



ANNUAL PROGRESS REPORT

For Year End

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REGIONAL HUMAN RIGHTS LAW CLINIC

to increase

ACCESS to JUSTICE for VULNERABLE GROUPS

in

AFRICA

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PREAMBLE

The Human Rights Development Initiative (HRDI) is a politically non-partisan, regional non-governmental, non-profit, secular human rights organisation, with an international board. It is based in Pretoria and registered as a non-profit, tax exempt company and a public benefit organisation according to the laws of South Africa.

VISION

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 is respected.

MISSION

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.

VALUES

Every person contributes in a meaningful and significant manner to the overall growth and development of society. Hence all forms of work should be respected and valued.

Every person has the inherent capacity to contribute meaningfully to society especially in a nurturing and safe environment. Hence the environment should be nurturing, respectful and appreciative of the contributions of each person.

Every person working within HRDI has a responsibility and obligation to work in a service orientated manner with efficiency and commitment to the mission and vision of the organisation.

Every person, family, society and state are interdependent – each upon the other. Individuals and families form the building blocks for a healthy society and a strong state that takes care of the needs of its citizens and residents.

Human rights and development are concepts that are interdependent.



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LIST OF ABBREVIATIONS

ARASA	Aids and Rights Alliance of Southern Africa
AU	Africa Union
AULAI	Association of University Based Legal Aid Institutions
CPC	Country Project Co-ordinator
DfID	Department for International Development
DRC	Democratic Republic of the Congo
EAC	East African Community
HIV	Human Immunodeficiency Virus
AIDS	Acquired Immunodeficiency Syndrome
HRDI	Human Rights Development Initiative
IOM	International Organisation for Migration
IUCNSA	International Union for the Conservation of Nature and Natural Resources South Africa Office
MSF	Médecins Sans Frontières
OSISA	Open Society Initiative for Southern Africa
PLWA	People Living with HIV/AIDS
SADC	Southern African Development Community
ULC	University Law Clinic
UN	United Nations



1 EXECUTIVE SUMMARY

The report begins with a brief *background* to enable any reader to contextualise the contents. Thereafter it moves into a discussion of *developments within the sector*. Rather touching cursorily on many developments, the HRDI team have decided to look more closely at a few issues that were considered either pertinent or neglected. The section is divided into five parts which focus on issues at a global level, in Africa, within the SADC and Great Lakes sub regions and finally within the field of HIV/AIDS more broadly.

At global level, we have chosen to highlight four issues and look more closely at two. We note the appointment of the new Secretary General of the United Nations and South Africa's appointment as chair of the Security Council, and look more closely at climate change and HIV/AIDS and the case of Novartis against the government of India.

Moving from the global to Africa, we look first at the judicial landscape. Thereafter, we look at the economic and political impact of China's role in Africa from a human rights perspective.

Within the SADC region the continued hegemony of South Africa and South African companies continues and the SADC Tribunal. Within the Great Lakes region we look at the impact of the continued conflict and mobility of people within this region, the EAC Tribunal and relatively newly established Great Lakes Initiative on AIDS.

Finally we look at issues raised by members of the UNAIDS reference group on HIV and Human Rights at their recent meeting in February and issues that emerge out the latest UNAIDS December 2006 report.

The next section covers an overview of *progress* made in the project. The reference point is the proposal and annexures to the initial proposal submitted to Sida. These documents contained the targets that HRDI aimed at. In the section dealing with progress made, important comparisons between planned outcomes and those actually achieved are listed. It provides the basis for the analysis which follows later in the report.

Thereafter the report focuses on the important aspect of *compliance* with specific conditions of support. Here, we have chosen to address and highlight procurement and corruption issues.

The next section deals with *organisation and administration*. The bulk of this section looks at management, institutional, board and fundraising issues, but it also covers HRDI's relationship with its partners, both in project implementation and generally.

The financial management and *budget* explanation follows. Here in narrative format, the link between the spending and the activities is made. HRDI's approach to financial management and its understanding of prudent policies is explained in a pragmatic manner.

Finally, in the penultimate section a brief overview and summary is followed by *analysis*, internal reflections and constructive self criticism culminating in proposals for change. The report has many annexures that are meant to add texture, flavour and to support the assertions made. The *concluding* section provides acknowledgements and last words expressing renewed commitment to the mission.



2 BACKGROUND

The Human Rights Development Initiative (HRDI) is an innovative collaborative effort of key public interest lawyers and stakeholders who recognised both the gap and the challenge with respect to building a strong cadre of lawyers who will use the international and regional human rights mechanisms to advocate with and on behalf of communities within Africa. HRDI has developed strategic partnerships with key stakeholders and established organisations to ensure that a comprehensive response to felt needs within the beneficiary communities is effectively and efficiently addressed. It is a non-profit organisation based in and registered in terms of the laws of South Africa.

HRDI's overall goal 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 to the poor and vulnerable groups in society.

Its specific objectives are to:

- Contribute to the development of a regional human rights jurisprudence within the African Commission, soon to be established African Court of Human and Peoples' Rights, Community Tribunals 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.

HRDI emerged out of the law clinic and clinical legal education movement which is gaining momentum across the African continent. While its inspiration comes from the work within domestic law clinics in South Africa and more recently in Africa, it works in the Southern African Development Community (SADC) and Great Lakes Regions of Africa.

Presently, law clinics have a substantial impact on access to justice within a domestic context. HRDI has established a regional human rights law clinic to expand the sphere of impact of law clinics, paralegals and community based organisations from the domestic to regional and international. HRDI will begin with the subject focus on access to justice for women and children discriminated against on the basis of their HIV/AIDS status within the SADC and Great Lakes Region.

The four main activity areas discussed in greater detail in the report below are: 1) An intensive four/five month training programme based on the principles of clinical legal education; 2) legal service provision, including working on issues/cases proactively identified; 3) community outreach; and (in 2008) 4) monitoring compliance with decisions/agreements.

Two further components include voluntary work, including the provision of compassionate care to people living with HIV/AIDS, and the establishment of a network among the law clinics.



3 SECTOR DEVELOPMENT

There have been many developments within HIV and regional and international human rights sector. A detailed analysis of all the developments or even most will convert this report into many mini essays. Consequently, within each category we have chosen to highlight certain issues while acknowledging that there are many more aspects that could be covered here.

What follows below is a very brief look at some of these issues at a global level, in Africa, within the SADC and Great Lakes sub regions and finally within the field of HIV/AIDS more broadly.

Global Developments

At global level, we have chosen to highlight four issues and look more closely at two. We note the appointment of the new Secretary General of the United Nations and South Africa's appointment as chair of the Security Council, and look more closely at climate change and HIV/AIDS and the cases of Novartis against the government of India.

New Secretary General and South Africa as Chair of the Security Council

Politics at a global level has seen the appointment of a new Secretary-General to the United Nations (UN), Ban Ki-Moon whose first visit was to the Democratic Republic of the Congo (DRC) and South Africa has recently been appointed the chair of the Security Council.

Recently, he addressed an audience in the US where he stated: "The majority of the U.N.'s work still focuses on preventing and ending conflict," Ban said. "But the danger posed by war to all of humanity — and to our planet — is at least matched by the climate crisis and global warming."

He went on to say that it is critical that the international community come up with a new strategy to deal with global warming after the Kyoto Protocol expires in 2012. He added that climate change will be a top priority during his five-year term.¹

Climate Change and HIV/AIDS

That climate change and global warming demonstrates the interdependence of all people, rich and poor, black and white, east and west, north and south is clear. But the link between climate change and HIV/AIDS is less tangible but nevertheless important to note in developing any intervention strategy to address HIV/AIDS, whether it is from a rights based perspective or a pure health perspective. That HIV/AIDS and climate change affect each other adversely is clear. At the very basic level the need for water and nutritious food to combat the effects of HIV/AIDS in a circumstance where droughts, floods and other natural disasters have a devastating impact on food security presents one clear link between HIV/AIDS and climate change.²

¹ www.iht.com/articles/ap/2007/03/02/news/UN-GEN-UN-Climate-Change.php

² For a more in-depth analysis see Gommers, R, Geurney, J, Glantz, M and Hsu, L: *Climate and HIV* UNPD and FAO, 2004



Recent studies have highlighted the human impact on climate change and require that interventions that seek to address root causes of problems consider such links in their strategies. Hence it is mentioned here. A further reason for consideration of the impact of climate change on HIV/AIDS is the move away from viewing HIV/AIDS as only a health issue, but rather as both a developmental and human rights issue. This is in line with HRDI's view that human rights and development are interdependent as seen in the preamble.

Assertions that HIV/AIDS negatively impacts on the long term sustainable use of the environment, while droughts, floods and other natural disasters associated with climate change and global warming negatively impact on the ability of poor people living with AIDS to combat the illness clearly demonstrate the need for a comprehensive approach based on addressing root causes of problems.³

To complete this section it is well worth noting what the International Union for the Conservation of Nature and Natural Resources South Africa Office (IUCNSA) has stated:

“Human well being is heavily dependent on biodiversity and the services provided by local ecosystems. This is no more evident than in the case of HIV/AIDS-affected, and especially poor, communities, which may not be in a position to take a long-term or integrated approach to natural resource management. Clean air and water, food, fuel, medicinal remedies and shelter, as well as many income generating opportunities can greatly improve livelihoods when biodiversity is preserved. The conservation of natural resources is an important means, therefore, of mitigating the impacts of HIV/AIDS. Many organizations in southern Africa and elsewhere are developing strategies to direct the means and goals of conservation towards the delivery of health and livelihood services, and integrating the realities of HIV/AIDS is an essential element of these efforts.”⁴

Cases of Novartis against India – Patents – Access to Treatment

Moving from the not so obvious issue of climate change to one which is tangible and extremely important in the current global context is the cases of Novartis against the government of India. The first case is an appeal against a decision of the Chennai Patent Office rejecting Novartis application to register a patent on the cancer drug commonly known as Gleevec on the ground that the application only claimed “a new form of an old drug”.⁵ Novartis has instituted an appeal against this decision.

The second case challenges the constitutionality of a Section 3(d) of the Indian Patent Act which was specifically introduced by the Indian parliament as a safeguard against the misuse of the product patent regime. Novartis in its petition is claiming that the section is not in compliance with the TRIPS agreement and hence should be declared unconstitutional.

The decision of the Chennai Patent Office allowed Indian pharmaceutical companies to continue to manufacture generic forms of the drug and dispense it at affordable rates to

³ See Hammarskjöld, M: *The Environment, Natural Resources and HIV/AIDS*, Sida 2003

⁴ See www.iucnsa.org.za/key_issues.htm

⁵ See Berne Declaration: *Norvatis Challenges Indian Patent Law*, 2006



patients. It has been argued that this decision also affects access to other drugs, such as anti-retroviral drugs, both for Indian and other patients in the developing world.

Dr. Christophe Fournier of Doctors without Borders (MSF) said that antiretroviral medicines produced in India are used to treat more than 80% of the 80000 people who receive treatment at MSF's AIDS projects in more than 30 countries. He said that MSF relied on less expensive, quality medicines produced in India to treat people with AIDS.⁶

Closer to Africa, AIDS Law Project senior researcher Jonathan Berger said that SA imported fully formulated anti-AIDS generic drugs as well as active pharmaceutical ingredients used to formulate generic drugs locally from India. If Novartis won its case, this could limit SA's access to some generic drugs. Novartis was one of the companies that took the South African government to court more than five years ago in a bid to prevent it from importing cheaper AIDS medicines.⁷

Developments in Africa

Moving from the global to Africa, we look first at the judicial landscape. Thereafter, we look at the economic and political impact of China's role in Africa from a human rights perspective.

The African Court – A Terrain to Wage Battle against Unfair Discrimination

A very important development during this reporting period was the inauguration of the African Court on Human and Peoples' Rights. Furthermore, on 2 July 2006, the eleven judges took the oath of office. Arusha, Tanzania was chosen as the seat of the court and the African Union (AU) has provided a budget of \$2 250 000. However, to date only 22 countries have ratified the Protocol. For a list of the judges and a list of those countries that have ratified the Protocol, see Annexures 1 and 2 respectively.⁸

While it cannot be stated that this development marks the beginning of the end of impunity in Africa, it can safely be asserted that this marks a decisive step in that direction. It might be unlikely that state parties take complaints against other state parties regarding human rights abuses during the early stages of its term. However, opportunities exist for human rights non-governmental organisations and individuals to file complaints against state parties. This is likely to be the space through which the challenges to impunity are made.

The Legal Officer for Africa at Interights, Ibrahima Kane, who is also a member of the Coalition for an Effective African Court and incidentally also a member of the HRDI board, cautioned against high expectations of the Court too early. Instead he suggested that at this stage the greatest opportunities exist at community level, and for our purposes, the Southern African Development Community (SADC) and the East African Community (EAC) Tribunals are relevant. Each will be discussed further in the relevant sections below.

⁶ www.ag-ip-news.com/getArticle.asp?Art_ID=3865&lang=en

⁷ Kurt L. Davis Jr.: *The Missing Ethical Discussion in the Pharmaceutical Manufacturers' Association of South Africa's 1997 Lawsuit against the South African Government*, PLCP 581: Final Essay, 2005 pg11 at <http://people.virginia.edu/~kld4s/PLCP581-FinalPaper.pdf>

⁸ For information about the African Court see www.africancourtcoalition.org



China and Africa

China has a long history of collaboration with the liberation movements during the colonial period in Africa. During the post-Tiananmen Square period its interest in Africa has been primarily as a source for much needed raw material. Economic analysts have compared Chinese economic growth to that of Germany after the Second World War. They suggest that in 40 years, China will be the world's largest economy. Clem Sunter, past Chairperson of Anglo American, says that "the world should not underestimate China's growing involvement in the world's resource business" and, in particular, its growing influence in Africa, which China's ruling part views as its 'continent of choice'. He goes on to suggest that while the west has by and large "turned its back on Africa", the Chinese see Africa as a "commercial opportunity". Further, that China plays the game differently from the west. Unlike the colonisers of the past, China is not interested in converting Africans to Buddhism, Confucianism or Taoism. Neither are they interested in human rights, democracy and good governance. Their only interest is in securing much needed raw materials to ensure that they (China) reach their goal of being the super power by 2040. He, together with many other economists suggest that "they just want to do deals" in terms of which they have long term agreements to secure raw materials and infrastructure such as roads leading to ports.⁹ Melville and Owen questions whether Chinese investment in Africa is any less motivated by self interest than that of the western colonialists.¹⁰

Of particular importance in this context is China's relationship with the so-called African elite and particularly with leaders such as Robert Mugabe of Zimbabwe.

Economic sanctions and other such measures to promote human rights, democracy and good governance in countries such as Zimbabwe become pointless when Mugabe is able to turn to China.¹¹ This then turns down the heat in the struggle to promote respect for human rights and the rule of law and consequently the most vulnerable in society are the ones that suffer deeply such as in Zimbabwe where inflation is crippling the ordinary person on the street. This will be discussed more fully below.

For the purposes of this report, the issue will be left here, however, further analysis of the impact China in Africa will be undertaken in the course of the implementation of this project.

Developments in SADC

South Africa – SADC

Within the SADC region the continued hegemony of South Africa and South African companies continues. This can be seen within the banking, mobile cellular networks, electrification, retail and insurance industries. South African brands such as Shoprite have taken root across SADC and parts of the Great Lakes region.

⁹ For more information see free.financialmail.co.za/07/0202/features/ifeat.htm

¹⁰ For deeper analysis of Chinese involvement in Africa see: Melville and Owen, *China and Africa: A New Era of South-South Co-Operation*, 2005, Open Democracy at

www.opendemocracy.net/globalization-G8/south_2658.jsp

¹¹ *ibid*



While during apartheid the SADC countries paid heavily for South Africa's liberation and ultimate transition to democracy, South Africa's current foreign policy with respect to its partners does not adequately compensate for that debt.

Within this context, South Africa's attitude toward Zimbabwe and its attitude toward the conduct of South African companies in Africa presents both a constraint and an opportunity.

In addition, South Africa's conduct in relation to migrant workers and refugees should be looked at. In a report released on 28 February 2007 titled "Keep your Head Down"¹², Human Rights Watch records the routine violations of human rights that take place. This report presents a challenge not only to the South African government, but to the region as a whole to look at migration and mobility of the population as it is one of the major factors contributing to Southern Africa remaining the epicentre of the AIDS pandemic.

Finally, human trafficking with South Africa as a destination of choice presents a further challenge as stated by the International Organisation for Migration.

The SADC Tribunal

While not a recent development, this Tribunal offers opportunities for natural persons and legal entities to challenge state parties to important SADC protocols to perform their obligations.

Recent Donor Initiatives

The Southern African Trust established by the Department for International Development (DfID) and the Southern African Litigation Centre established by the Open Society Initiative for Southern Africa (OSISA) are two particular developments of a more recent nature that present opportunities for HRDI and its partners.

Climate Change and HIV: The Cyclone in Mozambique

A recent news report simply clarifies the link between HIV and climate change as shown in this quote:

"A week after tropical cyclone Favio hit Mozambique's eastern province of Inhambane, concerns are rising about how HIV-positive people in the area will access life-prolonging anti-AIDS medication."¹³

Developments in Great Lakes

Continued conflict and mobility of people within this region makes vulnerability to HIV infection and to HIV developing into full blown AIDS even greater, according to Vera Bensmann of Save the Children, UK.¹⁴ While the EAC is developing stronger, this type of instability within the region continues. As a result of the conflict within the region migration and the growing movement of refugees poses a particular challenge.

¹² hrw.org/reports/2007/southafrica0207/

¹³ www.plusnews.org/aidsreport.asp?reportid=6722

¹⁴ www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/9c64704adb7b8ea49256d1f000f47d4



The establishment of the Great Lakes Initiative on AIDS might have an impact on this through co-ordinated efforts across the region.

Rwanda as a country is steadily growing economically and building upon the ruins of the 1994 genocide. However, recent re-opening of issues by the French of Paul Kagame's role might have adverse effects on that countries political stability. HRDI is closely watching these developments.

While not a new development, it is worth noting that the war in the north of Uganda continues and is rippling out around the region.

With respect to HIV/AIDS, the tests around circumcision have been stopped and concerns as to whether those results and findings might reverse infection rates in Uganda and the region have been raised.

Specific Issues in Zimbabwe

The most notable development in Zimbabwe is the inflation and exchange rate policy. Inflation has now reached the four digit stage. The anecdotal stories about “those with access” buying essential goods such as sugar off the shelves in supermarkets and then selling them at increased prices on the streets brings home the reality of Zimbabwe. People do not know, moment to moment how much goods cost. Yet somehow, modern fashion can be viewed on the streets as people walk. Transport costs escalate daily, yet public transport vehicles are full of people commuting. When asked how people survive, two Zimbabweans said that they miss meals if necessary, avoid luxuries and when they have money, they buy whatever they can. Not spending the money would mean that in the short term they lose.

The parallel market remains that which both perpetuates the breakdown of the economy and helps people survive. In Zimbabwe foreign currency is welcome as despite the official rate of exchange ordinary people use the parallel market to ensure that they get as much as possible. (The official rate of exchange is 1USD to 250 Zim dollars while the parallel market offers 5000 Zim dollars to 1 USD.)

Banks offer foreign currency accounts to both legal entities and private individuals. They are hence permitted to receive funds in foreign currency and withdraw foreign currency (within certain limits).

The European Union and the United Kingdom continue to impose economic sanctions on Zimbabwe. However, Robert Mugabe finds solace in his friendship with China.

Generally on AIDS

The Joint UN Programme on AIDs (UNAIDS) at a meeting of the reference group on HIV/AIDS and Human Rights highlighted six issues as the most challenging, namely: 1) Provider initiated testing and counselling; 2) criminalisation of drug users; 3) sex workers; 4) men having sex with men; 5) male circumcision; and 6) violence against women and children.¹⁵

¹⁵ www.unaids.org/en/Issues/Impact_HIV/20070216_Ref_group_HIV_HR.asp



With respect to the trend to criminalise intentional transmission, it has been argued that it might have been justifiable, but cautioned against misapplication and discriminatory application.

The study on circumcision concluded that it reduced the risk of infection by half. The reference group however cautioned that this could result in undue pressure being placed by government or others in power to get boys and men circumcised under unsafe conditions. Also it could result in a false sense of protection and lead to practicing unsafe sex.

Finally they all agreed that increased access to testing is welcome but within the framework of informed consent, counselling and confidentiality.

Justice Kriby quoted Joseph Mann when he said that HIV is a women's issue and reiterated that it is a women's issue. It deals with women's empowerment to determine sexual practices and conduct, sexual choices and her power within the family and within society¹⁶.

Mark Heywood commented on the practice within the pharmaceutical industry around research, development, production and distribution of drugs and the extent to which the developing world is prejudiced within this context. Much has already been said about that above under the section dealing with the case of Novartis and so will not be repeated here¹⁷.

Three further issues can be read about more fully in the 2006 UNAIDS report. Extracts that highlight the issues can be found below for completeness¹⁸:

HIV and Tuberculosis

TB drug resistance arises mainly because of inadequate TB control, poor patient or clinician adherence to standard TB treatment regimens, poor quality drugs or inadequate drug supplies. People living with HIV are particularly vulnerable to developing drug-resistant TB because of their increased susceptibility to infection and progression to active TB. This outbreak underscores the need to rapidly ensure prompt TB diagnosis and effective TB treatment for persons living with HIV in order to prevent drug resistance from developing and spreading. Access to TB culture and drug sensitivity testing must be improved, and effective infection control practices must be introduced in HIV care clinics to prevent the spread of TB.¹⁹

HIV and Malaria

Unexpectedly high levels of HIV infection are being found in adults seeking treatment for malaria in Uganda. More than 30% of adults presenting at district health centres with uncomplicated falciparum malaria were co-infected with HIV. Clinical treatment for malaria was three times more likely in adults with HIV. The findings are in line with a growing body of evidence from elsewhere in sub-Saharan Africa that malaria tends to occur with increased frequency and severity in HIV-infected adults. This underlines the

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ data.unaids.org/pub/EpiReport/2006/04-Sub_Saharan_Africa_2006_EpiUpdate_eng.pdf

¹⁹ *ibid*



need for new strategies of HIV testing and counselling for adults with uncomplicated falciparum malaria (Kamya et al., 2006).²⁰

Conflict and HIV

New research findings from Uganda cast doubt on the widely held assumption that internally displaced persons and refugees are more likely to be HIV-infected than people in ostensibly more stable settings. Acholiland, in northern Uganda, is home to an estimated two million internally displaced persons. At just over 8%, HIV prevalence in the region is high (Ministry of Health Uganda and ORC Macro, 2006). However, a study among pregnant women in the Gulu, Kitgum and Pader districts has found that women living *outside* protected camps had a higher risk of being HIV-infected than their displaced counterparts living in protected camps. This might be due to the reduced mobility and increased access to health and prevention services of women in some of the camps (Fabiani et al., 2006). A recent review of HIV literature on displaced persons in eight countries (including Uganda) also failed to find evidence that conflict increases HIV transmission (Spiegel and Harroff-Tavel, 2006).²¹

²⁰ Ibid

²¹ Ibid



4 PROGRESS REPORT

TRAINING AND LEGAL SERVICES

	Target	Actual
No. of Countries	5	5
No. of Law Clinics	5	5
No. of Students Trained	10	10
No. of Cases/Issues	2	3
<i>Project Management Committee:</i> No. of Members (excluding HRDI staff)	5	4*

* Representative from South Africa did not participate in the first meeting of the Project Management Committee and now falls away since the students have left as discussed below.

POST TRAINING CO-OPERATION WITH PARTNER LAW CLINICS – INSTITUTIONAL INTEGRATION OF STUDENT TRAINEES

	Target	Actual
No. of Countries	5	4*
No. of Law Clinics with Co-operation Agreements	5	4**
No. of Country Project Co-ordinators Employed by Partner ULCs	10	8***
No. of Cases/Issues	2	3
<i>Project Management Committee:</i> No. of Member (excluding HRDI staff)	5	4

* South Africa has fallen away as students have taken employment elsewhere.

** Signed with Rwanda; Mozambique decision to sign made by faculty board; Uganda agreement in principle, last details being worked out; Zimbabwe agreement in principle, last details being worked out.

*** 2 students from Zimbabwe pending finalisation of agreement and 2 from South Africa left.

PROGRESS MADE BY COUNTRY PROJECT CO-ORDINATORS (CPC)*

No. of CPCs Providing Training to Law Students based on HRDI Training	2
No. CPCs Providing Legal Services Based on HRDI Training	6
No. of Clients served based on HRDI Training	18**
No. of Training Manuals on HIV and Human Rights developed based on HRDI Training	1
No. of Law Clinics that are engaged in outreach programmes targeted at community based organisations working with PLWAs	3
No. of CPCs following implementation plan on issues proactively identified	6
No. of CPCs remaining in close contact with HRDI staff	8

* Country Project Co-ordinators are students who return to implement the project.

** Since HRDI has not yet received the quarterly reports from the partner law clinics, this data has been compiled from email correspondence with the CPCs²².

²² See attached extracts marked Annexures “3”, “4”, “5” and “6”



HIV AND HUMAN RIGHTS ISSUES COVERED DURING TRAINING

Target	Actual
Unfair discrimination in the workplace	Covered under Human Rights Obligations of Corporations: ILO standards, WTO, TRIPS, Work Place Policy, CSR
Compulsory testing and informed consent	Covered under AIDS and the Right to Health Care
Unfair discrimination with respect to insurance benefits and social security	Covered under Human Rights Obligations of Corporations: ILO standards, WTO, TRIPS, Work Place Policy, CSR
Unfair discrimination in housing allocation and testamentary issues	Not Covered
Unfair discrimination within the political framework	Not covered
Unfair discrimination in schools and within the education system broadly	Not Covered
Access to treatment, care and support	Covered under AIDS and the Right to Health Care
Unfair discrimination in respect of child headed households and AIDS orphans	Covered under Children's Rights and HIV/AIDS
Prevention of cruel, inhuman and degrading treatment due of AIDS status	Covered moderately under Social Psychological Perspective: Stigma, Discrimination and AIDS
	Additional Topics
	Women's Rights, Customary Law, Traditional Practices and HIV/AIDS
	Social and Psychological Aspects: Women and HIV
	Medical Perspective
	Access to Justice for People Living with HIV: Interviewing and advising clients with HIV
	Rights Based Approach to HIV: International Standards and the Right to Equality
	Childrens' Rights and HIV/AIDS
	Report Back from International AIDS Conference
	Criminal Justice and HIV/AIDS
	Refugee Rights and HIV, Migrant Workers and HIV
	Socio-Economic Rights, Food Security and HIV/AIDS



CONTENT OF TRAINING PROGRAMME: MAIN MODULES AND SKILLS PLANNED AND ACTUALLY COVERED

Main Modules Planned	Covered
Introduction to international human rights law	Yes
The international human rights system	Yes
The regional human rights system	Yes
Interdependence in international human rights law	Yes
Internal functioning of enforcement mechanisms	Yes
How decisions are implemented	Yes
Role the ULC and other NGOs	Yes
Access to justice for people living with HIV/AIDS	Yes
Current HIV/AIDS issues within the international and regional context	Yes

Skills Planned	Covered
Analytical skills to identify root causes of problems, distinguish root causes from symptoms and to identify systemic issues within situations	Yes
Writing skills – including skills required to: <ul style="list-style-type: none"> • draft documents and correspondence for submission to relevant institutions • media and press releases, • information packages for advocacy purposes • make contributions to academic journals 	Moderately Yes Yes Yes
Advocacy Skills – including skills required to: <ul style="list-style-type: none"> • make a decision on whether to litigate or not • determine which issues to litigate about • determine which forum to use within the domestic, regional or international judicial system • understand consequences of an adverse decision • engage in diplomatic negotiation • engage in legal negotiation • utilise media advocacy • engage legislative advocacy • conduct litigation • conduct actual representation before the forums listed above, including oral presentation skills to argue a case before a tribunal. 	Yes Yes Yes Moderately Yes Yes Yes Yes No
Information technology (IT) skills for: <ul style="list-style-type: none"> • networking • lobbying and advocacy purposes • generating discussion and activism around specific issues • conducting research and disseminating information. 	No No No Yes



5 COMPLIANCE WITH CONDITIONS AND RESTRICTIONS

PROCUREMENT

“All development cooperation activities shall be characterised by efficient use of resources, the promotion of good administrative practices and transparency in the management of funds and the hindrance of corruption.” (Sida: Procurement Guidelines for Foreign Non-Governmental Partners)

Bearing the above principles in mind, and keeping HRDI values and mission as a guide, the management team of HRDI adopted prudent financial management systems. At times some have criticised that the team were too focused on cost efficiency at the expense of time management. However, there are traps with regard to for example the purchase of stationery without knowing the prices and simply ordering off a list, that the HRDI team have steered clear of. What follows is a discussion of the broad principles and highlighting certain transactions and practices to enable our partners to see into our operations more clearly.

Efficient Use of Resources

Use of travel agents

At the beginning of its operations, HRDI approached at least four travel agents to assist with flights to Rwanda, Uganda, Mozambique and Zimbabwe. After receiving the quotes, the team decided to explore internet options that might be less expensive. HRDI soon learnt that it is more efficient both with respect to time and money to make bookings on the internet themselves. Consequently, the practice of making flight arrangements has been developed, unless the team is unable to secure the least expensive tickets themselves and booking through a travel agent is less expensive. Board members have also conformed to this practice and travel on the least expensive fare which includes the restrictions on changes etc.

Opening of Accounts with Suppliers

While HRDI holds accounts with certain suppliers, it has taken a very careful attitude toward purchasing goods ensuring that it obtains value for money. Particularly with the supplier of stationery, the team does not purchase by simply phoning in and placing an order based on a catalogue that does not state prices. The team first compares prices, considers the quality of the product/service and then makes a decision.

Petty Cash

Petty cash floats are commonly used by organisations. However, it is also open to abuse. Consequently, HRDI avoids this practice. The financial records will show items under a petty cash account – however these items do not refer to a situation where the organisation maintains a regular petty cash float. It is instead simply a situation where cash was withdrawn and paid.



Procurements Transactions during Current Reporting Period

The HRDI team would like to highlight two particular transactions for discussion under this heading. The first relates to the procurement of computer equipment and software and the second to services to record certain seminars on DVD.

In the first instance, despite the fact that each transaction did not exceed ZAR 25 000, HRDI followed the principles of prudent purchasing as described earlier. What we would like to highlight is that we could have purchased the items at a cheaper cost from a large chain store that operates in South Africa. However, we would not have had the guarantees, the after sale service, the installation service and the peace of mind associated with the supplier whom we ultimately selected. The supplier, DataPro, whom we selected has a track record with the local office of the United Nations High Commission for Refugees, other local non-governmental organisations and the person whom we dealt with displayed integrity in her conduct and won the teams trust. Further, they applied for and obtained 90% discounts on all Microsoft software for our organisation. We consequently purchased most of the computer equipment from DataPro.

In the second instance, the team explored the idea of recording some of the seminars on DVD and thereafter supplying the law clinics with copies, particularly of the first half of the seminars where the guest teachers are experts in their field. Three quotes were obtained. However, one of the suppliers did not follow the verbal discussion and quote with a written document. We selected a person with vast experience and one who would also edit the material before producing the DVD's.

Overall, the team are of the view that the Sida's procurement guidelines have been adhered to.

CORRUPTION

“Sida and HRDI agree to co-operate on preventing corruption within and through the programme and undertake to take rapid legal measures to stop, investigate and charge any party suspected on good grounds of corruption or other wilful misuse of resources.” (Article 5 Co-operation Agreement between Sida and HRDI, 2005)

With respect to this material condition that is found in both the agreement with Sida and Danida, HRDI wishes to report on two particular situations:

South African Embassy in the DRC and the Department of Home Affairs in Pretoria

As will be seen below, HRDI employed a lawyer from the DRC who filled the position of paralegal within HRDI. He needed to obtain a work permit to enable him to take up his employment in South Africa. He is married and has a young child. His wife and child were to accompany him once he obtained settled accommodation in Pretoria. He obtained his work permit successfully. His wife and child who applied for an accompanying spouse visa on the other hand were given a hard time at the SA Embassy in the DRC. The circumstance was that he was already here, they were to merely submit the completed application, obtain the decision and accompany him a few weeks later. However, one and a half months later, there seemed to have been some suggestion that if a bribe were paid things would move more smoothly. One can assume that someone was



taking advantage of her situation – being there alone with a two month old child, just before the elections.

As soon as the HRDI management got wind of the situation, the office of the Director General of Home Affairs in South Africa was contacted and made aware of the situation. The responsible person within the consular section in DRC then contacted HRDI. Soon thereafter, the visa was issued without any bribe being paid, and with the head of consular services being made aware that there were suggestions to that effect being made.

Parallel Exchange Rate in Zimbabwe

The official rate of exchange in Zimbabwe is US\$1: Zim\$ 250. On the parallel market the rate of exchanges is approximately US\$1: Zim\$ 5 000. The Holiday Inn in Harare sold a 330ml can of Coca Cola for Zim\$6 000. On the official rate this means that one is required to pay US\$24 for a 330ml can of Coca Cola. Clearly, at such institutions prices are developed based on the parallel market, used by the majority of Zimbabweans, but foreigners are required to pay these exorbitant prices for basics.

Having experienced this twice, during the last trip to Zimbabwe, the HRDI team explored other options to avoid having to exchange money on the parallel market and to avoid the alternate dire wastage of funds. The team has found a guest house that charges in USD, prices all its items at reasonable USD rates, including meals and beverages. It is a bit more expensive per night than the Holiday Inn, but overall, HRDI is able to save money and avoid the conundrum.

By way of conclusion to this section, HRDI can safely say that whenever called upon to shine light on situations that might (even in circumstances where there seems merely to be a suggestion of corruption) be dubious, it has done so. In so doing, it has been true to its own values and to the co-operation agreement.



6 ORGANISATION AND ADMINISTRATION

MANAGEMENT

Our biggest challenge during this period was an internal human resource challenge. At the beginning of the year, the recruitment process was initiated. Hundreds of applications were received and ultimately three incumbents were chosen to fill the positions of administrator, paralegal, and specialist HIV/AIDS lawyer. However, apart from the paralegal, the other two posts remain unfilled. The explanation for this situation follows.

After the probation period, we had to end the contract of the administrator that took office in April 2006 as he was not able to fulfil his responsibilities. It was by mutual agreement and an amicable parting as he also realised that his interest and more importantly capacity was not in administration.

The specialist HIV/AIDS lawyer did not obtain his police clearance certificate from his home country and after some to and fro that position was then offered to another person. This person, however, after signing an employment contract with HRDI, decided to accept an offer to study in the UK instead during the week that his work permit application was to have been submitted.

We decided to focus on the training and between Dan Bengtsson and I we covered the administration and organisational tasks.

Christian Tsimbalanga took office as a paralegal in June 2006. He is a qualified lawyer and a people's person and so he provided much support to the students and is now managing the outreach programme.

The visiting professors and teachers helped lay a strong foundation in both academic and the practical aspects of international human rights law. Dan, Christian and I jointly held the second half of the programme together. Despite the exhaustion and challenge, it was a rewarding experience for us all.

With respect to financial management, we have adopted a prudent approach to expenditure and procurement – within the sphere of recruitment, flight bookings and accommodation, office installations, Skype and telephone system and our general attitude. As a result, we have a healthy balance sheet and are able to do more with less as has been our motto.

We have also done things like combining our travels to recruit with community outreach. As a result of all this, we are able to contribute toward the salary of two people per institution so that they return and implement what they have learned.

CO-OPERATION WITH PARTNERS

University Law Clinics (ULC) 2006 (Rwanda, Uganda, Mozambique, Zimbabwe and South Africa)

At the beginning, the partner law clinics were extremely co-operative. Of the five countries, Rwanda and Uganda hosted the HRDI team with enthusiasm and optimism for a budding relationship. They set up meetings with the law clinic, community based



organisations, law faculty, dean, and even the vice-chancellor in Rwanda. In Mozambique, meetings with the law clinic and thereafter a joint meeting with representatives from several different organisations was hosted at the university.

However, in Zimbabwe, this was not so. While there was great enthusiasm and support for the project and co-operation, little attention was paid to the formalities required to ensure good co-operation with law faculty and the university administration. During our first visit, we met with one clinic staff member, the registrar of the law faculty (relatively informally), a nurse at a hospital and a member of one community based organisation. This, we found later, laid the foundation for a very rocky relationship with the law faculty. Despite a signed memorandum of understanding and assurances that everything was on track with the co-operation, the year ended without an agreement and as can be seen from the attached correspondence, the law faculty decided that they could not sign an agreement as the money we offered was too little within their inflation and exchange rate context. This has required further visits to Zimbabwe, first to iron out perceptions of sidelining the faculty, then to get to the nub of the issue - being the amount of money. Having now held further meetings, we feel certain that a positive decision will be reached. It must be noted, however, that despite these impediments, the students (country project co-ordinators) have remained committed to the programme and to ensuring that they are able to work with the law faculty to implement the programme.

In South Africa, we began by working with the Association of University Based Legal Aid Institutions (AULAI), an organisation that works with the 20 ULCs in South Africa. The very first meeting was disappointing to say the least. We were asked whether the African Regional system was 'ready for us' and 'what was in it for us'. Although it was a collegial meeting, the prevalent stereotypical attitude of South Africa in respect of the rest of Africa as being less developed and less advanced came across quite clearly. An arrogance similar to that which is often displayed by the United States in respect of the international human rights system, was prevalent in the meeting room by all except the president of AULAI. She advised us later to approach particular institutions instead of working through AULAI. She suggested the law clinic at the University of Limpopo. In view of the fact that this university is located outside Polokwane and very close to rural areas and that it did not already have an HIV focus, HRDI considered it an appropriate potential partner. Furthermore, in public statements, the university spoke of its commitment to the continent.

After the first meeting however, we were concerned that this might not work as the levels of enthusiasm were quite low – not only about our project but generally about work at that clinic. Nevertheless, the staff member appointed to work with us, was quite interested and enthusiastic. Initially, he planned on participating in the training himself. However, when he realised that it would entail a time commitment of four months and that he would not be able to attend to his other responsibilities he instead recruited two other students. Unfortunately, these were not students who had previously volunteered in the clinic or participated in clinic activity. We did not know this until much later. We had been clear about our criteria for student selection and emphasised the commitment criterion to the clinic staff. Despite this, the students that were selected did not match that criterion. During the programme, they did seem to give their best. But at the end, when they had other offers of employment, they quickly chose them and simply left.

The HRDI team reflected upon this situation and decided not to train a further set of students from South Africa. We took into account the fact that there are many rights



based AIDS programmes. For example, at the University of KwaZulu Natal, the Campus Law Clinic (which Asha Ramgobin led before establishing HRDI) has an AIDS project. Furthermore, South Africa is in fact one of fifteen countries in this project and consequently did not warrant a further injection of scarce time, effort and resources. Bearing all this in mind, attention was redirected to the new five partner countries for 2007 and firming up the co-operation with the remaining four from 2006.

With respect to Rwanda, Mozambique and Uganda, the project implementation is on track despite the fact that formalities regarding the co-operation agreement are not yet tied up in all cases. In Rwanda, the formal co-operation agreement has been signed, however the bank account for the clinic has not been sorted out as yet. In Mozambique the few technical issues raised have been sorted out. The faculty board has since then formally decided to sign the agreement and complete the formalities for co-operation. In Uganda, the problem of insurance in respect of the computer equipment was raised. It is expected though that these problems will be sorted out and an agreement signed before the end of April thus completing the formalities.

Directors of each of the law clinics from Rwanda, Mozambique, Uganda and Zimbabwe serve on the Project Management Committee, described more fully in the section below.

Target Partner Law Clinics for 2007 (Tanzania, Kenya, Namibia, Botswana and Malawi)

In December 2006, contact was resumed with colleagues from law clinics in Tanzania, Kenya and Namibia who all expressed enthusiasm at collaborating on this project. In Botswana and Malawi contact was made with the institutions. While they seemed keen, due to the fact that we do not know about the work of the individuals or the institutions, further research is being conducted.

Other Fraternal Organisations

With respect to other fraternal organisations, 2006 saw a deepening of some relationships and other new relationships forming. For example, when Michaela Clayton of *Aids and Rights Alliance of Southern Africa (ARASA)*, participated in the training programme our relationship with ARASA deepened. And when we made contact with Barbara Rijks of the *International Organisation for Migration*, South Africa Office, we established a new co-operation with an important organisation for our focus regions. For a full list of the participants in the training programme, see the worksheet two attached to the training schedule attached and marked annexure "7".

Our relationship with the *Raoul Wallenberg Institute* remains solid. We expected a visiting professor to teach our students, however due to time pressures this was postponed and will likely take place in 2007. We are planning to discuss other forms of co-operation as well and have resumed discussions with Prof. Alfredsson who has undertaken to brief the new Director of the Institute about our past communication.

Attached is an updated table which includes the list of fraternal organisations discussed in 2005 and new contacts/friends of 2006 marked annexure "8".



BOARD

Two members of the board, Ibrahima Kane and Jody Kollapan participated in the training programme by running seminars with the students. The chairperson of the board has been in regular contact with management. On the whole, the board have been supportive of the management team and have performed their overseeing role with due diligence. However, one member of the board, Ms Evelyn Ankumah has resigned.

FUNDRAISING

As a result of the Sida and Danida co-operation agreements, HRDI's budget is covered at least until December 2008, but potentially until mid 2009, depending on the value of the Rand. In view of the five year plan to ensure that HRDI works with each partner institution for three years, a five year budget plan has been developed.

The Embassy of Belgium in South Africa has, after suggesting that it would be interested in supporting a project for € 200 000 for the DRC and Burundi, referred HRDI to the responsible people in the relevant countries in the Great Lakes region.

Greater attention has been spent on delivery as opposed to fundraising. However, during the course of this year, more attention will be given to this aspect to ensure that the five year plan, up to 2010, is achieved.

HRDI has been approached by law clinics in Nigeria to train their staff. Consequently, separate proposals might be developed to address this need.



7 BUDGET FOLLOW-UP AND COST EFFICIENCY

There was an Overall under-spending of approximately R610,000. What follows is a brief explanation of certain aspects of the spending.

Community Outreach, Legal Services, Training Ratios

There was under-spending on community outreach and legal services and over-spending on training.

This was due to the fact that during the first year, most time and effort was expended on recruitment and training of students. Furthermore, since the lawyer that was expected to take office did not do so, some of the funds that would have been spent on salaries were used for external guest teachers who are experts in their field.

In addition, it is expected that legal services will increase in 2007 now that cases/issues have been selected and students have started working as CPCs in their home countries.

Community outreach was done. However, special journeys to partner countries were not undertaken solely for that purpose. Instead, expenses for each trip were divided between community outreach (30%) and training (70%) as time was shared between both tasks.

Contributions to ULCS – Operational and Administrative Costs

Each law clinic chose to use the amount allocated under “Operational Costs: Costs in Target Country/Regional Costs” in the budget to pay the salary of the CPCs. This amounts to approximately ZAR 3 500 per month per trainee.

The money paid to students in December was posted to student allowances due to the fact that the co-operation agreement with four of the five law clinics had not been signed.

Salaries and Wages vis a vis Lecturers, Supervision and Mentoring under the Training Sub-Heading

Included in salaries are professional fees paid to Prof Hansungule for his services and amounts paid for maintenance of the office and premises.

Despite this, there is under-spending on this line item as the lawyer whom we had recruited did not ultimately take up the position.

In view of the timing and that students would soon be here, the services of external teachers, law professors and experts were used instead. Hence the increased costs under the line item lecturers, supervision and mentoring under the training sub-heading. It should be noted that most guest teachers only charged for out of pockets expenses such travel and accommodation and did not charge for their time.

Staff Development

This amount was set aside to enable staff to attend special training workshops to improve their skills and knowledge and better equip them to discharge their



responsibilities. However, during the course of 2006, staff dedicated all their effort into making the training programme a success and had no time to explore this option.

Office Furniture and Equipment

There is over-spending on this line item as:

The server, back-up hard drive, and installation under this item was under budgeted for. However, when looking at the IT budget as a whole, and bearing in mind that we had planned on hosting the website on the local server, we included that in our assessment regarding expenditure.

Accounting soft ware was purchased after looking at the amount available under financial management, where there as under-spending.

When purchasing the switch board, due consideration was given to whether there was sufficient money in the telephone line item. Since there was the switch board was purchased.

Wireless Modems were purchased after looking at the amount under “Internet” budget item.

Website – after obtaining advice, we have decided not to host the website on our local server but rather to outsource this function.

COST EFFICIENCY

The following are some of the strategies that have been adopted:

- With respect to air travel, regardless of the whether the flight is inter-continental or not, the least expensive ticket will be purchased. Business class tickets will consequently not be purchased.
- With respect to accommodation, moderate accommodation will be arranged avoiding use of five star hotels unless affordable rates have been obtained.
- Avoid use of travel agent unless cost effective.
- In all instances, check and compare prices before purchasing.



8 ANALYSIS AND PROPOSALS

This section will begin with an overview and brief summary of the four main areas of work for the year, namely: 1) Community Outreach, Building Partnerships and Recruitment, 2) Training, 3) Voluntary Work (which is new), and 4) Legal Service Provision.

It will then move into a reflective section where the key questions are what did we do well and what could we improve upon particularly with respect to the training programme.

Thereafter the programme as a whole will be looked at.

Outreach, Building Partnerships and Recruitment

In April last year, we mentioned that we would be travelling to Rwanda, Uganda, Mozambique and Zimbabwe. We also travelled to the University of Limpopo in South Africa (approximately 300 km from Pretoria). These journeys were extremely beneficial to us and our partners. We met with the ULCs, faculties, deans, advocacy groups, AIDS service organisations and community based service organisations. Our partners have taken their place in our project.

Our partners considered the student selection criteria that we prepared. Commitment to fight elitism and injustice ranked high as one of the criteria. As we said to them, we can teach skills and knowledge but it is really hard to teach values. Interestingly though, we found ourselves exploring and working through different aspects of our stated values: we found ourselves being challenged to truly live them. But we will discuss more of that below.

A tangible outcome of these visits was the *ten students* that we eventually selected to participate in our course. They are:

Rwanda: Tom Mulisa and Appolinaire Kayitavu
Uganda: Catherine Tumusiime and Evelyn Aero
Mozambique: Farida Mamad and Armando Cuamba
Zimbabwe: Thoughts Deme and Albert Chambati
South Africa: Tebogo Kekana and Amukelani Ngobeni

A further tangible outcome was the establishment of the *Project Management Committee*, a structure made up of the directors of the partner ULCs whose main function is to oversee the implementation of the project. Their direct participation makes a huge difference to the programme and its effectiveness. See the terms of reference attached to this report marked annexure “9”.

Training Programme

Over a period of four intense months, we and the students experienced a transformation. Our ideas about ourselves, our roles in our family, society, in our country, in our continent, and in the world have been questioned. We did not come up with clear cut answers in the end but many, many more questions. We began with the questions: “Who



am I?” and “Why am I here?”. We continued this line of questioning through the four month period. At the end, we asked ourselves these questions again and found that each time the answer was different.

Our programme included a focus on our vision, mission and values. Students picked up on the phrase: “*Human Rights are not about what we write or say but what we do!*”

The main themes for the period were as follows:

- Understanding the context;
- International, Regional and Domestic Human Rights Systems;
- Global Perspectives on HIV/AIDS;
- Key issues in the struggle against HIV/AIDS
- Identifying and analysing options for an intervention strategy at an international, regional, community and domestic level.

We then moved into the next phase which looked at how we could proactively select a case/issue and build public interest advocacy strategies. The themes during this phase included:

- Identifying, analysing and understanding root causes of problems;
- Understanding what other stakeholders are doing - looking at synergies and avoiding duplication;
- Understanding the social, political, economic and human rights impact sought in addressing the issue;
- Developing an appropriate, comprehensive and realistic intervention strategy – which included forum shopping; and
- Developing an implementation plan to implement the strategy.

Finally we looked at how to develop a sustainable clinical programme on International Human Rights and HIV/AIDS. During this last phase, we focused on teaching skills using clinical legal education methodology and principles.

The programme culminated with the directors of each partner institution attended the last part of the training programme titled: *Teaching International Human Rights Law*. This led into the meeting of the Project Management Committee and the closing session with a presentation of certificates to the students. A detailed schedule of the seminars is attached and marked annexure “7”.

Voluntary Work with a Community Based Organisation

One of the elements of the training programme that permeated like an element which is found in the pores of a human being was the voluntary work that we did. All the students and staff worked with a community organisation that provides home based care to people living with HIV/AIDS (PLWA). Each week, we spent the better part of a day at Tateni in Mamelodi. We were divided into three teams: one group did gardening in the vegetable garden, the other painted the fence and the third went on home visits. Each aspect of this work challenged each member of the team of students and staff. It is difficult to describe the impact of this work on ourselves and on the training programme. Essentially, we decided as a group that we would not only engage in the academic and



almost clinical work of legal representation but actually strip off the protective robes of a lawyer and work as ordinary human beings with this group and learn from them and the patients about what our role is.

At the end of such a day, we often felt like ants. Like nothing we do makes any real difference in the lives of the people we met. And the following day, when we worked, we worked with a little more humility and a lot more guidance and inspiration.

The above is a summary of what we did. Upon reflection, we have identified certain areas that we would do differently next time around:

- Begin recruitment earlier and ensure that we interview students before they are selected.
- Spread the topics around to ensure that experts in the various fields present, instead of having one anchor guest professor.
- Make certain that we allocate adequate time to sessions rather than setting aside less time.
- Make sure that clinical legal education methodology is used through out the course.
- Prepare reading material and buy books well in advance of the programme.
- Have regular reflection sessions and make adjustments to the programme as necessary.

In addition, the HRDI team has commenced an internal evaluation process. Attached is a record of the discussions and reflections thus far, marked annexure “10”. It will be supplemented and circulated in completed form in due course.

Legal Services

As stated above, the students and staff proactively selected issues that we would work on. The three issues selected are as follows:

- The violation of the property rights of AIDS widows and orphans, including the right to inherit; challenging harmful customary practices such as widow inheritance and promoting the strengthening of the family as a core structure of society.
- The right of prisoners to a clean and healthy environment; and
- Unfair discrimination within the life insurance industry as an example of harmful practices of big corporations.

Legal service provision will consequently take place within the above three spheres in a comprehensive manner. Teams comprising members from the different countries led the development of analytical processes which ultimately resulted in detailed two year implementation plans.

Rwanda and Mozambique have already decided to secure funding from other sources to supplement our contribution so that they could focus more comprehensively on these three areas.



It must be noted though that clients with other problems will also be helped. For example, Tom Mulisa in Rwanda consulted with a client in December (11/12/06) in a case that amounted to trafficking. One of the topics that we covered during the programme was HIV, Migration and Human Trafficking so he has resources in terms of skills, knowledge and people at the International Organisation of Migration that he can contact to assist him in his representation of his client.

We expect cases to grow proactively through this process but have not yet started working on an individual client case.

Successes and Failures

Failures

To begin with the failures, the HRDI team feels extremely disappointed at the situation with the South African partners. While upon reflection and analysis it is clearly not an HRDI failure, it remains a situation that we see as our failure. Despite the fact that the students did not volunteer with the clinic (which we did not know), once they worked with us and particularly when they worked with the community based organisations and made contact with the patients, we thought they had been touched and inspired to dedicate themselves to this work. This was simply not so. We are still pondering on what we could have done differently.

A further failure is the fact that the lawyer did not take up office. On the one hand we see this as a failure on our part. However, on the other, upon reflection we realise that neither of the candidates would have dedicated themselves to our organisation and in comparison with Christian who had an offer to work with the International Criminal Court (ICC) after accepting our offer, and he decided to come here instead. That is the type of commitment our organisation needs in its first year.

Finally, we envisaged the establishment of a law clinic where we would ourselves be providing legal representation. However, at this stage, despite the proactive identification of issues, we have not been able to immerse ourselves in that activity as the absence of the lawyer and the intensity of the training programme has rendered that virtually impossible during the first year.

Successes

The eight trainees who are now country project co-ordinators who remain committed to the values, ideals and organisation are probably the most inspirational success. Each one of them has faced hurdles upon their return to their home country. But they have remained committed to the cause. It is difficult to compare their circumstances – as Zimbabwean students might from one perspective be seen as those with the biggest impediments, however, the personal circumstances of one from Mozambique and the other from Rwanda who are breadwinners might seem even more difficult from another perspective. The point that we make is that despite the difficulties, despite also the opportunity to seek other more lucrative employment elsewhere, they have chosen to remain within the clinic and implement their plans. The correspondence attached gives a clear sense of the type of people they are.



We do wonder whether this is our success or if it is about the kind of people they are and always have been. It might be a combination of the two. From our side, we simply celebrate that we achieved this together.

A further success is the type of training programme we put up. At the beginning we asked ourselves what makes us special, if anything? Why is it that we have this funding to do what so many have done before and will do after us? What do we add? What do we contribute?

In asking these questions the issue of our values and the follow up through the three year partnership with the institution came up – it is not simply training and legal service provision but the development of a situation where “each one teaches one”. In fact each student taught works with many others in the law faculty when they return and so the ripple effect is felt more deeply.

The extent to which our values permeated our work and interactions was a further success of the project and the team.

Major Problems, Risks and Bottlenecks

During the planning phase we anticipated certain risks *“The potential primary risk to the successful implementation of this project is political instability and repression from the state of the individuals and civil society organisations.”*

In Zimbabwe, this has materialised in an indirect manner. While the individuals themselves are not the targets of repression, the circumstance within the country has made it extremely difficult to get the work of the ground. This has resulted in a bottle neck situation in that we had to confront and factor in the inflation in Zimbabwe and not simply deal with it in the same manner as the other partner countries.

It was also *“assumed that a functional domestic university based law clinic exists within the target country or is at least contemplated.”* The term “functional” is relative. In two of the five countries the clinics were “functional” but in one instance with an absentee director and in another with an apathetic director. This leads to a situation where supervision and mentorship of the staff is lacking or non-existent and might be reason for the South African student’s departure.

HRDI has decided to be a bit more circumspect when choosing its partners going forward.

A further challenge identified during the planning stage was *“Cultural, gender, racial, language and economic or class issues?”*. The HRDI team noticed instances of internalised racism during the early stages of the programme and of personal traumatic experiences of exclusion and oppression. Consequently, to provide people with tools to cope more effectively, a workshop was held on internalised racism and will be included in the programme for 2007.

Prejudice towards homosexuality was noticed and dealt with by having a few very direct sessions on this issue titled: Dealing with the fear of homosexuality. This will be included in the 2007 programme as well.



Although not a major problem, the role of the project management committee, how it sees itself and how it sees the structures of HRDI did pose a slight challenge. The PMC is meant to be a body that oversees and guides implementation. However, at the first meeting certain members seemed to suggest a role that amounted to equal status with the HRDI board. These issues needed to be clarified and have since been clarified.

Deviations from Plan: How? Why? What?

The last two points above reflect a deviation from the programme. These deviations helped to address problems as they came up and were explained above.

The team intended to produce a legal services manual. However, in preparation research was conducted into other similar manuals. Interights, Bayefsky, Southern African Litigation Centre and the Handbook on Advocacy within the African Regional Human Rights System are among those that were looked at. The team were of the view that unless HRDI was going to add something qualitatively, it was not necessary to duplicate what others have already done. This issue is being revisited during 2007 and a final decision will be taken about the matter.

As stated above, greater time, effort and attention was given to the training programme and less to the community outreach and legal services section. This was due to the fact that the lawyer had not taken office and that in terms of sheer person power it would not have been humanly possible to do all that was necessary to develop the legal service component. This will change in 2007.

The website was to have been launched in 2006. A consultant was approached and much ground work done on the matter. However, at the time of implementation, we were informed that he had moved from the organisation to another German based company. In the meantime, the training programme was beginning to make further demands on our time. Hence this had to be postponed to a period when proper attention could be given to it.

A further reason for deviations is the administrative challenge of getting students from other African countries to South Africa. South African visa requirements are stringent and the embassies in each country have asked for payment of large sums of money despite the repatriation guarantee signed by HRDI and despite the fact the home affairs in South Africa state that this is not required. Only after much time and effort was spent on getting a duly authorised person within Home Affairs to write an appropriately worded letter did the embassy accept and issue the visas. PriceWaterhouseCoopers was appointed to assist with these matters, but the HRDI team took it in hand as time was off the essence and the consultant appointed seemed not to appreciate that.

All these factors resulted in the first year being an overall success but a year filled with learning about various institutions, how they work and how we could plan in future years to accommodate these realities.



Qualitative and Quantitative Assessment of Implementation

Training Programme

Recently, one of the CPCs from Mozambique said that our methodology was really effective as they have returned to their ULC changed – more confident, more knowledgeable and skilled to deal with the clients and issues. She compared herself and her colleague to another one of their colleagues who had returned from a training programme in Brazil. We asked her to write about this and give us an idea as what she thinks made that difference. It is hard for us to say categorically that this was good and that bad. However, what we can say is that we do believe in the clinical methodology, the flat classroom structure and creating an environment where we all learn from each other. While this is true, for 2007 great effort will need to be made to ensure that didactic methods are avoided and greater student participation is incorporated by all the visiting teachers.

Legal services

A novel approach to proactively identifying issues was used during this first phase of operations. It requires much more thought and reflection to ensure that the impact sought on the objectives is in fact felt. Despite the potential impact of this approach, HRDI does need to work on some traditional legal services cases to ground the students, staff and the organisation in the reality of legal service provision at a regional and international level.

Community Outreach

The HRDI team did not do as much as we would have liked to. However, the process has begun and already at the first meeting in Rwanda, for example, the ULC staff was able to see the merits of co-operating with community based organisations in service provision. 2007 will see more contact with community based organisations, workshops and continuation with both the 2006 partner ULCs and 2007 partners. Some groundwork will be laid in 2007 for the 2008 partners as well.

Voluntary Work

Voluntary work was a novel and very important and effective inclusion in the programme. It had a humbling effect on all the participants as described above and ensured that even when sub-consciously people strayed from the values, the voluntary work brought home the subtle ways in which prejudice, elitism and discrimination play itself out. It challenged us all to live our ideas day to day. This will continue throughout the programme.

Quantitative Assessment

Quantitatively, HRDI planned to train 10 students and did achieve this. It planned on developing co-operation with five ULCs in five specific countries and it did achieve this. However, it planned on working with ten CPCs and is now working with eight. Some would say a score of 8/10 is not so bad. However, HRDI aspires to achieve 100% success and remains concerned about the two students who have left. Similarly with respect to the number of countries and ULCs that we planned to work with as opposed



to the number that we are now actually working with is 4/5 which is also not so bad but we aspire to 100%.

The HRDI team will provide more input on this later, when the internal evaluation is complete.

Impact of External Factors and Future Risks

As can be seen from the analysis above, external factors have the capacity to impact both adversely and positively on the implementation of the project. We anticipate the situation in Zimbabwe is likely to continue to pose a challenge both to HRDI and its partners in the country. Dealing with the issues directly, seeking advice from other NGOs and attempting to understand and pre-empt them is the best that can be done in the situation.

Where students recruited work within a different project and return to that position, shared loyalties might pose a different kind of challenge. This can already be seen within the programme. Strategies to clarify roles and ensure that all involved understand why we work together and how we together have worked to iron these issues out and will likely also help in the future.

The drought and flooding that the target regions are experiencing are likely to cause massive food shortages which in turn will impact on the ability to fight the disease.

War and conflict within the Great Lakes Region is likely to increase the challenges with respect to new infections within the region.

Deepening discrimination in the region against homosexuals and the prejudices that already exist among even those who claim to be committed to human rights are likely to impact on the work of HRDI as it will address these issues and confront the prejudice.

Impact on Objectives on the Project

To recap, the specific objectives as stated in the proposal are to:

- *Contribute to the development of an international and regional jurisprudence within the African Commission and the soon to be established African Court for Human and Peoples' Rights;*
- *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 field of HIV/AIDS in the Southern African and Great Lakes region.*

With respect to the first objective, since cases have not yet been taken to either forum, the impact has not been felt yet. However, in view of the fact that awareness has been created, skills and knowledge obtained and shared, it is expected that by the end of the project period, this impact would be more tangibly felt.

As regards the second objective, greater impact has already been felt. Two students have already begun teaching, one has developed a training manual on HIV and Human Rights for the law faculty and clinic and the others continue to work with the teams of law



students allocated to them on cases using methodologies they have learned with HRDI. While much more can and will be done to integrate the methods and content as the partnership develop, already at this stage impact is being felt.

With respect to the third objective, the second half of the training programme and the work being done on the three issues selected during 2006 begin to have an impact here. The method chosen for legal service provision as stated earlier is novel and innovative and so has in it the seeds for greater impact than is currently being felt. It is expected that once the CPCs settle in and have a bit more stability, and once all the administrative issues are ironed out, greater impact will be felt within this sphere.

Proposals for Changes to the Programme

Training Programme

In 2007, it is expected that some attention will be spent on the issue of climate change, natural disasters and HIV/AIDS and on the impact of China in Africa.

Those sections that were not covered adequately in 2006, such as teaching legal drafting in respect of international and regional tribunals, diplomatic negotiation, conducting litigation either through mock trials or other appropriate means and the use of information technology for networking, lobbying, and activism will be included. In addition, topics such as HIV and Education, HIV and Housing that slipped off the screen will also be covered.

More attention will be given to migration, refugees and trafficking in both the SADC and Great Lakes context.

Legal Services

This component will be developed more comprehensively in 2007, looking both at issues proactively identified and cases that come to law clinics. As stated above, the method chosen is innovative, but its potential has not been fully realised. During 2007, more attention will be given to using the interdisciplinary methods spoken of and to root cause based strategies to ensure that this aspect of HRDI's work is as successful as the training programme.

Community Outreach

Ensuring that the partner law clinics and HRDI are grounded in reality and meet actual needs is a core component of our work. This turns on an effective outreach programme. Thus far it has been a bit too loose. In 2007, it will be strengthened and evolve beyond the inspiration of the back-up legal services model from South Africa.

Voluntary Work

This work will continue. However, the community based organisations with which we work might change.



9 CONCLUSION

Although these sentiments of gratitude emerge at the end of a long report, they do not do so as an after-thought but rather as a special method to make the transition from reporting to continued implementation acknowledging at least some of those who have helped.

The HRDI team is a small and tight team. It is a group of only four people who have pulled together through many impediments all moving toward realising the HRDI mission and vision. More importantly, it is a team of people that uphold HRDI's values. Without this synergy none of what has been reported in this document would have been possible and though authored by one is an account of the collective activities and investment of all.

The students who are now country project co-ordinators who have withstood much turmoil and remained steady through turbulent times within their institutions, their societies and their countries remaining firm in their resolve to serve their communities and clients make writing this report, recording both success and failures, an exercise filled with hope.

The partner ULC's that started this journey with hope and expectation. They applied the criteria and chose well.

The partner donors who took this leap of faith with HRDI in circumstances where the ideas had a longer track record than the institution.

And finally, the guest teachers, whose generosity and commitment helped ensure that both the HRDI team and the students learned as much from their experience as possible.

As this first annual progress report draws to a close, and as HRDI settles down in its operations, it looks forward to the blossoms that will emerge through renewed vigour in the work and continual self assessment. It also looks forward to improving its operations and ultimately realising the objectives it set out to reach.