organisations have identified students whom they have found suitable, and HRDI have agreed, or in some instances disagreed, after having met and interviewed the candidates.

### **Ethics of the Programme**

In line with HRDI's mission "*to challenge political, economic and social elitism and promote equality of people*" the kind of person HRDI has intended as participant would be a lawyer committed to equality in both theory and practice. During the selection the HRDI staff asks a variety of questions to assess that the candidate not only sees human rights as something to talk about, but rather as something to practice. This approach is well suited for securing the implementation of the project's activities; by making sure that the participants are committed to HRDI's values it is more probable that they will continue in the same spirit once they have finished the training. It does mean that the training should not be expected to change values and attitudes around elitism, but rather strengthen existing norms and values and equip participants with knowledge and skills to challenge elitism and work for access vulnerable groups access to justice in their countries. HRDI strives to make the organisation's values of egalitarianism evident in the classroom. As we could see in some of the evaluation forms completed by students, some of them initially reacted to the flat power structure including both students and teachers and wished for more hierarchical relations, though none of the participants whom we have spoken to mentioned it as a negative aspect of the programme in the end.

### **Multidisciplinary Approach**

The intention was to give a multidisciplinary approach to human rights, illuminating how the study of law must be interlinked with other areas for a full understanding of complex mechanisms. While all students so far have been lawyers or paralegals and until recently also all of the HRDI staff members have had a background in law, the guest teachers have come from a variety of disciplines and from different parts of the world. Psychologists, political scientist etc. have lectured during the programme. The training of 2008 had 30 guest teachers in addition to the HRDI staff. Guest teachers contributed without other compensation than for travel, food and accommodation.

### **Literature, Computers and DVDs**

All participants received a laptop computer and literature to use during the training. The literature consists of background reading on specific topics, for

example on HIV/AIDS, and juridical texts on human rights legislation. The returning students have also got copies of new course material in 2007 and 2008. When the training was finished students brought the literature back to the partner organisations where the books should be used by both students and staff. Where this system works it makes HRDI reach more people, and by HRDI updating the literature the partner organisations can easily follow developments within the field. This does not always work in practice. We did not see much evidence of the literature being used by others. For an effective use and spread HRDI should emphasis how they intend the material to be used, since some students have understood that the books are primarily for their personal enlightenment. Still most students continue to use the HRDI material, especially when planning training sessions. Yet another contribution to the partner organisations that should make it easier for them to replicate the training was the DVD recordings. A large number of classes were recorded with video and each partner institution was given a complete set of videos for all three years. However, we did not see any evidence of these videos being used during our country visits – but we might not have met the right persons. However, this fits into a general picture that participants have not been good at sharing their material with others at the faculties or clinics. In fact, none of their colleagues that we interviewed mentioned having seen these DVDs. The initiative to record training sessions and disseminate DVDs is good – but it requires a closer follow-up on how the DVDs are used.

### Programme Content

The training programmes were conducted at the building that HRDI rents in Pretoria. The formal classes were from 10.00 – 17.00 Monday to Thursday and 8.00 – 14.00 on Fridays. The training started with two weeks of in depth discussions on the values behind human rights; what it means to adhere to human rights; and HRDI's vision, mission and values. Each year difficult ethical and moral questions have been raised. The training continued with three weeks on the concepts of human rights; from vocabulary and historical context, to regional and international institutions for implementation of human rights, such as the UN-system and African Court on Human and Peoples' Rights.

The sixth week of the training was dedicated to visits to university law clinics at South African universities and human rights oriented NGOs. The intention was to prepare and give inspiration to the participants who would implement the programme when they return to their countries. In the next five weeks the group moved from general overviews to focusing on issues related to human rights and HIV/AIDS. Discussions cover both medical background and legal questions, as well as issues like fundraising and pedagogics – training of trainers.

The twelfth week contained a two-day retreat where the participants examined issues that have been identified in their communities prior to the training commenced. After this the group was joined by the participants from previous years, who reported on how their work with public interest issues had developed. Following that, strategies for the following year of implementation were outlined.



*Voluntary work is an important part of the training programme. The participants worked in the garden of Tateni, a community based organisation in a township outside Pretoria, and they helped a family build fences and a latrine.*

As a part of HRDI's mission to challenge elitism, the group spent each Friday during the training programme in the township of Mamelodi, outside Pretoria, where they assisted a local NGO, Tateni, with manual labour. The HRDI staff and the participants in the training programme have planted gardens, dug a latrine, put up a fence and renovated a classroom at a local school. They have also visited people ill in terminal stages of AIDS and spent time with them.

The overall design of the programme is well suited to achieve the objectives. In particular, its strength lies in the close connection to practical work, the preparation with case studies before coming, the subsequent use of these cases in the training, the production of a final paper, and integration with former students that should pave the way for a practical application of what the participants have learnt.

The ideological base of the programme is incorporated in all parts of the training. The choice of lecturers is relevant and it is impressive that so many highly qualified lecturers make themselves available for the programme without charging any fees. Given that it is such an excellent programme, the only problem is that it does not reach so many and hence the overall costs per participant is rather high. The programme would be more effective if it was repeated more frequently and with some more participants. Then it is also likely that the quantitative targets would be met.

#### **Qualitative Assessment of the Training Programme.**

However, the worth and merit of the training programme cannot only be assessed through the quantitative target and a review of its structure. The quality of the training must be assessed in its own right. To do that we use a model that distinguishes between four levels of assessment (see Table 4), and we merge this with the objectives mentioned above.

**Table 4. Model to assess the quality of the training programme.**

Dimension to assess	Aspects and methods
Attitude level	Assess what people think of the training, reaction to the programme structure and process, organisational arrangements, training content, duration, etc. This was assessed through interviews with participants.
Knowledge level	Assess what participants actually learnt through the training. This was assessed through review of case studies prepared during the training and through interviews with people who were lecturing on the programme, and interviews with supervisors and colleagues of those who were for training.
Application level	Assess to what extent participants make use of what they learnt during the training programme and disseminate their knowledge to others in their home institutions. This was assessed through interviews with participants and visits to the institutions where they work now.
Impact level	Once the training is put to use some form of effect would be expected, something happening in organisations and society, in this case for example human rights of HIV/AIDS affected persons being respected. The assessment of this level is based on observations and interviews with partner organisations in respect of community outreach programmes.

#### Attitude Level

Every single one of the participants we have spoken to express that the training programme was very good, even those who have subsequently left the project. They all testify to having gained substantial knowledge and skills, and above all, values. The uniform attitude to the training as a whole is in kept also when the participants contemplate the particulars – where they may have more critical comments. Still, it is rare to evaluate a training programme where the former participants so unanimously praise the programme.

The participants met the HRDI staff before attending the training programme and they were well informed about the training before arriving in Pretoria. They got information on how to prepare for the programme and could spend sufficient time in preparation, and they were required to look into what human rights violations existed in their communities and what issues the community members deemed important. The majority of participants were recommended by the university law clinics to the programme and did not apply on their own. It seems that most decided to participate because they got the opportunity rather than because they had high expectations on the specific HRDI programme. At the same time, the clinics chose students whom they thought would be interested and able to participate in the programme. The participants say that the expectations they had before the programme were met. Some of the participants we interviewed had decided to work with human rights before the HRDI training, though some say that the experiences during the training made them decide for a career in human rights.

The interviewed participants all note that the five months of training were very intensive. Many topics were covered in a relatively short period of time and the workdays were long. While it was good to have an opportunity to learn so much, some voice a concern that they could not take in everything because of the workload. One respondent estimated that around 75% of what was taught actually was learnt, and three told us that it felt as if they took an entire masters programme in half a year. The question would then be whether the programme should be longer? Since the majority of students are, by and large, positive to the scope of the knowledge they got during the programme the heavy workload seems to be adjusted to the capacity of most of them and should be kept as it is.

Some of the interviewed participants commented that it would be good to get some kind of qualification as they invest time and effort in the training<sup>10</sup>. They are on the other hand unanimous that there should not be any grades, but rather constructive feedback. They say they learned more since they did not feel any pressure to excel in every assignment. When asked whether they would have worked more or less if they had been graded one student said that they would have studied in a different way striving to *get* good results, rather than being able to *produce* good results in their work after the training.

The social ambience and relationship between participants and staff is a very important part of any training programme. If social problems take up time and people are preoccupied, the ability to learn and develop new skills will suffer. Several of the participants mention that the interaction among the students and the HRDI staff sometimes was a problem during the training. Since the training is intense and the participants both work together and live together two or three persons in each room during five months, it is not surprising that some friction arises. On such occasions it is important that the HRDI staff acts in an understanding, yet determined way to solve the problems.

Interviewees mentioned that HRDI staff should be perceptive to the group atmosphere and solve problems before they occur. The information gained through interviews with former participants indicate that these are skills that need to be developed among the HRDI staff. HRDI staff, on the other hand, are aware of the general need and try to monitor the atmosphere in the group and to solve problems, but it may at times be difficult – particularly if the participants keep problems to themselves. The evaluation cannot know exactly what has happened and who did what, but we do see that the HRDI and the participants have different views on the group atmosphere and proactive problemsolving.

A couple of interview respondents suggest there should be more free time within the training so they can relax and avoid tensions that may surface in stressed situations. We may not necessarily agree, and those who raised the point were not many anyway. Nevertheless, their point of view should be reflected here.

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<sup>10</sup> The participants did get certificates both for the five month training and the one month training.

The weekly work with Tateni has been greatly appreciated by the participants. Many bring up the voluntary work as something that has given them both insight and knowledge. For some of the participants it was the first time they came into close contact with people who are terminally ill in AIDS and that experience had an impact. One of the interview respondents described fellow participants as “traumatised” from the visiting the AIDS patients, though all seem to think that it was an experience that made them richer.

### Knowledge Level

This should more appropriately be called “Knowledge, skills and attitudes” as the training sought to give knowledge, develop skills and change attitudes. It is not self evident that any of this happened even though the attitudes to the training, as described above, were highly encouraging.

The participants of the training programme who have been interviewed appear to be well equipped both for advising clients on human rights and HIV/AIDS related issues, to train others and to pursue more extensive public interest litigation. This being said, we have only met a sample of former participants and some of those that remain in the programme. We have not met those who did not complete the training and furthermore, in one extreme case, we made appointments but the person never showed up (Namibia).

Some training on human rights is available as part of the law degree in the partner countries, though these are general overviews and not always mandatory. Apart from taking these courses some participants had worked with human rights issues before taking the programme. Several of the interviewed participants mentioned the knowledge they gained about HIV/AIDS as especially valuable, mainly because they did not know of how the disease worked and also because HIV/AIDS is a constantly recurring issue for their clients. In addition, many of the participants felt that they learnt much about how to treat clients, both in interviewing skills and on how to speak to clients that suffer from disease or are vulnerable in other ways.

The participants’ own description is corroborated by the organisations where they work; their supervisors and colleagues see a change from before the training – again especially concerning the level of factual knowledge on human rights related to HIV/AIDS. The community based organisations who are working with the HRDI participants and where the participants have conducted trainings of staff and community members are also appreciative. They value the knowledge the participants have - manifested through their unanimous wish to continue working together. The participants of the programme say that regardless of whether they previous to the training programme had intended to work with human rights or not, the HRDI project changed their attitudes to human rights. They mention especially the thorough discussions on ethical issues and the practical voluntary work as important experiences that have made them more committed to work with human rights. *“I finished the training as a new person”* was a fairly typical comment.



*During the voluntary work HRDI staff and participants in the training classroom in Mamelodi township.*

The voluntary work with Tateni was important in making the participants aware of the needs of vulnerable groups in society. On the other hand, it is somewhat strange that only in two of the visited countries have the voluntary work been carried on after the training. It seems that the work during the training has made an impact on the participants and contributed to a will to challenge elitism and work with human rights, though not necessarily to implement it at home. In some of the countries the participants were willing to work without much funding, and one said that if they were more motivated by earning money they would have left the project. It seems that other participants have left the project or modify their work as they could not sustain themselves and their families on the salaries they had.

The question is why so few actually continue the practice of voluntary work when they did find it such a valuable experiences. When asked, they generally responded that they have to work for their incomes and/or that their work burden at the universities do not allow for anything else. There were also issues such as transports to get to to impoverished communities. It is probably easier to engage in that kind of voluntary work when it is organised by someone else, like the HRDI, and when it takes place in extraordinary circumstances, such as when one is away on training. Back home it is hard to make time for it amidst all the daily tasks and routines – and perhaps, though we cannot know – it is not really seen as important. It is a nice thing to do on the training programme, but nothing that takes priority in the domestic setting.

#### **Application Level**

Apart from teaching knowledge, skills and attitudes to the lawyers who have taken the training, an important part of the project is to enable participants to disseminate information and to integrate the use of international and regional human rights norms and standards in daily work. The more colleagues they reach, the more effectively they can fight elitism, but also the more long term sustainable is the impact within the partner organisations.

The extent to which the participants have managed to integrate the HRDI project into their organisations varies. In a few of the cases where implementation has been difficult, the cooperation between the partner and HRDI has ended. In other instances the students continue with the project and rely on the HRDI for funds and mentoring – more so than from their own organisations. Several participants and partner organisations have successfully integrated the knowledge, attitudes and skills of HRDI, for example in Rwanda where a unit for human rights has been set up within the university law clinic and where a person who has not taken the HRDI training is now working. In Zimbabwe the two persons who took part in the training programme have set up an independent organisation, Justice Aid Trust, which provides legal aid and training to the community.

The elements from the training programme that have been most widely used within the partner organisations are; first, skills in how to interview clients, and second, the appreciation of the importance of human rights and rights based approaches to development. The participants do not necessarily refer to international or regional human rights standards regularly, though the awareness of the importance of taking up human rights questions domestically is an important result of having learned about these standards.

One of the overarching goals was to create a network of lawyers who work together. While all of the participants have contact with HRDI and most have had contact with at least one other country, few work regularly with participants from other countries. On the other hand, some of the students who have left the programme are in continuous contact with HRDI and other participants. The nature of the network and what importance it has is more thoroughly discussed in chapter six.

### Impact Level

The impact of the HRDI training can be considered in terms of to what extent the training has had an impact on; (a) the individuals who partook in the training, (b) the partner organisations, and (c) the local communities. The first of these has already been discussed above as part of the knowledge level of assessing training. The other two form an integrated part of the assessment to come in the next chapters.

Nevertheless, we conclude this section with some comments on the impact of training. It has had a visible impact on most of the partner organisations; one of the interviewees mentioned that the collaboration with HRDI has provided inspiration and given the university law clinic ideas on how to improve the work with local communities. A few partner organisations have remained largely unperceptive to this new outlook. HRDI has been a change agent –but effective only when the inclination to change already existed within the partner organisation. Change has been more profound where the participants have trained and worked together with law students. Young people are perceptive to new ideas.

The impact of the HRDI training in the local communities depends on the commitment, hard work and funds of all the stakeholders; HRDI, the participants and the partner organisations. We have only met a few community members in the course of the evaluation, and always together with participants, and not surprisingly they say that as a result of the project they have learnt about their rights and where to turn if their right are violated. People at Ministry of Hope, an organisation in Rwanda of people living with HIV/AIDS and their relatives, said they do not have any legal issues now that the university legal aid clinic has started working with them, and if they have troubles they know where to seek advice.

The results are good, though many of the participants mean that their workload is overwhelming and the communities say that more advice and information is highly needed. The participants are well equipped to inform community members of their rights and to give legal advice to individuals, though they have been less effective when it comes to convey these skills to their colleagues and as a result the participants alone carry on the contacts with local communities. One reason why the HRDI related activities are having an isolated status within the partner organisations is that the HRDI is seen as one project among many. Several partner organisations thus explain why some parts of the HRDI project have not been implemented or why the activities are late. It is of course not a good excuse, as there is an agreement on cooperation, but nevertheless real.

## Chapter 4. Effectiveness of Community Outreach

### Goals and Objectives

One of the three results specified in the project proposal is that *“Community based organisations and paralegals have greater awareness of and use international and regional human rights standards and mechanisms in their work with grassroots communities within the sub region.”*<sup>11</sup> HRDI identified that an important part of this is that university law clinics become *“better able to serve client communities and consequently client communities receive more effective representation.”*<sup>12</sup> These intentions are primarily followed through in the project component Community Outreach, though they do form an integrated part of the training programme.

The community outreach activities overlap somewhat with the legal services, though the distinction between the two areas is useful as it gives emphasis to the importance of actively working to reach the vulnerable communities and bring forth problems that they deem important. The community outreach is centered around advocacy and information about rights, legal advice, training of trainers and community members and manual voluntary work. HRDI’s specific objectives with the community outreach are to:

- Ensure that real community needs are addressed in the design and implementation of the project;
- Provide legal advice to organisations and potential clients;
- Make the community aware of the services that partners are providing so that they can utilise them;
- Reach the most vulnerable within society; and
- Ensure that despite being lawyers, the team of staff and students are grounded in the realities of hard manual work that the majority are compelled to endure.<sup>13</sup>

Through these objectives the humanitarian intentions behind the HRDI work is manifested. While the training programme is designed to provide lawyers with knowledge and skills to reach and work for the good of the most vulnerable in society, the community outreach programme is to ensure that the legal services have the intended impact. The three components are closely interrelated. Even though the components are interrelated this chapter will assess each of the five objectives in the list above.

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<sup>11</sup> Project proposal, p. 8.

<sup>12</sup> Signed Agreement with Danida, p. 5.

<sup>13</sup> Annual Progress Report 2008, p. 41.

## Addressing Community Needs

The first of the community outreach objectives concerns the work with public interest litigation where important issues in the local communities are taken up and pursued in cases that will have the most profound impact on the communities. The issues that HRDI and the participants of the training programme decided on during the training programmes 2006 – 2008 are listed in Table 5.

During our interviews with the local communities that the partner organisations work with, we asked what questions the members saw as the most pressing. The community members immediately mentioned the topics found in Table 5, especially the need for effective access to treatment. Community members said that although they had access to medicine, the lack of food made the effect of the medicine reversed. Other issues that were brought up during the interviews with communities in the partner countries were the existence of patriarchal systems which ignore the rights of women, concern that the ARV treatment they receive is of poor quality, and that the stigma surrounding HIV/AIDS isolates HIV positive community members.

**Table 5. Human Rights issues at community levels**

Important issues identified and currently worked on by HRDI and its partners
The rights of prisoners living with HIV/AIDS
Life insurance industry discrimination of people living with HIV/AIDS
Discriminatory procedures of succession
HIV in the workplace, discrimination and stigmatisation
The right to education of HIV positive and their children
Effective access to treatment (access to medicines, food and water)
Access to justice in the DRC for PLWA
Human Trafficking in the build up to 2010 FIFA World Cup

Generally, HRDI and its partners have identified issues that are real problems for vulnerable groups in society. But some of the issues in Table 5 are of less relevance to really vulnerable and poor people; few of whom would, for example, have any contact with the life insurance industry and, almost by definition, would not have any workplace to go to. On the other hand, the most acute problem expressed by the community members was the need of subsistence and shelter. The choices of HRDI reflect sound priorities. Vulnerable groups may benefit in relation to shelter and food indirectly, for example, to the extent that it contributes to stopping unfair discrimination of orphans and widows and assist them get their rightful inheritances. When it comes to ensuring that real community needs are treated, HRDI's main problem is not finding issues but rather in pursuing these to their logical conclusion – contributing to develop jurisprudence.



*One of the communities in Rwanda where the university law clinic regularly provides legal services.*

### **Providing Legal Advice**

The provision of legal advice will be discussed more thoroughly in chapter 5, though some aspects will be considered here. The community outreach approach to providing legal services highlights both the cost of the advice and the location. For example, while commercial lawyers in Zimbabwe can charge up to 300 USD per hour for giving advice on legal issues, HRDI's partner JAT provides the service free of charge. The evident benefit of giving free legal advice is that also the vulnerable and the poor get access to legal advice. The problem is that the lawyers who serve vulnerable communities need an income. As a result they tend to become dependent on donors unless they supplement their work with commercial activities. University law clinics do not have the problem to the same extent as independent organisations, thanks to funds from the university and that law students work to get experience rather than cash income.

Another aspect of providing legal services to vulnerable communities is that many of the potential clients cannot afford transportation to a clinic situated far away and so it is necessary for the lawyers to go to the local communities. The partner organisations have made contact with community based organisations and arranged mobile clinics to reach vulnerable communities. In Namibia the HRDI participant has worked from Katatura, one of the townships in Windhoek, and in Mozambique the participants visit prisons regularly to give legal aid to prisoners. The extent of the community based legal services is limited by the extent to which there is money available to pay fuel for transports, car hire and the like.

Generally, the legal aid that the HRDI participants provide to community members tend to be pre-litigation. They help people with problems such as filling out forms, giving information on where to take the issues and help with mediation. In some instances cases are taken to court, though not always by the HRDI participants, since not all of them have the right to appear in court. Furthermore, several of the partner organisations consciously try to solve cases primarily with mediation so as not to hurt involved parts more than necessary, neither financially nor emotionally.

It would be interesting to know how many are reached by services. During our visit to Zimbabwe, we took part in one community outreach activity. In the course of four hours, the five lawyers present (two from JAT and three from the partner organisation WLSA) spoke to around 30 persons and gave advice on how to proceed with their cases. While this may not have been enough, it would nevertheless be a service of value to the community. As they may visit communities once a week, and in total perhaps 10 to 20 times a year, they could reach as many as some 300 – 600 persons, which is a significant number. In some countries the participants interact with communities several times a week, and it can be estimated that they thus reach some 20 to 30 people with legal advice every week, adding up to several hundred per year. In total this might imply that in these ten countries there could be several thousand that now get some form of legal advice that they did not get in the past. This is of course a very rough estimate. It would be relatively easy for HRDI and its partners to follow up and report on numbers reached, but in the long run it would be the quality of the interaction that is more important.

### Raising Awareness in Communities

The HRDI participants have spread the information of what services they offer. In some instances community based organisations have contacted the HRDI partner organisations with requests for training, but in most cases they have searched for and contacted vulnerable groups and organisations. In addition to informing the communities of what services they offer, they have provided general training in human rights, and specifically on the rights of people living with HIV/AIDS and women's rights. The training has been directed to both community members and staff working in organisations that themselves train community members.

Although most of the training used international and regional standards of human rights, they have focused on the domestic frameworks. This comes as a result both of the limited time of the sessions, and in the cases where local communities have been the recipients, that the information was geared to be applicable in people's daily lives. The training sessions have varied from a few hours up to a week. The number of people reached by the information is significant, since those trained often have been people who later would train others. All of the organisations we have spoken to have been pleased with the training sessions, and have expressed a wish to continue the collaboration. They also say that the increased awareness of the rights of vulnerable groups is significant. Table 6 describes a training project in Uganda.

Rights-based approaches to development have become a favoured mode of operation of many agencies, be they NGOs, multilateral or bilateral development agencies. But for a rights-based approach to work, people must know their rights. The work to increase awareness is an important part of what the participants do when they return and it connects to many other forms of social change and development interventions. The training is often provided at the same time as the lawyers give advice on individual cases. Some of the

participants have provided communities written copies of relevant laws in their own languages. This specific part of HRDI's work is not expressively formulated in the goals of the community outreach, but it is an effect that has been widely appreciated and that seems to make a difference.

**Table 6. Illustration of training activities**

<b>Training of community leaders in Uganda</b>
The Uganda Protestant Medical Bureau (UPMB) contacted the LDC Legal Aid Clinic of Uganda in 2008. UPMB had identified a need for increased awareness of human rights issues through their programme "Reaching Girls and Women and Men With Sexual and Reproductive Health Rights/ HIV/AIDS Information" and hoped that the Legal Aid Clinic could help them with training. The two officers of the Legal Aid Clinic who have participated in HRDI's programme held a five day long workshop in December 2008 with 33 persons from 10 districts throughout Uganda. The people trained held key positions within their communities and they in turn trained communities in questions such as reproductive health rights and women's rights. UPMB says that the training was extremely beneficial, that more women now stand up for their rights and make their voices heard if they are not respected. They are currently planning a similar session to take place before the end of 2009.

### Reaching Vulnerable Groups

Even though the community outreach activities sometimes have been limited the intended groups have been reached where the outreach has been conducted. For example, the lawyers in Uganda have visited refugee camps in the north of the country; in Kenya the HRDI participants are working with people living with HIV/AIDS and orphans in the Kibera slum, and the participants working in Zimbabwe meet with groups living in temporary settlements on the outskirts of Harare. In Mozambique, the Human Rights Centre of the Eduardo Mondlane University was collaborating with UNDP on a project to reach inmates of prisons with information on their rights/human rights rights. UNDP contributed around USD 100.000 annually to this project. The participation in the training of HRDI has helped bring skills and capacities to this project and it has served as an arena for the participants to apply what they learnt in a setting with vulnerable people.

There is hardly any doubt that the community activities reach vulnerable groups. The participants have established contacts with relevant community organisations and other NGOs, and indeed these contacts were many times there already before the project. The critical question is not whether vulnerable people are reached or not, but rather whether more individuals could be reached and whether the services are of the highest quality. As for the first question, it would be possible to reach more vulnerable people – at least in theory. In practical daily life the community outreach is constrained but lack of transport and lack of time. As an example, the legal aid clinic at the University of Namibia should be open twice weekly, but the interview respondents mentioned that this was not always

the case as the clinic is far from the university and they lack transport. How often it is open remains a question. There were similar problems in all countries and the willingness to reach out appears to be higher than the ability to deliver – and the demand for services appears to be unlimited.

The second question concerns the quality of services. As we cannot say what actually happens in the meetings between the participants and their clients it is hard to know. It is likely that the quality of advice is not as high as the project first planned, mainly because the qualifications of those who took part in the training is lower than expected – as mentioned above, most are graduate students rather than employees of the faculties. The question is also exactly what the clients are given advice on. Sometimes it seems to be some rather basic things, such as which public agency to turn to, advice on how to fill in forms, register births, etc. While it is advice that needs to be provided by someone, it is quite basic and perhaps below the level of training provided. However, it is not likely that the services had been provided at all if the training had not taken place, and hence the advice given is a definite improvement from the point of view of the clients that are being served.

### **Hard Manual Work**

To ensure that staff and students are grounded in the realities of hard manual work it is mandatory that one day every week is spent working with the organisation Tateni, a community based organisation focusing on people living with HIV/AIDS. This ensures that all in the programme will have some experience of manual labour, regardless of previous experiences.

HRDI's intention has been to conduct regular manual work during the training programme in the hope that the participants would start up similar projects in their own countries. Some intended to start up such programmes, but so far with limited results. In one case the participant did start to work in a garden together with people living with HIV/AIDS, but that has been shelved since the participant has gone abroad for master studies. In one other country, Kenya, the HRDI participants are looking into starting up collaboration with a school in the Kibera slum area.

It is worth considering what impact the HRDI voluntary work with Tateni has on the local community in Mamelodi. The spokesperson from Tateni was very positive to HRDI's activities. She says that there is always work that needs to be done and that they always need more hands - and therefore the assistance has been welcome. Tateni receives help from other organisations and individuals, though HRDI's contributions have been especially appreciated since they have been recurrent. Of the four larger projects HRDI has been working on, the classroom that has been refurbished is well preserved and it is being used. The vegetable garden at Tateni's headquarters is still in use, though in constant need of new plants and the plants could have been more actively cared for. The garden at the secondary school is no longer in use, but the family home in the informal township is used, and its owners have taken the opportunity to improve it further thanks to HRDI starting the work.



*The partner organisation in Kenya, CLAN, work with a school for orphans in Kibera, an example of activities that have been strengthened through the programme.*

The results are mixed and it is depressing to see that the activities at times were a waste of effort – in our opinion. A more results-oriented approach, based on a careful selection of worthwhile activities (and partners), would serve the local communities and the participants in the training programme better. Now, it is Tateni that directs HRDI on what to do and where, and HRDI implements according to their wishes – as they are the community-based organisation they should know. But they obviously don't always know or they don't set the right priorities and hence there is a need for HRDI to get more involved to make sure that the voluntary work is worthwhile.

## Chapter 5. Effectiveness of Legal Services

### Goals and Objectives of Legal Services

The component of HRDI called Legal Services aims at creating human rights jurisprudence within the Great Lakes and SADC regions through advocacy, research and litigation. Several activities are expected to lead to this objective. An important – and recent – development is that HRDI has been granted an observer status before the African Commission on Human and People’s Rights. But the key activities of the organisation are the supporting services provided to the participants of the training programme after their return to their countries. In the agreement with Danida indicators are specified to measure HRDI’s success in this respect. The indicators relevant for the Legal Service component are:

- At least 20 cases are taken where international and regional human rights standards are applied and forums are potentially used
- Increased awareness and use of international and regional human rights norms and standards among lawyers who represent client communities at grassroots level, and domestic courts, in the Great Lakes and SADC regions
- ULCs broaden the scope and depth of their work and deal more effectively with root causes of problems.<sup>14</sup>

The following pages will be centred round a discussion of to what extent these indicators have been realised. The reader will notice that the problems the evaluation faced in respect of the objectives and indicators of the other two programme areas are also present in respect of legal services.

### Public Interest Litigation Cases

The first of the three indicators is both quantitative and qualitative. To develop 20 cases is a precise and quantitative goal, though where these cases should be taken is not clear. HRDI intended to work primarily with so called public interest litigation cases; court cases made up from issues of human rights violations that are central to local communities. None of the issues that have been identified by HRDI as suitable for public interest litigation cases has been finalised in court but the cases have been followed through. The Annual Progress report of 2008 points to five cases that are being pursued. The project has so far not reached the quantitative objective.

After the training session in 2008 the participants decided on a number of issues to try to raise as public interest litigation cases in their countries. Including the Kenyan case quoted in table 8, six public interest litigation cases are currently being pursued, and in the Annual Progress Report of 2008 the goal is that three of these will be filed in court by the end of 2009. HRDI has set up plans for the pursuit of the public interest litigation cases to make sure that they have an

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<sup>14</sup> Agreement with Danida, pp. 4-5.

impact on local communities. Here too, the work is closely interwoven with the training programme. After finishing the training programme the participants are supposed to continue working on their cases in groups - following the cases to court. While the first two steps have worked well, the later stages of actual litigation have not yet been realised (apart from the Kenyan case).

In the annual reports HRDI has analysed why the work has been slow. One reason is that the organisation did not have a full time lawyer specialised on HIV/AIDS among its staff until May 2008. The work with the impact cases has picked up in the last year, especially when it comes to HRDI's involvement. In the box-text below the work with one of the cases that emerged from the 2008 training programme is described more closely.

**Table 7. Illustration of a case from Tanzania**

#### **A Case on Discriminatory Pre-Employment Testing by Private Companies**

This case concerns pre-employment testing of HIV status of people applying for positions with a telephone company. The participants of HRDI's programme were made aware of the fact that the company as a part of their recruitment process had had an applicant unknowingly tested for HIV. After the negative outcome of the test the applicant was offered a position. HRDI sees some of the issues in this case being: "whether compulsory pre-employment testing violates human rights in this particular case and whether there are any inherent job requirements warranting HIV testing. The other issue is whether the disclosure of test results by a medical doctor to third parties violates the right to privacy." The case was proactively identified by the Tanzanian team. It is now waiting for a client, which has proved somewhat difficult since few individuals are willing to stand against an international company.<sup>15</sup>

#### **Case Teams**

The organisation of case work is well designed. A team of students is set up for each of the impact cases emerging from discussions during the training programme. The students research the topics and search for clients. The goal is to form multidisciplinary teams with the conviction that a wider approach to the issues would be beneficial. So, for example, a journalist may help by making the case known to the public and thereby increase its impact, and a social scientist contribute with perspectives that would broaden the ways in which to approach an issue.

HRDI sees its role in the work with the impact cases as contributing with expertise, for example on international aspects of the issues - but the participants are supposed to lead the cases. For this to function they need to take an active part and prioritise the work with impact cases. But sometimes the participants seem to expect that HRDI takes a leading and coordinating role. Our interviews reveal that the expectations do not meet; each partner expects more

<sup>15</sup> Annual Progress Report 2008, pp. 26-27.

of the other than that partner realises or expects to provide. The participants see HRDI's involvement as crucial for the progress of the cases. First, when talking to the participants, we found that many already have more work than they can manage and that the public interest litigation does not receive the highest priority. Some also remark that while they would like to be able to work on a voluntary basis, the necessity of an income limits how much they can get engaged. Continued financial support is vital for the work with the cases - unless the case teams seriously start looking for other funders - as suggested by HRDI and included in the training. Even more important is HRDI's continued guidance and encouragement. It is also worth noticing that the participants need to be in contact with each other for the impact cases that involve more than one country. In some cases this works, though in others varying degree of commitment has slowed down the progress.

**Table 8. Illustration of a case from Kenya**

Eviction Case
Circa 900 mechanics with their businesses in central Nairobi are being evicted from land they have occupied for more than 20 years. In addition to the mechanics, many businesses providing them with for example food have established themselves close by. Two private law firms have identified this case and are together with a HRDI participant and a senior councillor pursuing this high public interest litigation case. They have so far got a lot of attention from the media and it is hoped that a positive outcome will set precedence for similar situations. The advocates say that HRDI's participant contributes especially with knowledge of up to date information on international and regional human rights standards that can be used in the domestic context. The Eviction Case was discovered reactively, though it is well anchored in the community.

### Selecting Cases

The idea is that while successful human rights cases many times get international attention, they need to be well anchored also at community level - before and throughout the process - to have an actual impact on peoples' life. The impact cases that HRDI works with are therefore sought proactively as well as reactively by taking up problems of specific clients. The selection criteria followed for the impact cases are synthesised in the Annual Progress Report of 2008; HRDI and its partners look at

*“whether the case represents a systemic human rights abuse/violation, an unconstitutional legislation that violates the rights of the vulnerable in society or any other law, policy or practice that is antithetical to human rights. We also assess what human rights, political, social and economic impact the case will have.”<sup>16</sup>*

<sup>16</sup> Annual Progress Report 2008, p 25.

The proactive approach is useful since the cases that are taken up do reflect real problems in local communities, but it can also result in difficulties of finding clients for the cases. Since many of the cases position individuals against larger corporations, clients are unwilling to take their issues to court. A possible way around such an obstacle is that a group of clients with the same problem take on a case together. The stigma surrounding HIV/AIDS has caused clients to refuse going to court, and to make matters worse, senior lawyers have been unwilling to take on cases in this category. The selection of cases is crucial and difficult. HRDI and its partners have not yet found a best way of selecting cases and finding clients is a process full of difficulties and dangers.

### Progress Today and Tomorrow

In addition to the impact cases decided on during the training programme in 2008, some participants have conducted individual research on potentially important issues (see Table 9). While the first stages of this research have given interesting results, no larger public interest litigation cases have evolved. Instead the results have been reported to HRDI and to local stakeholders, and several of the law clinics report that they have had use of the knowledge they have gained from working with community based issues of human rights violation in their daily work, as they now know more about recurring problems and how to deal with them.

### Table 9. Illustration of a case from Rwanda

#### Unfair Discrimination to People Living With HIV/AIDS in Education Sector (Rwanda)

The Legal Aid Clinic (LAC) of National University of Rwanda is currently conducting a HRDI funded project looking into unfair discrimination of students living with HIV/AIDS in eight secondary schools in southern Rwanda. Both students and teachers have completed questionnaires and staff and students from LAC are currently working with analysing the data. During the visits the schools expressed a wish that the students should know more about their rights, and that LAC potentially could train them in the future. Although the project is still in progress, it can be seen that it has increased the awareness of human rights among community members at the same time as knowledge about how these rights are respected has been gained. The important question for the future is to find a way in which these achievements can be used and spread.

Some of the obstacles for the impact cases to proceed to court have been mentioned above, mainly lack of clients, lack of time and lack of funds. In addition to these obstacles, some of the participants of the training programme are relatively new to the profession and do not yet have the right to appear in court. There are ways to handle this; in Zimbabwe a tripartite cooperation is in place between HRDI, the participants and experienced lawyers who can take cases that the participants have worked on to court. This is also what has been done in Kenya. As this collaboration seems to be working well it might be considered as a solution also in other countries.

In addition to the problems of participants not being allowed to take their cases to court, the time consuming nature of the impact cases can help explain why no case has yet been presented in court. After a case is prepared, which in itself may take a few years, an identification of lawyers and client has to be done before the case can be taken to court. The many obstacles that the work has encountered makes the question whether the impact cases constitute an effective way to achieve human rights jurisprudence relevant. In theory it is a well-designed strategy to achieve impact since the cases would be anchored within the communities, though the practical realities show that this is not always enough. The idea that the work could be achieved during the lifetime of a three-year project, and that at the end of those three years there should be 20 completed cases seems, with the benefit of hindsight, completely unrealistic. Furthermore, once the cases are in court, the process of litigation may take yet another few years, especially if one decides to take the case on to a regional level.

### **Increased Awareness and Use of Human Rights Norms**

The second indicator that is relevant for the Legal Services is: *“Increased awareness and use of international and regional human rights norms and standards among lawyers who represent client communities at grassroots level, and domestic courts, in the Great Lakes and SADC regions.”* This indicator deals with the spread of *knowledge* and *use* of international and regional human rights norms and standards.

By choosing to work primarily with university-based legal aid clinics HRDI has ensured that legal professionals working at grassroots level are targeted. Since the university law clinics predominantly give free legal advice the intended groups are reached. This is further secured through encouraging the legal aid clinics to set up mobile clinics. In addition, the community outreach programme helps the participants meet communities at grassroots level.

To what extent the HRDI project has increased the knowledge of international and regional human rights norms and standards among its participants, is mainly considered in chapter 3, though some aspects are worth mentioning also here. The spread effect of the training has been significant and highly successful, as we noted in the previous chapter. The training has contributed to increased human rights knowledge among lawyers in the Great Lakes and SADC regions. But it is a drop in an ocean. As for the spread effects and training of trainers, one day’s training does nowhere near cover all the information that the participants of HRDI’s programme have learnt with the motive of sharing with others. The initiative can only be seen as a beginning and its impact, though considerable in its own right, is small in comparison to the need for the protection and advancement of human rights.

### **Scope and Depth of Work of Law Clinics**

This indicator is also considered in the chapter on community outreach, looking at the extent to which the partners broaden and widen their work with

community outreach. The impact on the university legal clinics depends on the relationship between HRDI and the individual clinics. In some of the partner countries the cooperation with the university legal clinics has been terminated and there the impact is nil. The remaining collaborations are in varying degrees functioning smoothly. On the one hand the implementation is dependant on the participants of the training programme's commitment to implement, the ULC's commitment to accommodate and incorporate HRDI's activities, and the universities' bureaucracy when providing the participants of the training programme with funds. These are three rather critical conditions and nothing to be taken for granted.

The relationship between HRDI and the partner organisations is sensitive. We have written about some of the assumptions behind this in chapter 2. Communication must be extremely clear and consistent. This is essential especially in the cases where communication goes through several persons (as it seems to do most of the time) and misunderstanding easily can arise. Some partners ask for clearer guidance from HRDI, while others say they are content with the collaboration. Regardless of today's situation, striving for a transparent and consistent relationship between the partners is crucial for the future of the training programme and the implementation of activities.

While the partner organisation have been doing work in some of the areas where HRDI is active before the cooperation started, most have actually increased their activities as a result of the collaboration and the training. In the work description of most legal clinics the provision of legal advice to community members is a natural part. Clients come to the clinics and are served without charge by law students and employed staff. The training of other lawyers and paralegals has increased in almost all partner organisations. Most of the partner organisations had not worked previously with public interest litigation before coming in contact with HRDI.



*Community members of self-help groups at Hopley Farm, outside Harare. On this occasion, JAT worked together with WLSA in outreach and during a day gave information on rights and provided advice on an individual basis to community members.*

With the increased knowledge from HRDI's programme, the participants themselves are able to deal more effectively with problems whose root causes are related to human rights and HIV/AIDS. Incorporation of this knowledge to the partner organisations has been done to some extent, for example through training. The question that remains is whether the implementation in the long run is dependent on HRDI's presence within the partner organisations. If that is the case it is a problem, since the participants of HRDI's programme are young and can be expected to proceed with studies at master level. In some few countries, the collaboration with HRDI has inspired the clinics to institutionalise a section for human rights related issues, and in these cases the ability for effectively dealing with root causes of problems is sustainable.

## Chapter 6. From Organisation to Network

### The mandate on networks

The word network is often used when describing the contacts between HRDI and the former participants in the training programme, as well as when referring to the further work on legal services and community outreach. The original project proposal does not explicitly mention anything about a network either as an objective or as a result of the project. The agreement with Danida specifies that one of the indicators of success will be that *“ULCs within the SADC and Great Lakes collaborate more effectively with each other on cases and issues of common concern”*. In the annual progress reports the objectives of the training programme are listed and there it is said that the programme should build a cadre of lawyers who: *“are part of a formal or informal network of social justice lawyers within their region and develop regional strategies in collaboration with each other where appropriate”*. The overall objective of contributing to jurisprudence on issues of human rights and HIV/AIDS does seem to imply some form of network activities.

When we now turn to discuss the issue of networks it is not so much because it is an important point to evaluate. It is not quite clear whether to create a network has been an objective or not. Still, there is no doubt that a network has been created or can be seen to emerge in the wake of the project. But the questions of what kind of a network it is, what it should be and what it should do have not really been addressed. Hence in this chapter we bring in some elements of network theory to reflect on the choices for HRDI and its partners.

### What is a network?

In network theory, a network is often defined as an organisational form between markets and hierarchies. It is assumed that a network exists because a number of already existing organisations (or people) establish links with each other and find that they achieve their objectives better by acting together. In that process, they develop forms of governance building on the more or less equal strength of all participants. Such networks are often called “emerging” – in contrast to networks that are “designed”. In the latter case, the network is built in the same way a conventional organisation is built, by someone or some organisation taking the initiative to call the others together and persuade them to take part, and in that process also deciding who is to be a member of the network. Emerging networks do not have selection criteria; designed networks may have selection criteria.

The network that HRDI and its partners form is actually both designed and emergent. Although it is not clearly spelled out, the idea of creating a network is there in the documentation of the project. But HRDI has not constituted any formal network organisation and at present does not appear to be set to do so

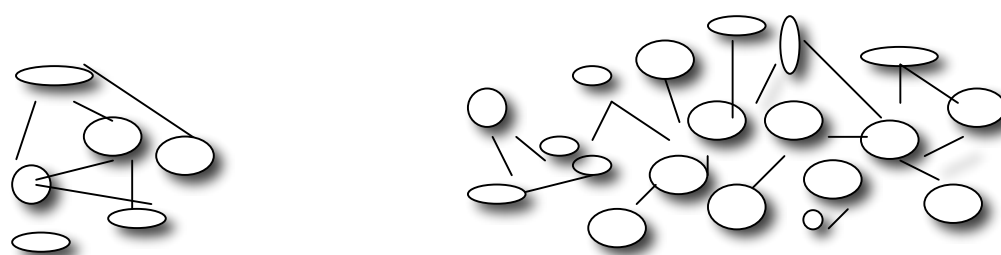
either. HRDI has, instead, built a platform where actors and institutions meet, and they are encouraged to liaise with each other, work together and build the jurisprudence on human rights in the region. A network may emerge as the former participants in the training keep in touch and as their institutions, be they legal clinics or NGOs, develop jointly.

### Aspects of network structure

The very word “network” implies some form of a structure. It suggests that we are looking at a system composed of different parts - and that these parts are related to each other. The elements of network theory are simple. The elementary units are nodes (for example persons, organisations, regions, and countries) that are related to each other via links (for example friendship, transfer of funds, joint purposes). Together, links and nodes form structures that are networks.

So, what kind of a network is it that can emerge through the cooperation between HRDI and its partners? A network can usually be depicted in the form of a graph. Figure 1 below presents two examples of network structures, and it readily gives rise to definition of at least three structural properties; (1) the size of the network, (2) the configuration of relationships and (3) their connectedness (these are illustrated in figures 2 and 3).

**Figure 1. Illustration of different size of networks**



*A small network*

*A large network*

### Network size

The size of a network is often given. An investigation of network properties in aid found that the number of actors could vary from some ten and up to hundreds of actors. The HRDI and its partners form a rather small network, but it is not yet clear who is a member or who could be a member. Would it be the individuals who have taking part in the training? Or the Legal Clinics of the Law Faculties, who were the first organisations to be involved? Or would it be the NGOs who have since been set up or come to be involved as more partners have entered the cooperative arrangements? A network could of course also be made up of a combination of individuals and organisations/institutions. The point is that it is a good idea to decide who can be a member of a network and what requirements need to be met. If a network is quite large, there will be increasing difficulties in governance, and if the network also uses resources for joint

activities, the question of having a thin spread or a more focused intervention arises.

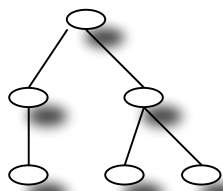
In the end, it seems likely that a network around HRDI's issues in the region will be relatively small, consisting perhaps of some 30 to 50 organisations and individuals. Still, the question of how big the network is needs to be explicitly addressed to make it work effectively. So far, the network has grown out of opportunities. There is no doubt that it could expand, there would be an interest in the activities from other organisations and from other countries in Africa. However that would mean that the character of the network would change, and in the short run that would entail costs. It is better to further consolidate the present network structure and to develop activities as partners seem to be reliable, share a mission and work well together.

### How the network is kept together

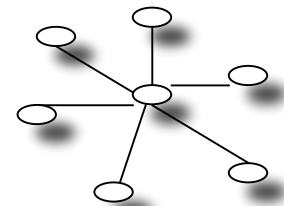
The configuration of the network is the second design variable. There are four possible network configurations. They are called hierarchical, centralised, dispersed and clustered respectively (figure 2). There is no reason to consider any one superior to the others a priori. Utility and effectiveness would depend on the nature of the task that the network should accomplish and which actors are found at different levels.

**Figure 2. Illustration of four network configurations**

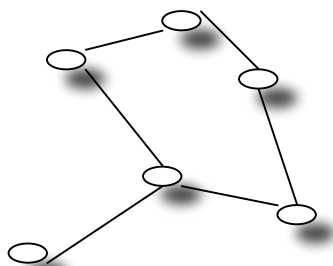
*A hierarchical network*



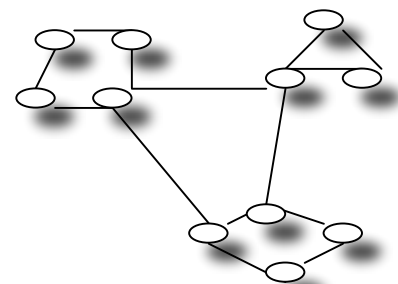
*A centred network*



*A dispersed network*



*A clustered network*



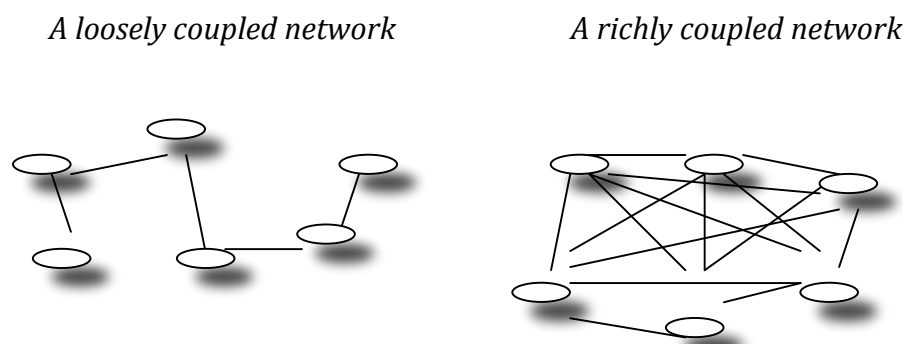
HRDI and its partners appear like a combination of the centralised and the clustered network structures; HRDI is no doubt at the centre and many of the participants relate much more to HRDI than to each other. But there is also an emerging tendency for legal clinics and law faculties to establish bilateral contacts in the wake of the training programme. During the first years, it was even more like a centred network, and it is one of the achievements that it has developed a more clustered structure. The risk here is that the different clusters have not developed strong relations to each other. Most relations are to HRDI at the centre, and if HRDI was not there, it is questionable if the other contacts would go on for long.

### Contacts in the network

The third structural feature relates to the number of links among the actors in the network. There is a visual presentation of the differences between a loosely coupled and a richly coupled network in figure 3. Richly coupled networks may have strong advantages in coordinating behaviour and thus in responding to emerging opportunities or threats. But there are also other viewpoints. Weak ties in sociological network theory cast an important light on the nature of cooperation. This explains how a social system organised by a greater number of acquaintances (weak ties) rather than close friends (strong ties) will exhibit greater aggregate innovativeness, cohesiveness and adaptability.

Our visits and interviews indicate that contacts between network members (apart from the persons that are most active in the governance) are limited generally and in particular, limited when it comes to contact from one country to the other. While there seems to be quite regular contacts with HRDI and its office in Pretoria, the contacts between the other participants are much more rare. Our impression was that the partners from Mozambique and Namibia had virtually no other relations with other network members. The partners in Rwanda and Kenya seemed to have more contacts, both with each other and with the organisations from other countries. There would be other such examples. It is also important to remember that problems with internet access, power cuts and work situation, mean that they cannot maintain contacts in the network as much as they would like to, and that is likely to be a general problem.

**Figure 3. Illustration of loosely coupled and richly coupled network designs**



At present, HRDI and its partners must be considered a relatively loosely coupled network. There is not a great deal of communication between the network partners. There is no formal organisation as such and no such instruments as newsletters or bulletins that keep a network together. There was supposed to be a website, but this is not yet in place. Many of the processes that could keep a network together, such as these, are not really visible. There is a Yahoo group functioning as a discussion site while waiting for the website. The network is kept together by the training programme, the joint work on cases and legal services, and the recurrent project management committee meetings.

#### Character of network links

While the formats above show structural properties of the network, they don't show what happens in these structures. The overall purpose of the network could probably be said to be a means whereby the overarching objective of the project - to contribute to jurisprudence on human rights issues - are realized. In theory, this is understood by the partners and can be seen as an emerging joint purpose. In practice, the partners have also joined the network in order to gain access to resources; training and technical support and to some extent funding of outreach activities. They have many times been sought out and invited because it is primarily through them that HRDI can reach out to communities and gain experiences that can be used for the development of impact cases. One of the main issues for the future will be whether this "donor - recipient" relationship can be transformed into a more equal relationship, or rather, a relationship that does not depend on HRDI or someone else having access to funds and other resources to distribute to the other organisations.

## Chapter 7. Key Findings and Recommendations

### Findings on Strengths and Weaknesses of the Project

The overall conclusion of the project “*Regional Human Rights Law Clinics to Increase Access to Justice for Vulnerable Groups in Africa*” is that it was a very ambitious undertaking. The objectives that were to be reached were indeed relevant, but hardly possible to reach within three years time. They are not likely to be reached even if the project is extended through 2010. The project was based on an implementation plan that was not realistic; it presupposed organisational set-up and a network of committed partner organisations that could not be realized in such a short period of time. Consequently the objectives have been approached rather than reached; in qualitative terms the activities made a significant contribution to access to justice of vulnerable groups in some of the partner countries. In quantitative terms, it is different in respect of the different indicators; close to some (number of countries and partner institutions), halfway in respect of others (training participants remaining in network, and yet further from others (impact cases).

HRDI was set up in 2004 to implement a project on access to justice of vulnerable groups. The organisation with its founding documents, governance structure, and with its organisational arrangements, must be understood in that light. The four abilities that were analysed in the report show strengths and weaknesses in all respects. The main strengths were to be found in;

- A relevant and pregnant formulation of vision, mission and values
- A strong and competent board
- Robust and well-working financial systems
- A core of committed and competent staff members
- A desire to learn from experiences and improve operations

HRDI is a young organisation and it is not meant to be a long-term operation. The aim has to been to train people and provide them with knowledge and tools to continue the work – in collaboration with each other. The main weaknesses of the organisations were found to be:

- A risk that too many governing bodies interfere with each other and lead to a top-heavy administration (board, advisory committee and project management committee, and the management team)
- The ability to produce realistic plans that can be implemented on time and through using the resources available (no more, no less)
- While there are many feedback channels these tend to be narrative and risk missing the aggregate picture of achievements.
- Difficulties in recruiting people with the right competence and qualifications in time for the implementation of core activities

- Assessing the commitment of partners in the region, in particular university law clinics and others that could be partners, and to develop mutually accountable relations to these (it has worked in some cases, but in many others the partnership is far from ideal).

### Findings on the Training Programme

The most visible success of the project is the training programme that was implemented in 2006, 2007 and 2008. Even though the objectives were not reached in quantitative terms, it has been a significant achievement. The programme has involved 11 countries rather than 15, and there is a core of 15 persons trained and actively working with the program activities, rather than 30 as planned. In qualitative terms, the four objectives of the training have been partially met. It is a well designed programme, relevant in content, with a highly qualified set of teachers and strongly connected to real problems and issues. It fills a role as there is no other similar training programme – it is unique.

The former participants unanimously praise the programme and they have benefited significantly - they have learnt new skills and for many, it has meant fundamental changes in values and attitudes. The strongest and most unusual aspect of the training programme is that it comes to use – it has had a significant impact. Those who have been trained apply what they learnt upon their return home. This is the result of design – careful selection of participants, preparation before the training, follow-up during and after training, and the possibility of using funds from the project to support further work. A training programme that has so many qualities should reach more people and should be available to participants from other countries. It is much too unique and successful to close after having been implemented three times and to 23 participants

### Findings on Community Outreach

There were five objectives of the community outreach programme, and at a first glance they all seem to be met. However, as objectives go, they suffer from the same weakness as those of the training programme, that is, they can be disputed and there are no indicators of achievement expressed in the documents or implementation plans. The community outreach is closely interconnected with the training, and as a result the community outreach activities have been carried forward when the participants returned after the training. In terms of sheer numbers, it seems that quite large numbers of persons do get access to legal advice – a service they did not have in the past. The information on rights and related advocacy work is also significant and a large number of persons have been reached, and through the training of trainers even larger numbers are reached indirectly. There is no doubt that the community outreach programmes reach vulnerable groups. The participants have chosen to locate services in areas where they are accessible to poor people, and they have also been innovative in finding ways of reaching out, for example through mobile clinics. The timing of services seems relevant and appropriate and the issues that are covered are based on the requests from community members, and hence grounded in their daily lives and problems.

### Findings on Legal Services

The legal services aimed at creating human rights jurisprudence within the Great Lakes and SADC regions through advocacy, research and litigation. There were three specific objectives, one of which was formulated as a quantitative indicator. This part of the project is also closely interconnected with the training and community outreach, and it cannot be assessed without also taking these aspects into consideration. Nevertheless, it is quite clear that the quantitative objective of 20 impact cases has not been reached. The selection of cases has been problematic and it takes much longer to develop jurisprudence than could be completed within the life time of a short project such as this.

The project has been partly successful in working with university law clinics and affecting what these do and orienting them more towards human rights. The success depends much on how the cooperation with the partners evolve; in some cases it did not work out at all and instead HRDI came to work with NGOs. In those cases there was not much impact on the university law clinics. But in other cases the cooperation did develop and there have been changes, but how much depends on the priorities and commitment of larger groups of people. The process of developing synergies and adopting a common agenda, as expressed in the agreement with partners, was far more difficult and cumbersome than expected and it should be considered a reasonably good result that there is a network with some 5 to 7 institutions that do have a stake in the continued activities of HRDI.

### Findings on Network Development

The project has an ambivalent approach to the nature of future cooperation. At times it seems an objective to establish a network – the project proposal mentions and “informal or formal” network (it was part of the original proposal, but removed as it was considered too ambitious, then brought in again after the 2007 Annual Review Meeting). There is no doubt that an informal network is emerging as a result of the training programme and all the other activities. But so far it is indeed informal, there is no governance structure, no criteria for who would be a member and who would not be a member, nor what rights and responsibilities a membership would entail. It might have been unrealistic to let such issues be decided during these first years of cooperation and the risk of taking premature decisions would have been very real. At present the time has come to devote more time to thinking about the network structure, and the evaluation concludes that a more formally developed network structure, with a governing body, a constitution, rules around membership, etc. needs to be developed if the activities are to continue.

### Options for the Future

When the future of HRDI and the project is outlined, there are three things to bear in mind:

- The overall objectives are still highly relevant – as relevant today as when the organisation was founded, but they have not been reached. The

jurisprudence on human rights in the two regions of project activities needs to be further developed.

- In the course of implementing the project HRDI has gained in experience and is now much better placed to plan and implement activities than it was five years ago. It is still a young organisations, but it has more staff and other resources, the training programme that lies at the core is tried and tested and would be even more successful when implemented a fourth time, and so are other aspects of the operations.
- There is a nucleus of partner organisations, in the two regions and in South Africa, that are committed to the vision, mission and values of serving vulnerable groups and working for the respect of human rights in their societies.

Against that background we outline three strategic options for the organisation, each of which is realistic and feasible, but each of which has its pros and cons. These are summarised in Table 11.

#### **Scenario 1; Expansion**

*Greater geographic coverage, more partner institutions, and broadening the approach to human rights.*

A second phase of the project would return to the objectives of the first phase and now aim to reach all the 15 countries mentioned in 2005 – and others as well. Furthermore, there is really no need to work with only one organisation in each country, and in fact even during the past three years the original focus on university law clinics has been supplemented with other partners. The main benefit from working with other partners too would be that the network as a whole would be more resilient and less dependent on the performance of any one organisation in a country.

The vision and mission of HRDI is rather wide but has been narrowed down to rights and access to justice of vulnerable groups living with HIV/AIDS. There are many other vulnerable groups in society and the present training programme could be expanded to cover other vulnerable groups and other aspects of human rights. The three-forked approach of training programme/community outreach/legal services could serve other needs as well. Such a project would need a larger staff than is presently available at HRDI, so the organisation would need to recruit more staff members. The duration of a new and larger project in a second phase should be planned for at least a five year period and it would need a budget that is significantly larger than the budget of the first project.

#### **Scenario 2; Consolidation**

*Building close relations with committed partners in few countries to develop the jurisprudence on human rights for vulnerable groups affected by HIV/AIDS.*

A second phase of the present project could maintain the overall goals and objective of the first phase. However, it would set as an objective to develop a

sustainable network of partners who will maintain contact and interact with each other to exchange experiences, undertake research and develop jurisprudence jointly. This will require repeating the training programme several times, with the aim of having trained at least 90 participants, with the target of having at least 40 to 50 of these continuing working together.

HRDI will need to develop contacts with other organisations in the partner countries, possibly with several organisations in each country. It will be necessary to initiate partnerships at a simple level and with minimal commitments and gradually see which organisations assume responsibilities on their own and will actively contribute to the network rather than merely be on the receiving end.

Such a project could be implemented with the present staff resources and an operational plan and a budget could be developed. It would build on the experiences of the past and consolidate the gains in a limited number of countries, but this may be sufficient to reach the objective of developing jurisprudence. At the end of such a project the network of partner organisations should be sustainable and their work on further community outreach and legal services should continue on its own, and at that time the job of HRDI would be completed and the organisation dissolved.

### **Scenario 3. Closing Shop;**

*Concluding the project and dismantling the organisation.*

This scenario means that HRDI would not solicit new funds or develop new project proposals, nor would it take any initiative to formalise the network or ascertain that the project activities continue. The training programme has been very successful and if those who took part want to maintain contacts and work together there is nothing stopping them to do so. If they have the will, they'll find a way, and it would be wrong to impose on them. The overall objective would be better served if it is left to the real absorptive capacities and skills of the organisations in partner countries to work together. HRDI itself would then cease to be as an organisation and the staff members would pursue other careers.

### **Choosing a scenario**

Table 11 sums up the pros and cons of the scenarios, and as the table shows, there are pros and cons of each and whether something is a pro or a con is not really an objective truth. It depends on your vantage point and your perception of risks – and of course, what lessons to draw from the past. There is also an issue of whose task it is to develop activities, and in particular, to what extent the network of law faculties, former participants, and NGOs are to be part of the strategic discussion. We would assume that this is primarily a choice for HRDI; its board, management and staff members, but it is a choice that should be guided by the advice of the other stakeholders – and even if the course of action chosen should differ from that advice, the reasons for so doing should be transparent and clear.

**Table 11. Pros and cons of the scenarios**

	Scenario 1; Expansion	Scenario 2; Consolidation	Scenario 3; Closing Shop
Pros:	Challenging and brave. In line with extensive community needs. Develops the first phase logically and in line with vision and mission.	Prudent yet a challenge. Builds closely on experiences of the past. Keeps the door open to further expansion later on.	Avoids dependence on donor financing. Sets an example of how to finalise project activities. Lets the partners develop according to their inherent abilities.
Cons:	Requires funding from several sources and thus complicated accountability. Risky and uncertain. Complicates management when reaching out to new countries, language groups and legal contexts. Does not quite build on the lessons learned.	Not sufficiently ambitious and challenging? Difficult to consolidate in some countries and old patterns of behaviour/relation may be difficult to break. Funding could be a problem?	Can be seen as a let down by people and partner organisations that expect more from HRDI. Not congruent with the vision, mission and value statement. Does not build on the achievements and success of the past.

We who have been working on this evaluation will not be engaged in any of these scenarios and it is of course the persons involved who must choose whether to be brave, prudent, or just satisfied with what has been. It is their choice, not ours.

Yet the brief outline of pros and cons seem to indicate that the most realistic scenario is the middle one, which is risky, but not wildly so. It builds on past experiences and would mean that the organisation could set realistic goals and objectives. It is adapted to the proven skills and capacities in governance and management, and it corresponds to the four abilities of the organisation – its ability to be, to do, to relate and show results. Most importantly, in particular compared to the third scenario, is that it is true to the core values, vision and mission of HRDI. That vision and mission statement does not open up for partial success. The challenge remains and the community needs are as acute now as when the vision was formulated.

## Annex 1. Terms of Reference

### EVALUATION PURPOSE

The purpose of the evaluation is to determine the extent to which the project intervention has achieved the results contemplated in the proposal, both qualitatively and quantitatively. It is further intended to assist HRDI to map out its future direction. In other words it ought to assist HRDI to determine whether to deepen its work in the partner countries, to broaden its scope geographically and/or to deepen its work programmatically. It ought to assist existing and potential donors to determine whether the outcomes it contemplated were achieved and whether to continue, deepen and expand or to terminate its support of the programme.

### INTERVENTION BACKGROUND

HRDI's intervention strategy focuses primarily on working with university based law clinics within the target countries on the use of international and regional human rights instruments and mechanisms to protect the rights of people living with HIV/AIDS (PLWA's).

HRDI's legal and advocacy strategy tries to ensure that the problems are addressed at their root and that the impact is widely felt. Ultimately, HRDI expects that this will result in international and regional human rights norms and standards being more tangibly felt at the grassroots level and being used in a creative way to address real problems of society thus transforming the law from a tool used by the rich to oppress the poor, to a means for the empowerment of the most vulnerable groups within society and consequently tilting the balance of power in favour of the poor and vulnerable.

The intervention strategy attempts to bolster the regional human rights system, including the African Commission and soon to be established African Court on Human and People's Rights. It attempts to work to ensure that the regional system evolves and steadily moves toward building a society that has greater respect for human rights and consequently a more stable and just society in which the gap between rich and poor can more readily be reduced and consequently attempts to ensure that more women are empowered to take greater control over decisions and processes that effect their lives.

The main areas of intervention are training lawyers, provision of legal services and community outreach. What follows is a brief description of each area of activity.

The goal of the training programme is to build a cadre of lawyers who:

- have sufficient knowledge, information and skills to integrate the use of international and regional human rights norms and standards in their law clinics;
- are committed and able to challenge elitism and social, economic and political injustices generally, and more specifically unfair discrimination against people living with HIV/AIDS, and enable them to better secure the socio-economic rights of people living with HIV/AIDS, using international and regional human rights norms and standards as the barometer;
- are part of a formal or informal network of social justice lawyers within their region and develop regional strategies in collaboration with each other where appropriate; and
- are not solely motivated by the prospect of earning money.

The legal services component is developed proactively. The students, during their preparation consulted with community based organisations and enquired among other things as to what the most pressing HIV/AIDS issues are. Cases/issues are proactively tackled as a result of this consultative process.

A comprehensive community outreach programme was necessary since our primary partners, the university law clinics are often situated on university campuses which are usually far away from the communities that they intend serving. We acknowledged the challenges faced by the vulnerable groups in accessing the services of university law clinics and particularly in the context of HIV/AIDS, it is even more difficult for a sick person to walk the long distances required to meet a lawyer hence the need for effective outreach.

Consequently, the aims of the outreach programme are:

- To reach the most vulnerable PLWHAs;
- To help build strong relationships between our partner ULCs, CBOs, NGOs and FBOs in the community ; and
- To provide legal assistance to the vulnerable groups through ULCs and students whom we trained.

#### STAKEHOLDER INVOLVEMENT

The HRDI team and its partners as listed below should be involved in the evaluation process:

- a. partner law clinics;
- b. community based organisations, both in partner countries and during the training programme in Pretoria;
- c. guest teachers as representatives of their organisations;

- d. students; and
- e. clients of the partner law clinics.

## EVALUATION AREAS

The purpose of the evaluation is to determine the extent to which the project intervention has achieved the results contemplated in the proposal, both qualitatively and quantitatively in the following areas:

- Effectiveness of HRDI's Training Programme
- Effectiveness of the Inclusion of Voluntary Work in the Training Programme
- Effectiveness of HRDI's Proactive Approach to Legal Services
- Effectiveness of HRDI's Community Outreach Programme
- The Sustainability of HRDI's Project

In each Partner Country:

- The Extent and Effectiveness of their Legal Services Provision
- The Integration of HRDI Training into their Clinical Programme
- The Extent and Effectiveness of their Training of Students in their Institutions
- The Extent and Effectiveness of their Community Outreach Programme
- The Sustainability of the Project within their Institutions

## RECOMMENDATIONS AND LESSONS

Recommendations are required regarding whether or not HRDI ought to deepen its work in the partner countries, broaden its scope geographically and/or deepen its work programmatically for example expand legal services provision or in other ways improve its work to achieve the goals.

Recommendations are required to assist existing and potential donors to determine whether the outcomes it contemplated were achieved and whether to continue, deepen and expand or to terminate its support of the programme.

## METHODOLOGY

To the extent possible and practical participatory methods should be used. However, the specific methods should be determined by the evaluator in consultation with HRDI.

## WORK PLAN AND SCHEDULE

Within the constraints of the budget, the evaluator should spend time at the following sites:

- HRDI offices; and
- Six partner law clinics.

In addition interviews should be conducted with some of the guest teachers during their time in Pretoria.

The evaluation ought to begin in March 2009 and be completed by May 2009.

## REPORTING

The report should contain the following and should be a maximum of 40 pages:

- Executive Summary
- Key Findings
- Recommendations

A first draft of the report should be submitted for comment by the 30 April 2009. The final report should be submitted by 15 May 2009.

## EVALUATOR

The evaluator should preferably have a background in clinical legal education and the operations of live client clinics. In addition, s/he ought to have experience and knowledge of the African Regional human rights system and HIV/AIDS issues.

## **Annex 2. List of Interviews**

### **South Africa**

Thandabantu Nhlapu; Chairman of the Board of HRDI  
Asha Rambogin, Executive Director HRDI  
Tebello Thabane, Litigation and Advocacy HRDI  
Christian Tshimbalanga Mwata, Community Outreach HRDI  
Hester Rossouw, Administrative Assistant HRDI  
Gideon Mphako, Supervisor Voluntary Work and Maintenance, HRDI  
Carita Teien; Social Scientist HRDI

Dan Bengtsson, Board member, previous Deputy Executive Director HRDI (telephone interview/skype)  
Aubrey McCutcheon; Board member and Chair 2004 – 2008 (telephone interview/skype)

Pierre Broard, Centre for the Study of Aids  
Frans Viljoen, Centre for Human Rights

Members of the Tateni community organisation and their clients, teachers, people living with HIV/AIDS, community members in the township.

### **Zambia/Sida**

Michael Tawanda, Senior Regional Adviser. (telephone interview)

### **Kenya**

Milka Kuria, CLAN  
Ibrahim Alubala, CLAN

Patrick Ngunjiri Maina, Muriuki Ngunjiri & Co.  
Electine Malesi, Chairperson, Kibera Post Test Clubs Network (KIPOTEK)  
Jacob Kabayo, Secretary, Kibera Post Test Clubs Network (KIPOTEK)  
Queenton Ochiong, Chairperson, SALAR  
Lynette Mwangi, Treasurer, SALAR  
Kamero Peter, Secretary general, SALAR  
Lynette Otierio, Vice chairperson, SALAR  
Maureen Nyamai, KLSS representative

Field visits to community outreach partners

### **Mozambique**

Luis Matsine, Acting Head of Legal Clinic. Faculty of Law, Eduardo Mondlane University  
Bonifacio Ildefonso, Project Coordinator, Human Rights Centre

Maria Delurdes Araujo, Project Coordinator, Human Rights Centre  
Almedia Machava, Adviser, Human Rights Centre  
Jossias Samuel, Student at the Legal Clinic  
Nadja Gomez, Deputy Head, Human Rights Centre

### **Namibia**

Nico Horn, Dean of Faculty of Law, University of Namibia  
Yvonne Dausab, Lecturer, Faculty of Law, University of Namibia  
Vincia Cloete, Student, University of Namibia

### **Rwanda**

Aimable Havugiyaremye, Lecturer & Coordinator, National University of Rwanda  
Legal Aid Clinic  
Kayitavu Appolinaire, National University of Rwanda Legal Aid Clinic  
Laurent Shenge, National University of Rwanda Legal Aid Clinic  
Yves Sezirahiga, Deputy coordinator, National University of Rwanda Legal Aid  
Clinic

Soeur Marie Vénantie Nyirabaganwa, Director, Centre Igitu Cy, Ubugingo  
Ministry of Hope, meeting with around 20 community members  
Abakeneyimpuhwe Association, meeting with around 50 community members

### **Uganda**

Gloria Oyee, Health communication officer, Uganda Protestant Medical Bureau  
(UPMB)  
Theodora Webale, Director LDC Legal Aid Clinic of Uganda  
Catherune Peace Tumusime, LDC Legal Aid Clinic of Uganda  
Evelyn Aero, LDC Legal Aid Clinic of Uganda  
Ivan Kintu, Communication and Advocacy officer, National Community of  
Women Living with HIV/AIDS (NACWOLA)  
Sseguya Ismail, Headmaster, Old Kampala High School

### **Zimbabwe**

Albert Chambati, Coordinator, Justice Aid Trust  
Thoughts Deme, Deputy director, Justice Aid Trust

Tonderai Chiduku, Zimbabwe National Network of People Living With HIV and  
AIDS (ZNNP+)  
Sipio Mahlangu, (ZNNP+)  
Tabena Shoko, (ZNNP+)  
Evelyn Shamisa, (ZNNP+)  
Slyvia Chirawu, National Coordinator, Women and Law in Southern Africa  
Research and Education Trust (WLSA)  
Michelle, Legal officer WLSA  
Stanley Marowa, New Life Manager, Population Services International

Hopley Farm, meeting with 30 community members