



ANNUAL PROGRESS REPORT

22 April 2013

PHASE II OF A GRASSROOTS BASED HUMAN RIGHTS
INTERVENTION FOR THE PROTECTION OF PLHIV IN THE GREAT
LAKES, EAST AND SOUTHERN AFRICAN REGIONS

REGIONAL HUMAN RIGHTS LAW CLINIC

to increase

ACCESS to JUSTICE for VULNERABLE GROUPS

in

AFRICA

HUMAN RIGHTS DEVELOPMENT INITIATIVE NPC

Postal Address: P.O. Box 12895, Hatfield 0028, Pretoria, South Africa

Physical Address: 909 Stanza Bopape Street (formerly Church Street), Arcadia 0083, Pretoria, South Africa

Telephone: +27 (0)12 342 2370 • *Fax:* +27 (0)12 342 2371 • *E-mail:* info@hrdi.org.za • *Website:* www.hrdi.org.za

Board of Directors:

Ms Asha Ramgobin, Executive Director (RSA); Prof. Thandabantu Nhlapo, Chairperson of the Board (RSA);

Mr. Dan Bengtsson (Sweden); Mr. Pierre Brouard (RSA); Dr. Mothomang Diaho (RSA); Adv Jody Kollapen (RSA); and Mr. Aubrey McCutcheon (USA)

Company Reg. No. 2004/026920/08 • *Public Benefit Organisation Reg. No.* 930014184 • *Non-Profit Organisation Reg. No.* 040-807-NPO • *VAT Reg. No.* 4730219872



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INTRODUCTION

In January 2012, Forum Syd, a Swedish non-governmental organisation launched a report called “Bringing the Billions Back” where they reported that “every year [emphasis added] between US\$850-100 billion disappears without a trace from developing countries, ending up in tax havens or rich countries. The main part of this is driven by multi-national companies seeking to evade tax where they operate, and has been called ‘the ugliest chapter in global economic affairs since slavery’.”

The HRDI team began the year reflecting on how the findings of this report impacts on what we are trying to achieve in Africa. Our mission is to challenge all forms of elitism and promote equality of people regardless of any distinguishing quality or trait that might be used as a basis for unfair discrimination. We were and remain committed to using international and regional human rights standards as the barometer in our work. And importantly we are guided by the maxim that human rights is not about what we write or say, but what we do.

We began the second and last phase of our work in 2010 with an analysis of what we considered as among the root causes of human rights and developmental problems in Africa. We took note of the phenomenon of “Big Men (and women) in Africa” and human rights careerists and set ourselves apart from this group determined to ensure that in all we do, all we say and all we write, we remain humble and rooted, close to those whom we seek to serve and financially clean and sound. Honesty, integrity, professionalism, dedication and passion for our work are what we strive for. The “we” we refer to is all of HRDI’s staff and students.

This report will chronicle our analysis of how far we have come toward achieving that. In the past we have looked at our specific objectives and measured our work against those outcomes. We will indeed look at that dimension of our work as well. But this report will present a deeper analysis with the mission described above both as the backdrop and infused through the report.

Returning for a moment to the issue of tax havens, capital flight, human rights and development, for now we will simply say that we came to the conclusion that while we are not economists, tax lawyers or investment bankers, we need to understand and engage with these issues. ARVs, medical facilities, testing facilities, infrastructure, courts and legal aid practitioners all cost governments money.

While HRDI was not and is not set up as an organisation that specifically addresses issues of sexual minorities, we have integrated these aspects in our work.

These two issues are raised one after the other to point to the subtle which might not be easily discernible amidst the tables that scatter the report. It points to the notion of “not turning away from an injustice”. This report will demonstrate how we have integrated such issues as sexual orientation, imbalances of power between the rich and poor and in the process worked very carefully toward achieving the very tangible goal of increasing access to justice for the poor and vulnerable. It will also point to and analyse low points.

What follows is an analysis of progress made toward achieving our specific objectives set against the backdrop of our organisational mission. It is both a praise song and a dirge.

Objectives	Planned Outcomes for 2012	Achieved Outcomes 2012	Plans for 2013
Build a cadre of 15 social justice lawyers from the 5 target countries	15 new students from 7 countries	14 students from 5 countries 6 orgs	Assist 20 students to finish & graduate
	Supervise 18 dissertations	18 students were supervised	Co-ordinate supervision of 14
	33 students from 10 countries return for 10-14 days	32 students returned from 10 countries for 10-14 days	Conduct training with other staff at CRIDHAC and EMU in Mozambique
	18 students graduate with LLM	12 students graduated	Estimate: 50 students return for 1 mth
Develop a network of 15 accountable law clinics that provide legal services to poor and vulnerable groups in the 15 target countries	1 Partnership Forum	Hosted PF with 17 institutions	Ensure partners establish ULCs
	Replace Botswana with two from Univ of Lubumbashi and Goma in DRC	4 students from universities in Goma and 3 from Lubumbashi were trained	Refine and strengthen use of social media, FB, Skype and yahoo group
	Build on Facebook and yahoo	Facebook and yahoo group used	Host sub- and regional meetings
	1 Study Visit	No study visits undertaken	Host PF with 15 partners over 5 days
	Finalisation of 6 new partnerships	6 partners finalised	Assess situation with Makerere Univ
Develop three centres of excellence within African university based law clinics	Work on Moi, Makerere & Malawi	Only Malawi has strengthened	Strengthen established ULCs
	Possibly receive Phd fellow from Makerere	Did not work. Makerere setting up research institute and not clinic	Redefine regional centre concept and synchronise with organic developments
	Strengthen other partners	Moi and Makerere no longer options	Follow up on IHRIC in Malawi
		Students are working with sub regional and regional mechanisms.	Co-ordinate study visits
			Connect partners with other institutions
Contribute to the development of human rights jurisprudence and conduct community based strategic litigation at a domestic, regional and international level	File clinical trials case in Tanzania	Legal team established, papers drafted	Work on pre-employment testing case
	Ensure ACHPR sends letter to Cell Co	Reviewed strategy and restarting	Follow up clinical trial case
	Build EAT case & Adv Op AfCrt	Not done	Continue work on claimed cures
	Second legal officer in Cameroon	Inutu working for 9 months now	Inform UNSR about fake ARVS
	Submission on underlying determinants of health to ACHPR	Submission – Illicit flight of capital instead	Develop and implement strategy on illicit flight of capital
			Appoint legal officer to ACHPR Sec
Grassroots involvement in regional debates	Assist Mak, Moi and LAC Obs Stat	Partners still not ready	Host meeting of HIV Com in SA
	2 LLM and 2 CBOs 51 st Session	Took 2 LLM students	Arrange for CBOs to meet HIV Com
	Consult CBOs before 51 st Session	Partners consulted CBOs	Arrange for CBOs to meet UNSRH

SPECIFIC OBJECTIVE 1: BUILDING A CADRE OF 30 SOCIAL JUSTICE ACTIVISTS FROM 15 COUNTRIES IN AFRICA

Planned Result:

30 social justice lawyers from the target countries use domestic, regional and international human rights instruments and mechanisms, generally, and more specifically with respect to discrimination against people living with HIV/AIDS.

In sheer numbers, we can say that we have achieved and to some degree went beyond the planned outcome. During the first phase, 2006-2008 we trained 26 lawyers. In 2011, we trained 18 lawyers and in 2012 we trained an additional 15 (14 LLM and 1 other) students from five countries representing seven institutions. In total at the end of 2012 HRDI has built a group of 50 lawyers from 13 countries representing 19 institutions.

LLM

In 2010 the training programme was accredited as an LLM in International Human Rights Law and HIV in Africa by the University of Pretoria. This came to be through a co-operation with the Centre for Human Rights. In 2011 18 students started this programme and at the end of 2012, 12 graduated. We expect 5 of the remaining 6 to graduate in 2013. In 2012, 14 students began this programme and we expect that all of them will graduate in December 2013.

Number of Students as at 2013 – Great Lakes and SADC						
		No of students trained	%	No of students still in network	%	No trained in 2012
	<i>Male</i>	34	58	31	62	10
	<i>Female</i>	25	42	19	38	5
	TOTAL	59	100	50	100	15

The table above shows that 59 students in total have been trained. 50 of these students are still working within this field and are still part of the “HRDI cadre”.

What defines this “HRDI cadre”? A lawyer who is unable to turn away from an injustice. A lawyer who is instead spurred to action when confronted by injustice. A lawyer who confronts his or her own prejudices, works on them and represents groups whose views she or he might not agree with. A lawyer who is skilled and knowledgeable and who works hard to achieve justice for his or her client or group of people. A lawyer who is rooted in his or her community and accessible to people from all walks of life. A lawyer who is able to use domestic, regional and international human rights tools. Our programme is geared towards achieving these outcomes. It is carefully structured with a distinctive blend of foundational values, essential skills, basic foundational knowledge and tools.

We can say without a doubt, based on what the students do upon their return that they are certainly able to use international, regional and domestic human rights instruments and mechanisms and many of them in fact do, as will be seen later in this report under objective four.

Our mission is however greater than these specific objectives. And while we do sing the song of praise that we achieved and even surpassed our specific objective and defined result both qualitatively and quantitatively, we cannot say categorically that we have indeed challenged elitism successfully. We have tried. The management team in their thought, words and deeds tried their utmost to lead by example. But in the end, everyone

returns to the hierarchical reality of their home country. They are at times placed on a pedestal and at other times called to place another on their pedestal. They are at times forced to worship at the altar of power. Some of them have the strength, courage and tenacity to stare in the face of all of this and remain focussed. Their ability to do that is certainly not a result of our intervention. It is deeply rooted in their upbringing and their own life experiences. What we have done is simply give them an opening to walk a path that they already had the propensity and desire to walk.

We were not just overly ambitious but we were outrageously unrealistic to think we could affect, at any deep and long lasting level, the basic morality of anyone. In the end that is their choice.

In our defence, we must add that we were aware that it is extremely hard to teach commitment. Hence we tried to ensure that we recruited people who were already committed to social justice. We did however hope that in some instances when we worked with people who did not necessarily have deep levels of commitment to begin with, that we could help instil it and open a new world for such people. We did in some instances but as can be seen in South Africa and Botswana that door was opened, they walked in, looked around and saw the absence of the BMW and walked out.

On the other hand we have those in other countries who returned home and did indeed represent vulnerable groups and met their clients on the field while gardening with them. Others met their clients while providing meals that they themselves paid for. And yet others relocated their entire family to an area which is certainly not filled with lawyers and doctors but in their determination to be close to the community they seek to serve, they chose to live there. One example that we were particularly pleased about was a student who was extremely homophobic and had deep seated prejudices despite all our attempts to address these issues. When she returned to her home country, she was approached by two lesbian women who were beaten up by the police and refused hospital treatment. She is now representing these two women.

There are many examples such as these but there are also examples of those who intend to and others who already have used this opportunity as a stepping stone to what they consider greater things.

HRDI has not yet closed. It will only end its operations at the end of 2014. Between now and then, our team will put in as much effort as is reasonably possible to achieve what we set out in our mission statement.

A few weeks ago we heard a person say that “hope is not a strategy”. So we will develop an appropriate strategy to help all the lawyers listed below ensure that they are described as “A lawyer who is unable to turn away from an injustice. A lawyer who is instead spurred to action when confronted by injustice. A lawyer who confronts his or her own prejudices, works on them and represents groups whose views she or he might not agree with. A lawyer who is skilled and knowledgeable and who works hard to achieve justice for his or her client or group of people. A lawyer who is rooted in his or her community and accessible to people from all walks of life.”

The tables provide a breakdown of the students trained and those who remain in each region and in each country. It provides a gender breakdown and lists the names of each of the students who remain a part of the “HRDI cadre”.

Number of Students as at 2012 – Great Lakes and East Africa				
	Country	No of students trained	No of students still in network	Names of students still in network
1	Rwanda	5	5	Tom Mulisa
	<i>Male</i>	<i>5</i>	<i>5</i>	Appolinaire Kayitavu
	<i>Female</i>	<i>0</i>	<i>0</i>	Laurent Shenge
				William Ndengenyika
				Vedaste Bahati
2	Burundi	2	2	Olivier Karemera
	<i>Male</i>	<i>2</i>	<i>2</i>	Christophe Bavumiragiye
	<i>Female</i>	<i>0</i>	<i>0</i>	
3	Uganda	4	4	Evelyn Aero
	<i>Male</i>	<i>1</i>	<i>1</i>	Catherine Tumusiime
	<i>Female</i>	<i>3</i>	<i>3</i>	Isaac Afunaduula
				Dianah Ahumuza
4	DRC	11	11	Sylvestre Pakabomba
	<i>Male</i>	<i>8</i>	<i>8</i>	Patricia Pindi
	<i>Female</i>	<i>3</i>	<i>3</i>	Patrick Civava
				Roger Mulumba
				Emile Luketa
				Grace Tshoma
				Dieu Merci Kabungi
				Patient Iraguha
				Prisca Bwihangane
				Eric Katusele
				Henri Mashagiro
5	Kenya	5	5	Collins Omondi
	<i>Male</i>	<i>3</i>	<i>3</i>	Milka Kuria
	<i>Female</i>	<i>2</i>	<i>2</i>	Ibrahim Alubala
				Irene Maithya
				Desire Njamwea
6	Tanzania	5	4	Fortunata Kitokesya
	<i>Male</i>	<i>2</i>	<i>1</i>	Daniel Lema
	<i>Female</i>	<i>3</i>	<i>3</i>	Prisca Chogero Mkama
				Susan Joseph
	Sub total	32	31	
	<i>Male</i>	<i>21</i>	<i>20</i>	
	<i>Female</i>	<i>11</i>	<i>11</i>	

Number of Students as at 2012 – SADC				
	Country	No of students trained	No of students still in network	Names of students still in network
1	Zimbabwe	3	2	Albert Chambati
	<i>Male</i>	<i>2</i>	<i>1</i>	Paidamoyo Mukumbiri
	<i>Female</i>	<i>1</i>	<i>1</i>	
2	Mozambique	6	6	Armando Cuamba
	<i>Male</i>	<i>3</i>	<i>3</i>	Farida Mamad
	<i>Female</i>	<i>3</i>	<i>3</i>	Maria de Lurdes Araujo
				Bonifacio Ildefonso
				Samira Buraimo
				Carlos Lopes
3	Namibia	3	2	Ricardo Mukonda
	<i>Male</i>	<i>2</i>	<i>2</i>	Frans Johannes Anthon
	<i>Female</i>	<i>1</i>	<i>0</i>	
4	Malawi	2	2	Kassim Amuli
	<i>Male</i>	<i>1</i>	<i>1</i>	Hilda Kaluwa
	<i>Female</i>	<i>1</i>	<i>1</i>	
5	Zambia	4	3	Inutu Akolwa
	<i>Male</i>	<i>2</i>	<i>1</i>	Sharon Williams
	<i>Female</i>	<i>2</i>	<i>2</i>	Landilani Banda
6	Lesotho	2	2	Mamofuta Kale
	<i>Male</i>	<i>0</i>	<i>0</i>	Mamello Phekani
	<i>Female</i>	<i>2</i>	<i>2</i>	
7	Swaziland	2	2	Muzikayise Motsa
	<i>Male</i>	<i>1</i>	<i>1</i>	Maxine Langwenya
	<i>Female</i>	<i>1</i>	<i>1</i>	
8	Botswana			
	<i>Male</i>	<i>1</i>	<i>0</i>	
	<i>Female</i>	<i>2</i>	<i>0</i>	
9	South Africa			
	<i>Male</i>	<i>1</i>	<i>0</i>	
	<i>Female</i>	<i>1</i>	<i>0</i>	
	Sub total	27	19	
	<i>Male</i>	<i>13</i>	<i>9</i>	
	<i>Female</i>	<i>14</i>	<i>10</i>	

SPECIFIC OBJECTIVE 2: DEVELOPING A NETWORK OF 15 ACCOUNTABLE LAW CLINICS THAT PROVIDE FREE LEGAL SERVICES TO THE POOR AND VULNERABLE GROUPS FROM 15 COUNTRIES

Planned Results:

15 law clinics work together to address common problems within their regions.

15 law clinics utilise resources and carry out activities in the interests of the beneficiaries and provide honest, reliable reports.

When we started HRDI, we were under the impression that there were law clinics at certain universities within the target countries. Once we began working on the ground, we realised that there were very few functional law clinics. Of the 19 institutions listed below, only five were nominally functional when we began working with them.

In our assessment, at the end of 2012 we have one exceptional law clinic, 2 very strong institutions, 5 strong institutions, 2 that are operational but are growing and 8 that are being established from scratch. One of the 19 partners is the Centre for Human Rights in Mozambique and it is not a law clinic but works at a research and policy level and is involved with grassroots organisations. It is consequently a partner of HRDI. The full list of institutions that we work with is found at the end of this section of the report with the number of lawyers trained by HRDI that work with them and our assessment of the strength of their law clinics.

We define a fully functional law clinic as one which provides free legal services and conducts community outreach. A university based law clinic involves law students in the provision of legal services and thereby trains them to serve the poor and vulnerable in a professional manner. We define free legal services to the poor and vulnerable to include consulting clients, taking instructions and providing legal advice and representation including assisting in litigation.

One institution conducts workshops, research and after ascertaining a client's problem refers the client to other legal aid service providers. But they do aspire to eventually provide legal services. All of them go out to community organisations, particularly groups of people living with HIV (PLHIV) to sensitise them about their rights and then provide legal advice and representation.

We have provided financial support to each of the institutions listed below at some or other time and can state without any doubt that they have indeed provided honest and reliable reports to us. We have on occasion questioned their methods of record keeping and their systems but we have not had occasion to question their honesty and integrity.

List of Partner Institutions as at 2012 – Great Lakes				
	Country	Name of Institution	No of Lawyers	Status of Law Clinic
1	Rwanda	National University of Rwanda, Legal Aid Clinic	3	Very Strong
2		Independent University of Kigali	1	Under construction
3		Great Lakes Initiative for Human Rights and Development	1	Strong
4	Tanzania	University of Dar es Salaam, Legal Aid Committee	4	Strong
5	Kenya	Moi University, Legal Aid Clinic	2	Under construction
6	Uganda	Legal Aid Clinic, Law Development Centre	2	Very Strong
7		Public Interest Law Clinic, Makerere University	2	Under construction
8	DRC	University of Kinshasa, CRIDHAC	3	Growing
9	DRC	University of Lubumbashi, Law Faculty	3	Under construction
10	DRC	University of Goma, Law Faculty	3	Under construction
11	Burundi	Lumière University, Bujumbura, Law Faculty	2	Under construction
	Sub Total		26	
List of Partner Institutions as at 2012 – SADC				
	Country	Name of Institution	No of lawyers	Status of Law Clinic
1	Namibia	Legal Assistance Centre	1	Very Strong
2	Malawi	University of Malawi, Legal Aid Clinic	2	Exceptional
3	Zambia	University of Zambia, Legal Aid Clinic	2	Under construction
4	Zimbabwe	Justice Aids Trust	2	Strong but need funding
5	Mozambique	Eduardo Mondlane University, Legal Aid Clinic	3	Strong
6		Eduardo Mondlane University, Centre for Human Rights	3	N/A
7	Swaziland	University of Swaziland	2	Growing
8	Lesotho	University of Lesotho	2	Under construction
	Sub Total		17	

Once again at the level of the numbers we can certainly say that we surpassed our planned outcome as we are working with 19 institutions from 13 countries. But do these institutions work together to address common problems in their regions? Our answer is a qualified not yet.

We are looking forward to a regional network that does not depend on HRDI bringing people together. What began as a strategy of convenience in November 2012 ended up being the catalyst for the development of this network. What we mean by this is that during the planning for the annual partnership forum and the return of all the students it dawned upon us that the Great Lakes group will have more than 45 lawyers when one includes deans and directors of law clinics and the SADC group around 30 people.

With the issue of the M23 in Goma and the tension between Rwanda and DRC building up, a conversation began within the Great Lakes group on Facebook and in class. The meeting of representatives from the region presented an interesting opportunity for something to emerge. We decided that despite us not being able to participate, we will organise the logistics for each region to meet. In preparation for this meeting, the students spent a few hours strategizing on the agenda items and the facilitation. In the end the Great Lakes group decided to establish a Great Lakes Legal Aid Network. SADC decided to address certain burning issues within SADC such as illicit flight of capital. However, upon hearing the plan from the Great Lakes, the SADC group decided to embark on a similar plan.

The final full meeting on the last morning included the full regional teams of students and partner representatives that included a vice-chancellor, several deans of law faculties and heads of department of public law. The sub-regional and regional meetings were all facilitated by the students. It was phenomenal to witness snippets of the meeting and more importantly to receive the report. A steering committee has been appointed and at this stage the group needs assistance from HRDI to finance their meetings. However, they are determined to, as they said, “fill the void that will result from HRDI’s closing”.

While we sing these praises we also note that it has been and continues to be difficult for this group to find ways to sustain that energy. Many of them continue to communicate socially and while that does provide a strong platform from which to engage in joint strategies to address common problems, much more is needed to achieve the latter.

Much depends on their ability to creatively use social networking tools for the purposes of strategic engagement with each other. This requires them to open up that space of social networking for work. It does pose certain challenges but there are a few that are leading the way and only time will tell how this unfolds.

The challenge for us is to not interfere too much in their processes and allow them to find their feet, find the way and then walk it. We did do that during the meetings in December 2012. During the period 2013 to 2014, we will need to carefully engage when invited to do so but to also allow those that are taking the lead to hold the reins.

HRDI Trainees Leading a Discussion on the Development of a Regional Network



From left to right: Tom (Rwanda), Collins (Kenya), Inutu (Zambia), Sylvestre (DRC), Sharon (Zambia), Armando (Mozambique)

SPECIFIC OBJECTIVE 3: DEVELOPING THREE CENTRES OF EXCELLENCE WITH AFRICAN UNIVERSITY BASED LAW CLINICS (ABBREV)

Planned Results:

Each of the three centres of excellence provides effective and efficient human rights and social justice training, legal services and community outreach to poor and vulnerable groups within their country.

Each of the three centres of excellence act as a base for learning for other institutions within their regions.

In 2010, when we developed this strategic plan our team had lengthy discussions that literally went into the night about how many centres of excellence, or as we now call them, regional centres, we should aim for. Our conversation went as far as if we reach for the stars we might fall on the tree tops and that will be ok. But if we reach for the tree tops we might not even leave the ground. In other words there was one view that proposed that we should look realistically at our partners and conclude that only one or at most two regional centres were possible. However in the end it was the ambitious and, to be honest, unrealistic view point that won the day. Hence our objective of three regional centres as opposed to two or even one.

As we began implementing this part of the plan, and as was seen in previous reports, we saw potential in two and at times three partners and kept an open mind about the matter. In the end those that we had in mind simply did not come to pass as one of them has not yet established a basic clinic. They are however introducing an LLM degree with a similar theme and content to ours, but do not have the legal services and community outreach dimension yet.

Earlier, we described the law clinic of the University of Malawi as exceptional. The team from Malawi have within one year established a law clinic from scratch, developed strong links with the community and community based organisations, taught students and taken a team to the moot court in Mozambique. At the same time, the two individuals within the team wrote their dissertations and graduated with their LLM degrees. They have strong support from their university and even stronger support from their faculty. Malawi was seen as a potential regional centre and is still. But before embarking on that undertaking, helping the clinic evolve into an international human rights law clinic was mooted with them. Malawi, as one of the countries that made the declaration enabling individuals to access the African Court on Human and Peoples' Rights, presents an ideal location for an international human rights law clinic that engages not only in domestic litigation but also international. This idea is still at cocoon phase. There is much enthusiasm from the Dean and the implementation team. 2013 will show us whether the law clinic of the University of Malawi will indeed evolve into an *International Human Rights Law Clinic* and a regional centre that could take forward many of the values, themes and ideas pioneered by HRDI.

The board of HRDI and the team consciously decided in 2012 to adopt a more realistic perspective and set goals and targets that are clearly reachable while still retaining the passion and determination. With that in mind, we have decided to focus our effort and energy on one regional centre.

SPECIFIC OBJECTIVE 4: CONTRIBUTING TO THE DEVELOPMENT OF HUMAN RIGHTS JURISPRUDENCE AND CONDUCT COMMUNITY BASED STRATEGIC LITIGATION AT A DOMESTIC, REGIONAL AND INTERNATIONAL LEVEL

Planned Results:

15 law clinics, in cooperation with HRDI, provide regular legal representation in 900¹ cases and domestic judicial structures thereby address the issue of discrimination of PLHIV.

HRDI undertakes 5 community based strategic litigation cases that address the issue of discrimination of people living with HIV/AIDS, in cooperation with partner organisations.

Domestic, regional and international judicial and quasi-judicial structures address the issue of discrimination of people living with HIV/AIDS to a greater extent.

Community based organisations and paralegals have greater awareness of and are able to access domestic, regional and international human rights forums when necessary.

At the end of 2012, 9 law clinics were providing legal representation to clients and vulnerable groups. It is however difficult to quantify the number of cases as we receive narrative reports from only 4 of the 9 law clinics. We do not provide financial support and consequently the institution is not required to formally report to us.

However, what we can say is that this target of 900 cases was calculated on the bases of each institution providing legal representation in 12 cases per year. We can undoubtedly say that these nine institutions that are properly functional have worked on many more than 12 cases per year. In fact they see more than 30 clients per week at their institutions. At the end of this project, we will provide accurate statistics.

Below is a brief look at some of the work that has been done by HRDI in conjunction with its partners to develop human rights jurisprudence.

Representation of Individual Clients

Unfair dismissal in Namibia

Our partner in Namibia represented a worker who alleges that his employer forced him to undergo an HIV test and dismissed him as he tested positive. We assisted our partner with the drafting of the pleadings in this case. It is still pending before the courts and we will report further on the developments with the case.

Representation of Group Clients

Unlawful Clinical Trials in Tanzania

A South African company conducted clinical trials in Tanzania on 64 people after being refused permission to conduct the same trials in South Africa. Our partner in Tanzania

¹ Cases are defined not only as specific cases taken to court but also include matters where negotiated solutions and other dispute resolution mechanisms such as mediation are utilised.



represents 5 people who were subject to these clinical trials. Our team at HRDI have helped the partners in Tanzania from the beginning with research, taking instructions from clients and developing the legal strategy.

In 2012 the team in Tanzania rallied together a team of lawyers and journalists and finally began to draft papers in this case. While HRDI was involved at the beginning in the strategic legal discussion, this phase was left to the partners with our financial support.

Pre-Employment Testing Tanzania

Our partner in Tanzania uncovered a practice of pre-employment testing by a large multi-national cell phone company that operates in 15 countries in Sub Saharan Africa. Since we did not have a specific client in this case, we decided to engage the HIV Committee of the ACHPR to engage with the state parties and non-state actors involved.

A landmark letter was drafted and signed by the then chairperson of the HIV Committee. However, it is still to make its way to the particular companies involved. We are working on plugging the loopholes that have hindered progress in this matter and expect that further steps will be taken in 2013.

Claimed Cures by Traditional Healers Tanzania

Our partner in Tanzania informed us of a situation where a traditional healer claims to have a cure for HIV. Hundreds of people flocked to him, leaving their hospital beds in search of a cure. Hundreds died on their way to see the man referred to as Babu. The government of Tanzania responded by building a graveyard along the road.

HRDI together with our partner in Tanzania then made a written and oral submission to the ACHPR HIV Committee on this situation of claimed cures in Tanzania as it affects the entire East African region. The state representative present during the oral submission undertook to revert to the ACHPR on the subject. The HIV Committee also decided to engage in further research on this matter more broadly and across other countries.

Assistance to Partners with Policy and Legislative Developments

Decriminalisation of Sex Work – Rwanda

One of our partners in Rwanda was preparing a submission to the government of Rwanda on the issue of decriminalisation of sex work. We assisted with the research. In the end we understand that Rwanda has introduced laws that in fact decriminalise sex work.

Support to and Development of the ACHPR and the HIV Committee of the ACHPR

In 2010, we advocated for the establishment of a special mechanism for the protection of the rights of PLHIV at the ACHPR as a result of which they resolved to and did establish the HIV Committee (abbrev). We realised early on that its effectiveness depends largely on the technical support that it will have. Consequently in 2011 we appointed one of our alumni as a legal officer to support the chairperson of the HIV

Committee. In 2012, the chairperson was no longer the chairperson but remained a member of the three person committee. She and the secretariat of the ACHPR found our appointee to be extremely professional and efficient. They requested that Commissioner Alapini, who is based in Benin, retain his services which we accepted. We then appointed a second legal officer to the incumbent chairperson of the HIV Committee, Commissioner Asuagbor who is based in Cameroon.

We see this support as being essential to the development of jurisprudence at the regional level as without that technical support it is likely that submissions will be lost and interventions by the Committee stifled by an inefficient Secretariat.

Based on assessments made at the end of 2012, it is planned that in 2013 a further legal officer will be appointed to the Secretariat itself thus increasing the efficiency and professionalism at the heart of the institution.



Landilani (nearest) and Patrick (furthest) registering HRDI's oral submissions with the ACHPR Secretariat.

SPECIFIC OBJECTIVE 5: GRASSROOTS INVOLVEMENT IN REGIONAL DEBATES (PARAPHRASED)

Planned Results:

Grassroots organisations and vulnerable groups in the 15 target countries have greater visibility in debates on issues that affect them at the regional and sub -regional/REC level.

“The Voice of the Community” – The LLM Programme

There are many aspects to this conversation; the one that deserves particular mention is that of a student who diligently consulted the community both before the LLM in 2011 while writing her dissertation in 2012. She brought up this issue of claimed cures, or “concoctions” as her dissertation title reflects. Her study included in-depth consultations with traditional healers, health officials and ordinary people living with HIV who turn to these methods. Her study was so filled with what has now come to be termed “the voice of the community” among her colleagues, that she is in the process of converting the dissertation into an article to be co-authored with Prof Frans Viljoen, the director of the Centre for Human Rights at the University of Pretoria. This deserves particular mention because her English was never great and she was therefor often dismissed by her colleagues. In the past her suggestion that she had the voice of the community driving her was a joke among some. But when she presented her findings to her colleagues, despite her constraints with English, the clarity of her thought and depth of her research was undeniable. Even the external examiner was amazed at her choice and treatment of subject matter. While this objective was meant to ensure that the voice of the community was heard at a regional and international level, here we celebrate that it was heard during research into LLM mini-dissertation topics. At this point for us it is an achievement of the student and, we must also state, of the methodology involved in selecting research topics and proposals.

A further aspect that relates to the LLM degree is that even those students who did not engage in community consultations during their research engaged in a conversation before graduating geared at teasing out how their research can be used to improve the lives of ordinary people back home, and how other students from other countries can use the research as well.

“The Voice of the Community” – Regional Level, ACHPR

At least two to three months before every session of the ACHPR, we ask our students to consult the community organisations that they work with to establish what they (the community) would like us to raise at the sessions. At the beginning, in 2010, we were able to take a representative of an organisation of women living with HIV from Uganda. We nominated her and she is now one of the experts on the ACHPR’s HIV Committee. However during recent sessions we took our trainees instead. In drafting the oral and written submissions “the voice of the community” is strongly heard. Issues such as discrimination against PLHIV in Rwanda’s *one family one cow* programme, or claimed cures by Babu in Tanzania, or the need for food, clean water, shelter and sanitation in addition to medication, have all come directly from these types of consultations.

MANAGEMENT AND ADMINISTRATION

In 2012, our lean team of five worked hard and worked smart to achieve all that has been set out above. There were no changes with respect to financial management and administration.

2012 simply saw a well-oiled and well-maintained team getting on with it.



HRDI TEAM

From left to right

Gideon (maintenance), Hester (administration), Christian (partnerships), Asha (executive director), Thandabantu (chairperson of the board), Dan (deputy executive director)



RESULTS BASED BUDGET ANALYSIS

BUDGET VS. ACTUAL FOR JANUARY – DECEMBER 2012

BUDGET CATEGORY	TOTAL BUDGET	ACTUALS	VARIANCE	% VARIANCE
<i>REGIONAL COSTS:</i>				
Developing Jurisprudence	209,000.00	44 797.10	164 202.90	79%
Building a Cadre of Activists	379 750.00	285 068.97	94 681.03	25%
Students Costs	1 308 600.00	1 212 422.86	96 177.14	7%
Manual Work with PLHIV	78 780.00	47 675.30	31 104.70	39%
Direct Contributions to ULCs	1 189 000.00	1 049 680.00	139 320.00	12%
Building Partnerships and Community Outreach	80 000.00	56 970.59	23 029.41	29%
Developing Centres of Excellence	95 000.00	0.00	95 000.00	100%
Developing a Regional Network	339 300.00	233,384.89	105 915.11	31%
ACHPR, REC and other Meetings and Conferences (including support to the ACHPR)	476 000.00	407 259.27	68 740.73	14%
<i>CORE COSTS:</i>				
Salaries and Related Costs	1 877 145.00	1 800 015.52	77 129.48	4%
Professional Fees	314 750.00	244 272.16	70 477.84	22%
Overheads	494 843.00	408 552.85	86 290.15	17%
Governance	27 400.00	3 500.03	23 899.97	87%
Furniture and Equipment	10 000.00	700.88	9 299.12	93%
TOTAL	6 879 568.00	5 794 300.42	1 085 267.58	16%



BUDGET ANALYSIS – EXPLANATION OF UNDER-SPENDING, OVERSPENDING

Over-Spending – Bank Charges

We budgeted ZAR 24 000 for bank charges and spent ZAR 28 692.68 resulting in an over-spending of ZAR 4 692.68 (20%). This over-spending was due to high costs for international transfers to partners and particularly to the legal officers in Cameroon and Benin to enable them to attend sessions of the ACHPR. As a result of the short notice for them to attend sessions, money was sent using the expensive moneygram transfer.

We informed them that this will no longer happen as they can plan in advance. If they do not they will risk not attending the sessions. We expect that this problem will be resolved in 2013 and that there will not be over-spending on this line item.

Overall Under-spending

The overall under-spending is mainly due to prudent management of finances. We are particularly careful on line items relating to core expenditure. For example we only spent ZAR 3 500.03 on governance even though we held one face to face board meeting and one meeting by conference call. This is because the meetings are held at our offices and our board members try to ensure that the meetings are held when they are in Pretoria anyway. We do not pay for catering either. All of this keeps the costs down. Our core overhead costs are less than that spent last year when we spent ZAR 415 790.17 and this year ZAR 408 552.85. These two line items demonstrate the values that permeate our organisation. We save wherever we can. We piggy-back on other activities and plans so that we can achieve what we set out to and yet save at the same time.

Under-spending on Key Line Items related to Outcomes

Developing Jurisprudence and Legal Services

With respect to *legal services* we provided much of the legal opinions and advice ourselves and also helped to ensure that pro bono lawyers assisted. Hence there was very little spent on professional fees.

Building partnerships, training and student costs

Our expenditure under these line items are clear indications of prudent spending as we entered into partnerships with more institutions than planned for and recruited and trained more students than planned for. However, we booked our own flights, stayed at hotels that were reasonable and combined travels. For example if we travelled to Goma (DRC), we travelled via Rwanda and also met partners there and therefore ended up paying much less.

Our mantra is “doing more with less” and we are determined to achieve what we set out and still try as much as possible to save. This ethos permeates all of HRDI.

CONCLUSION

Ben Okri asked: *Will you be at the harvest among the gatherers of new fruit?* We asked and continue to ask ourselves, our partners and our students whether we will be at the harvest. And importantly we ask ourselves, our partners and students whether we will be tilling the soil, planting the seeds, nurturing the plants and at the harvest where we celebrate. Interestingly he also says in this rousing poem that “*only free people can make a free world*”. And with that reminds us that we must free ourselves intellectually, spiritually and materially to enable us to build this world we dream of.

We believe a better world is possible. Our work is only one part of this – but as we repeatedly say to the African Commission on Human and Peoples’ Rights, even though the issues we tackle are huge and extremely difficult, even though what we can do might appear very little, it is our task and we must do that well.

We have not achieved everything we set out to. We cannot change people. But we can choose to see the light in people and feed that light with oil so it may glow brighter. We are determined to ensure that these 50 beacons of light in the 19 institutions and 13 countries shine brightly.

2012 ended with a glimpse into the future – a glimpse into the end of HRDI. After a successful completion of this LLM phase, HRDI’s efforts in 2013 and 2014 will be to strengthen each individual and each institution to ensure that in December 2014, when HRDI’s operations cease, each individual and each institution will indeed be able to stand on his, her or its own.

“Will you be at the harvest,
Among the gatherers of new fruits?
Then you must begin today to remake
Your mental and spiritual world,
And join the warriors and celebrants
Of freedom, realizers of great dreams.
You can’t remake the world
Without remaking yourself.
Each new era begins within.
It is an inward event,
With unsuspected possibilities
For inner liberation.
We could use it to turn on
Our inward lights.
We could use it to use even the dark
And negative things positively.

We could use the new era
To clean our eyes,
To see the world differently,
To see ourselves more clearly.
Only free people can make a free world.
Infect the world with your light.
Help fulfill the golden prophecies.
Press forward the human genius.
Our future is greater than our past.”
— Ben Okri

(http://www.goodreads.com/quotes/215429-will-you-be-at-the-harvest-among-the-gatherers-of?auto_login_attempted=true - accessed on 26 April 2013 at 17h04)



Where the heart and soul of HRDI lies – in providing voluntary manual services to poor and vulnerable groups. This picture was taken after returning from a church site where we cleared the ground to plant a vegetable garden.