



ANNUAL PROGRESS REPORT

2014

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



CONTENTS

INTRODUCTION	3
ONE PAGE SUMMARY OF PROGRESS AGAINST OBJECTIVES	4
SPECIFIC OBJECTIVE 1: BUILDING A CADRE OF SOCIAL JUSTICE ACTIVISTS	5
SPECIFIC OBJECTIVE 2: DEVELOPING A NETWORK OF 15 ACCOUNTABLE LAW CLINICS	10
SPECIFIC OBJECTIVE 3: DEVELOPING THREE CENTRES OF EXCELLENCE	16
SPECIFIC OBJECTIVE 4: CONTRIBUTING TO THE DEVELOPMENT OF HUMAN RIGHTS JURISPRUDENCE	17
SPECIFIC OBJECTIVE 5: GRASSROOTS INVOLVEMENT IN REGIONAL DEBATES	20
MANAGEMENT AND ADMINISTRATION	21
RESULTS BASED BUDGET ANALYSIS	23
CONCLUSION	25



INTRODUCTION

The decision to close HRDI at the end of this project drove the team during 2014 to work in a manner that we end with a celebration of outcomes achieved as opposed to concern about what was not achieved.

We certainly did close the year in a memorable manner. Mindful of what still needs to be done, aware of what has been done, joyous to be together and sad for the imminent parting.

Endings are always difficult but at the same time extremely important. It is not often that one gets to prepare for an ending and carry it out in an intimate, kind and compassionate manner. Often endings are sudden and not of one's choice hence the battle to raise more funds to survive just another month. We have seen many South African and international NGOs go through this in the last few years and are happy that we chose a different course ten years ago when we were just established. We ran HRDI and worked within HRDI with this idea and plan firmly etched in the psyche of each person within the team and each other role player as well. Consequently, as we near the end, we believe it is with a very bright picture of the new beginning that is in store for everyone, especially the partners and students. A beginning that is marked with proud people and institutions standing tall on their feet and serving with mind, hands and heart.

This report is one which celebrates what has been achieved during the tough year that was 2014.



Objectives	Plans for 2014	Progress Made	Plans for 2015
Build a cadre of 15 social justice lawyers from the 5 target countries	Assist 4-5 to complete dissertations	Assisted 2 but only 1 completed	Training on results based frameworks
	Identify further training needs	Intense training on ACHPR, Intl Law, IFF and BIT's and much harder manual work	Explore with those interested in developing LLM programmes
	Include time for further on-site training during visits to partners	Time included and some informal on-site training on curriculums and budgets	Document the HRDI training model
	Conduct training with 45 students	Training conducted with 30 students	
Develop a network of 15 accountable law clinics that provide legal services to poor and vulnerable groups in the 15 target countries	Help the 4 in GL and 1 SADC to start up their ULC	10 fully functional, 3 coming on board, Bur starting, Lesotho – still problems	Ensure that all 15 are solid by the end of March 2015
	Continue using web-based networking to keep the group talking to each other	Facebook and yahoo group has been used.	Only worrying partner is Lesotho.
	GL and SADC meeting for 2014 in their countries and in Pretoria	GL met in Rwanda but SADC did not meet. All met in Pretoria.	One full regional meeting or two sub-regional meetings hosted by partner/s
	Formalisation of regional network	Nucleus for formal regional network est.	Adoption of constitution
	Host PF with 16 partners for 5 days	PF hosted but over 1 day	Establishment of the structured network
Develop three centres of excellence within African university based law clinics	Strengthen ULCs- Rwanda and Malawi	Rwanda and Malawi strengthened	Will continue with strengthening partners
	Follow up on concept note with those that have decided to establish IHRLC	Followed up with IHRLC, Zam launched HRLC, Goma teaching, Mal – lagging	Might continue - despite the Eval Report as Dean of Chanco said they are still keen
	Develop plan with faculty	Plans developed but not implemented	
	Study visits to Latin America/US	Not undertaken – sphere of control!	
	Celebrate the launch of at least one!	No celebration – sphere of control!	
Contribute to the development of human rights jurisprudence and conduct community based strategic litigation at a domestic, regional and international level	Follow up - response to ACHPR letter	Letter sent.	Observer status - partners and/or network
	Follow up on clinical trial case in court	Case going through the Tanzanian courts	Continue support of ACHPR
	Govt response on claimed cure case	Govt intends est regulatory body	Assist ACHPR fundraise for post HRDI
	Work with partners on other issues	Disabled children, Prisoner patients	Students more involved in next session
	Assist ACHPR with IFF study – fund raising and co-ordination	Fundraising started – Sida, Norway, GIZ, HLP contacts, Academic	Raise ZAR 33 million for full IFF Study/plan b – limited study report by end June
	Appoint a 4th legal officer to ACHPR	Not appointed, not necessary	
Grassroots involvement in regional debates	Invite HIV Com and UNSR	HIV Comm came but not UNSRs	Students and partners continue with this
	Arrange for meetings with CBOs	Consultations with CBOs continued	
	Work with partners to engage both	Partners continue engaging	



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.

Actual Results

In 2014, 37 students participated in the training programme. They are distributed among all our 11 partner countries save for Rwanda as none of them were able to attend due to diplomatic problems between South Africa and Rwanda.

THE 2014 TRAINING PROGRAMME

We trained five more students in 2014 bringing the total number trained to 70. Two new women law teachers from Zambia and Uganda and one male from Tanzania joined the group. However, three people from Mozambique and one from Lesotho dropped out of the network. Hence the net increase in number of students that remain in the network is one which brings the total number of HRDI trainees that remain in the network to 53.

Total Number of Students as at the end of 2013 – Great Lakes and SADC						
		No of students trained	%	No of students still in network	%	
	<i>Male</i>	38	58	31	60	
	<i>Female</i>	27	42	21	40	
	TOTAL	65	100	52	100	

Total Number of Students as at the end of 2014 – Great Lakes and SADC						
		No of students trained	%	No of students still in network	%	
	<i>Male</i>	39	56	28	53	
	<i>Female</i>	31	44	25	47	
	TOTAL	70	100	53	100	

Manual Work

We built a house almost from scratch in a matter of four Fridays. Our intention was to renovate the dwelling, make it water proof and improved the conditions to the extent we could. However, once we began the project we could not just do a patch-work job. It was the last round of this type of work for the HRDI staff and trainees and it certainly was the best piece of work that our team has done to date. To begin with, everyone was determined to ensure that the work was completed and so we worked from early in the morning to late at night in the middle of the informal settlement in Mamelodi. Some students even contributed money from their daily allowance to enable the family to buy furniture and build an outside toilet. Even after most of the students left, a small team went back to fix the windows, finish the porch and build stairs to keep the water out. When that last bit of work was done, the rain came pouring down and we all slept more peacefully knowing that the family was also sleeping peacefully in a water-proofed home.



The Classroom Component of the Training

In 2014, we as HRDI took responsibility for almost all of the teaching. We only had one guest teacher for half a day. We decided to do this deliberately as we identified a range of gaps from the years gone by both from our own assessments and from that of the external evaluator. What follows is a brief overview of the topics covered and the manner in which they were covered.

ACHPR – HRDI's Approach

When the external evaluators returned from their visits to our partners, they commended us, verbally, for our work with the students, partners and particularly with the ACHPR. But they raised the concern about what would happen to all of this when HRDI closes. Will the students and partners be able to continue with this? We were convinced that they would, especially all those who accompanied us to sessions, but decided nevertheless that during the training we will prepare classes that are geared at ensuring that the strategic approach we have taken with the ACHPR continues even after we close.

The basis of our strategy is that it begins with community consultations which lead to a selection of issues that could be raised. Once issues are selected very detailed planning begins and ultimately very well prepared, evidence based speeches that are convincing and gripping are delivered with a very clear goal in mind of what we would like to see the ACHPR do. We never attend a session just for the sake of it or make a speech just to say we did. We taught our students all of this through getting them to practice the basics in a simulated context. After developing a plan, they prepared and delivered simulated speeches. All of these speeches have been recorded and we can safely say that we have a group of students who can definitely continue the work that we started at the ACHPR.

Our work included drafting resolutions, submissions and letters. We taught them this skill too and found that while not all of them have the same level of skill required for this, a substantial pool of seven do and they can support the rest until they all are able to do all of it.

International Law

In 2004 when the AU Heads of State decided to merge the African Court on Human and Peoples' Rights and the African Court of Justice under an agenda item which required them to decide on the seat of the African Court on Human and Peoples' Rights, the notion of the extent to which principles of international law are ignored within our continent became so evident. The AU continues along this path aided and advised by senior human rights consultants who also seem not to appreciate the basic principles of the Vienna Convention on the Law of Treaties. We decided that we needed to ensure that our students, if called upon to advise and assist, are equipped with the knowledge and skills to truly respect the rule of law within the international law sphere, whether it is to do with human rights, international trade or any other subject area. We consequently developed a very focused class on this subject and students, including some who already hold a Phd found the classes educational and inspiring.



Business and Human Rights

The “Respect, Protect, Remedy” framework was adopted unanimously by the Human Rights Council. Although it is mired in controversy we thought that it is important to equip our students with the knowledge and skills required to use this framework as an additional tool in their tool box to protect the rights of the poor, vulnerable and marginalised. This class was also viewed as an extremely important class and students finally understood that business and human rights is about more than just corporate social responsibility.

Using International Law to Challenge Bilateral Investment Treaties to Curb IFF from Africa

Archaic bilateral investment treaties often entered into soon after independence have hindered African governments in their attempt to revise their tax laws and strengthen their domestic framework. These agreements have standard clauses that protect investors from change that negatively impacts on their profit margin while ensuring that they benefit from changes that affect their profit margins in a positive way. Within the context of our general respect for the rule of law within the international context we ran classes that were geared at finding solutions to this problem within the Vienna Convention on the Law of Treaties and international law. These classes were also extremely useful as some students were able to find solutions within a bilateral investment treaty itself within the context of a case that is currently being pursued against the government of Uganda by Tullow Oil.

We began this session with a two hour presentation by Arvinn Gadgill the Norwegian government official we mention below who highlighted that in all his work with IFF thusfar there has not been anyone who has made the link between bilateral investment treaties and IFF. This was a very important statement and it affirmed that we are on the right track on this issue and that we are filling a niche again.

Number of Students as at 2014 – Great Lakes and East Africa				
	Country	No of students trained	No of students still in network	Names of students still in network
1	Rwanda	6	6	Tom Mulisa
	<i>Male</i>	<i>6</i>	<i>6</i>	Appolinaire Kayitavu
	<i>Female</i>	<i>0</i>	<i>0</i>	Laurent Shenge
				William Ndengeyinka
				Vedaste Bahati
				<i>Steven Gatari</i>
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	6	6	Evelyn Aero
	<i>Male</i>	<i>1</i>	<i>1</i>	Catherine Tumusiime
	<i>Female</i>	<i>5</i>	<i>5</i>	Isaac Afunaduula
				Dianah Ahumuza
				<i>Sandra Oryema</i>
				<i>Patricia P'Odong Atim</i>
4	DRC	11	8	Sylvestre Pakabomba
	<i>Male</i>	<i>8</i>	<i>6</i>	Emile Luketa
	<i>Female</i>	<i>3</i>	<i>2</i>	Grace Tshoma
				Dieu Merci Kabungi
				Patient Iraguha
				Prisca Bwihangane
				Eric Katusele
				Henri Mashagiro
5	Kenya	6	6	Collins Omondi
	<i>Male</i>	<i>4</i>	<i>4</i>	Milka Kuria
	<i>Female</i>	<i>2</i>	<i>2</i>	Ibrahim Alubala
				Irene Maithya
				Desire Njamwea
				<i>Oscar Kiplangat Yegon Sang</i>
6	Tanzania	7	6	Fortunata Kitokesya
	<i>Male</i>	<i>4</i>	<i>3</i>	Daniel Lema
	<i>Female</i>	<i>3</i>	<i>3</i>	Prisca Chogero Mkama
				Susan Joseph
				<i>Barnabas Ernest Kaniki</i>
				<i>Jonas Munguatosha</i>
				<i>Ljankundi</i>
	Sub total	38	34	
	<i>Male</i>	<i>25</i>	<i>22</i>	
	<i>Female</i>	<i>13</i>	<i>12</i>	



Number of Students as at 2014 – SADC				
	Country	No of students trained	No of students still in network	Names of students still in network
1	Zimbabwe	3	2	Thoughts Deme
	<i>Male</i>	2	1	Paidamoyo Mukumbiri
	<i>Female</i>	1	1	
2	Mozambique	6	3	Armando Cuamba
	<i>Male</i>	3	1	Farida Mamad
	<i>Female</i>	3	2	Maria de Lurdes Araujo
3	Namibia	3	3	Ricardo Mukonda
	<i>Male</i>	2	2	Johannes Anthon Frans
	<i>Female</i>	1	1	Isabella Tjatjara
4	Malawi	2	2	Kassim Amuli
	<i>Male</i>	1	1	Hilda Kaluwa
	<i>Female</i>	1	1	
5	Zambia	7	6	Inutu Akolwa
	<i>Male</i>	2	1	Sharon Williams
	<i>Female</i>	5	5	Landilani Banda
				<i>Chipo Mushota Nkhaba</i>
				<i>Lungwe Matakala Chishinga</i>
				<i>Felicity Kayumba Kalunga</i>
6	Lesotho	4	3	Mamofuta Kale
	<i>Male</i>	1		Mamello Phekani
	<i>Female</i>	3	3	<i>Malebeana Phafane</i>
7	Swaziland	2	0	
	<i>Male</i>	1	0	
	<i>Female</i>	1	0	
8	Botswana	3	0	
	<i>Male</i>	1	0	
	<i>Female</i>	2	0	
9	South Africa	2	0	
	<i>Male</i>	1	0	
	<i>Female</i>	1	0	
	Sub total	32	19	
	<i>Male</i>	14	6	
	<i>Female</i>	18	13	



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.

Actual Results

At the end of 2014 HRDI had 16 partner institutions from 11 countries.

Our work with partners during 2014 was founded upon the knowledge that there was very limited time left during which HRDI could provide further support at both a financial and more substantive level. Consequently, we organised our visits in such a manner that we met with the senior most leadership of the institutions, prepared the agenda in as clear and direct a way as possible to achieve the desired outcome of a strong and relatively independent law clinic, and provided as much assistance as was possible.

What follows is our reflection of where each partner is.

Rwanda, Burundi, DRC (Goma)

Burundi

Our partner in Burundi is the Light University of Burundi, an independent, private Christian university. We have been working in a very collegial manner with the Vice Chancellor, representatives of his office and a few members of the faculty of law.

In 2014, despite having made a fair degree of progress during our visit with the team from Burundi, which included the Vice Chancellor, our partners in Burundi had a difficult time with working out exactly what to do, how to do it and how to budget for it. They had many meetings trying to work all this out. We realised their difficulty and stepped in to offer a bit of advice regarding setting very limited but realisable goals. The team was able to put in place a modest outreach programme which included a visit every two weeks to a community based organisation and a hospital. During these visits, legal advice was offered to PLHIV and cases were registered. Consequently, the clinic has commenced its operations albeit in a modest but sustainable manner.

However, despite all these challenges, when it came to participation in the ACHPR session and community consultations, the team was able to provide us with information regarding people who were being held prisoner in the local public hospital due to non-payment of fees. This issue was taken up at the ACHPR. For more information on this issue and the current status of the issue see the section dealing with the developing jurisprudence below.



Goma

The team in Goma is led in more tangible terms by the Vice Chancellor at the University of Goma, a public university. The VC's office also provides support with office space and assisting the HRDI trainees apply their knowledge and skills in teaching law students at the faculty.

In DRC, to introduce a new course like clinical legal education requires substantial bureaucratic processes. To circumvent all of that, the Vice Chancellor suggested that the HRDI trainees take up certain modules in the course on human rights and that they use clinical legal education methodology in teaching that course. This experiment worked very well both with respect to the course, the outcome and the prospective plans for the future.

The outreach programme with the community based organisation of women in the IDP camps which began the previous year gained momentum during 2014. This can now be described as a stable university based law clinic.

Rwanda

HRDI has three partners in Rwanda – two in Kigali and one in Butare. The University of Rwanda is one of the first partners of HRDI based in Butare. Their clinic was established when HRDI started its partnership with them and it continues to evolve to meet current challenges. While its outreach with community based organisations of PLHIV has moved down a few notches, it has developed the alternative dispute resolution dimensions of its operations particularly with respect to family related disputes. HRDI intended to assist the clinic with undertaking a study visit to South Africa to learn about the family court and other ADR mechanisms used here. However, diplomatic relations between Rwanda and South Africa reached an all-time low when the staff responsible for issuing visas were expelled from Rwanda. This resulted in us being unable to bring any of the Rwandese students to the training or to continue with this study visit.

The Independent University of Kigali (ULK) is the second partner in Rwanda. Their clinic has grown from stride to stride and the HRDI trainee has also been recognised within the university system for his dedication, commitment and hard work. They conduct outreach at a local authority where they provide free legal advice. They now also see clients at the clinic based at the university. During our visit we witnessed students conducting an interview with clients and providing legal advice. We were marvelled at the systems and the ease with which this clinic functions as it has the full support of the upper administration, management and the law faculty.

Our third partner in Rwanda is the Great Lakes Initiative on Human and Development. It is an NGO that was established with HRDI support by one of the first HRDI trainees. Staff of GLIHD have also been trained by HRDI during the LLM in 2012 and the one month training in 2013. For GLIHD, 2014 was a year of improving systems and procedures and becoming a more professional organisation. In 2013, they began work and did very well with establishing firm roots in the community. This was a strong foundation from which the rest was built. They developed close ties with the community members, provided both material and legal assistance to PLHIV, particularly women and established partnerships with a range of other organisations. In 2014, HRDI assisted them to develop more sound systems and procedures. One staff member of GLIHD



spent a few months at HRDI simply learning about human resource management, financial management and general management of the organisation. When he returned to the organisation, he implemented many of the systems and GLIHD is now stronger for it.

Lubumbashi, a different side of the DRC

Every Tuesday the clinic team comprised of the three HRDI trainees and a handful of volunteer students conduct an outreach clinic for children at the Kassapa prison. This entails representing children who are at risk with the law and held at the children's prison. It is located within a larger prison complex where adults are held. The prison is a one big building with a small courtyard outside. It is overcrowded, does not have clean facilities and has many children who are accused of petty crimes. The clinic team have taken the opportunity presented by a relatively new law in DRC in terms of which cases involving children have been expedited. However, the children need to be represented for this procedure to be followed and the court needs to be convened. Although the system is in place as a result of minimal resources and unavailability of lawyers to represent the children, the cases are not always heard. Consequently, the team assists by providing the representation and even picking up the judges, prosecutors and registrars and driving them to the prison to convene the court.

The HRDI team was privileged during its annual visit to observe one such session and can attest to the fact that it is a remarkable example of clinical legal education achieving the dual objectives of training students and working toward social justice. Furthermore, when we witnessed one of the HRDI trainees invoking principles of international law in his argument, we were both humbled and convinced that HRDI has gone a long way toward achieving what it set out. The judge accepted the arguments and held in favour of the child. HRDI's objective of ensuring that international human rights law norms and standards are applied at the grassroots level was demonstrated in clear and tangible outcomes.

Zambia

After our visit and particularly after meeting with the Vice Chancellor and his Deputies, the situation in Zambia finally opened up. As stated in previous reports we saw our partner, the University of Zambia, as a partner with immense potential to impact not only within the country but more importantly within the region. Unfortunately due to many bureaucratic bottlenecks early on, the HRDI trainees were confronted by a range of impediments in their attempt to get the clinic off the ground. In 2014, we insisted on meeting with the Vice Chancellor and representatives from his office to assist the team to deal with the bottlenecks. They have now launched a Human Rights Law Clinic and have started teaching a course in clinic legal education and an outreach programme. The legal services will be outsourced to local NGOs and private lawyers to be undertaken on a *pro bono* basis.

Uganda, Kenya and Tanzania

Uganda

Our partnership with Makerere University was on verge of breaking down in 2013 due to problems with interpretation of the agreement between HRDI and the Public Interest



Law Clinic (PILAC), the implementation partner within the law faculty. However, during our visit in 2014 all these matters were clarified and a live client clinic has now commenced operations at PILAC. Our visit to Uganda was the last visit undertaken in 2014 and once the issues related to the clinic were resolved, but of the conversation centred around the political developments in the region, particularly regarding the repressive circumstances in Uganda at the time.

Since the submissions that will be discussed under developing jurisprudence were focussed almost exclusively on the situation in Uganda, a deeper analysis and more substantial report of those activities can be found below.

Our partnership with the Law Development Centre's Legal Aid Clinic began in 2006 as one of the first. It remains a partner dedicated to serving the vulnerable. It however has resource constraints which affects its ability to do as much as it would want to.

Kenya

Our partner in Kenya is Moi University Legal Aid Clinic (MULAC). It has a strong clinical legal education tradition but has had difficulty reviving that tradition. The HRDI trainees unfortunately have also had a difficult time integrating and getting a functional clinic together. In 2013 a person was appointed to run a children's clinic in terms of which children at risk with the law were provided with legal representation. This was a very successful undertaking and apart from the numbers of children represented, the clinic also addressed precedent setting issues such as the age of consent where they looked particularly at relationships between teenagers – a case which not only made the news, but also one which has relevance to the ordinary people served. Moreover, the clinic raised the issue of children with disabilities in Eldoret and informed the HRDI team that these children were held together with children at risk with the law just because of their disability. This issue was taken up at the ACHPR.

HRDI's concern regarding the clinic at Moi is the sustainability as once the person responsible for this work went on leave for an extended period due to another work assignment, the clinic, its clients and programmes suffered drastically.

Tanzania

Our partner in Tanzania is the University of Dar es Salaam, Legal Aid Committee. Our work with them has been at two levels, one which is to try to get them to appoint a full time permanent staff member to work at the clinic and the second to work on the clinical trial case with them. The second issue will be discussed more fully in the section dealing with developing jurisprudence.

On the first issue, we have failed it seems. The clinic is the beneficiary of a partnership with another organisation that runs an LLM programme in terms of which the graduate returns for one year to the clinic. They have consequently not felt the effect of not having a full time person there and prefer to continue in this manner. They have had three people graduate, serve and leave and now have the fourth person who is still serving the clinic. It is extremely short sided of the institution as they are losing extremely talented and dedicated people, but it is also expecting too much of an institution to go through all the processes of securing a post for the clinic when they have this kind of arrangement.



Lesotho, Namibia and Mozambique

Lesotho

At the end of 2014, the clinic in Lesotho was among those the HRDI team was most concerned about. This was primarily due to the fact that certain undertakings made by top management of the university did not seem to be fulfilled. The University of Lesotho is HRDI's partner and meetings were held with the then Acting Vice Chancellor, the dean of the faculty of law and a head of department in the faculty of law. This meeting was difficult as it was necessary to raise the issue of the current employment status of the two HRDI trainees. As has been seen from previous reports when a faculty sends someone to an HRDI training without having first employed that person, we face all kinds of difficulties with the later implementation of undertakings to employ. At the end of the year an undertaking was made with respect to one of the trainees. It is hoped that this undertaking will be fulfilled and that the clinic will then be functional.

Namibia

Our partner in Namibia is the Legal Assistance Centre, a public interest NGO based in Windhoek but operates in all of Namibia through various outreach programmes.

Our main mission with LAC was to encourage it to obtain observer status with the ACHPR and to continue raising important issues at that forum. We have achieved that as they have now applied for observer status.

Mozambique

We have two partners in Mozambique, the Legal Aid Clinic and the Centre for Human Rights both based at Eduardo Mondlane University. Both these institutions are constantly evolving and are benefitting from strong leadership at the institutional level and at the faculty level. We travelled with them to outreach programmes that they run and were moved at the Catholic boarding school for orphaned and abandoned children in a very remote location. Also, in the heart of Maputo and in an informal settlement, the clinic conducts outreach at another children's school.

Malawi

As the legal aid clinic at Chancellor College in Malawi was meant to be a centre of excellence, our partnership with this institution will be discussed in the next chapter.

Partners working with each other

In 2014, the teams from Rwanda, Goma and Burundi came together to hold the first regional meeting of HRDI partners. This was a very important event as it was jointly organised by the partners, with financial support from HRDI, but hosted very well on a shoe string budget. It was important both for this sub-region itself and for the nascent network of partners. Firstly, it demonstrated in tangible terms what can be done and how to the other partners. Secondly, for the sub-region itself, the students, staff of clinics and some of the management of clinics realised how important co-operation among themselves is. The embryo for a sub-regional network here has now been firmly established.



List of Partner Institution – Great Lakes					
	Country	Name of Institution	No of Lawyers	Status in 2013	Status in 2014
1	Rwanda	National University of Rwanda, Legal Aid Clinic	2	Very Strong	Very Strong
2		Independent University of Kigali	1	Strong	Very Strong
3		Great Lakes Initiative for Human Rights and Development	3	Very Strong	Very Strong
4	Tanzania	University of Dar es Salaam, Legal Aid Committee	2	Strong	Strong
5	Kenya	Moi University, Legal Aid Clinic	3	Strong	Tentative
6	Uganda	Legal Aid Clinic, Law Development Centre	1	Very Strong	Very Strong
7		Public Interest Law Clinic, Makerere University	2	Growing as a law clinic	Strong
8	DRC	University of Lubumbashi, Law Faculty	3	Still under construction	Very Strong
9	DRC	University of Goma, Law Faculty	3	Strong	Very Strong
10	Burundi	Lumière University, Bujumbura, Law Faculty	2	Growing	Established
	Sub Total		27		
List of Partner Institutions – SADC					
	Country	Name of Institution	No of lawyers	Status of Law Clinic	
1	Namibia	Legal Assistance Centre	1	Very Strong	Very Strong
2	Malawi	University of Malawi, Legal Aid Clinic	2	Exceptional	Very Strong
3	Zambia	University of Zambia, Legal Aid Clinic	3	Still under construction	Established
4	Mozambique	Eduardo Mondlane University, Legal Aid Clinic	3	Strong	Very Strong
5		Eduardo Mondlane University, Centre for Human Rights	3	Strong	Strong
6	Lesotho	University of Lesotho	4	Growing	Established
	Sub Total		17		



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

Planned Results:

The centre 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.

The centres of excellence act as a base for learning for other institutions within their regions.

Actual Result:

The Legal Aid Clinic of the University of Malawi provides effective and efficient human rights and social justice training, legal services and community outreach to poor and vulnerable groups within their country but is not yet a base for learning for other institutions and might not become one.

The Chancellor College Legal Aid Clinic of University of Malawi (CHANCO LAC)

What was true at the end of 2013 remains true at the end of 2014 – the CHANCO LAC does indeed provide legal services to the poor and vulnerable groups and they do run a very good programme with students. They have specialised areas of work with different law teachers responsible for the different areas.

However, their willingness and ability to evolve into what HRDI has described as a Centre of Excellence in terms of which they will act as a “base of learning for other institutions” is not as certain. HRDI and the CHANCO LAC were working towards that outcome and towards CHANCO LAC evolving into an international human rights law clinic.

During the visit to Malawi, what was very evident is that the various areas of specialisation revolve around the interests of particular law teachers. The institution is focused on building itself as such rather than focusing outward at this stage. We find this commendable and understandable as it is not easy to look outward if there are aspects of the clinic operations that still need to be strengthened.

Despite this, the team from Lesotho travelled to Malawi to learn from their model. The same team travelled to South Africa previously and since South African law clinics are so well established, the Lesotho team found that the South African experience was as foreign to them as perhaps going to the USA on a site visit. These clinics in SA were well resourced, had faculty support and had been operating since the 1970s so they were now like well-oiled efficient machines. However, the clinic in Malawi, though established and well-functioning was also grappling with some issues that they face in Lesotho like integration, resources, combining clinical legal education, outreach and legal services and so forth.

Hence, while not necessarily the formal base for learning that HRDI envisioned, the clinic in Malawi is certainly an example from which others can and will learn.



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.

Actual Results

16 law clinics provide regular legal representation to the indigent and HRDI has made two more submissions to the ACHPR and continues to assist in 1 strategic case;

A new regional mechanism specifically for PLHIV and those at risk has been established;

CBOs have greater awareness and are consulted before participation at each session of the ACHPR

ACHPR passed resolution 236 in terms of which it undertook to address the human rights implications of illicit financial flows from Africa.

SOME HIGHLIGHTS AT THE REGIONAL LEVEL WITH THE ACHPR

HRDI's work at the ACHPR continues to be an aspect that has the effect of renewing our faith and trust in the African regional human rights system. Participation in sessions of the ACHPR continues to be rewarding in terms of outcomes for the individuals and groups we represent and for the wider community. We have found that what appeared to be concrete boundaries and limitations that restricted the ACHPR in its response to human rights issues were not so solid after all. Instead we see it as an institution committed to expanding the parameters within which it can work. This is in fact very indicative of its history.

Focus on Uganda

The growing trend of anti-homosexuality sentiments in Africa reached an all-time low in Uganda with the anti-homosexuality legislation. The manner in which the country rallied behind it with the clergy and other religious leaders all speaking at a celebration in honour of this piece of legislation was alarming to say the least.

In response to this and in preparation for our participation in the 55th Ordinary Session of the ACHPR, HRDI decided to look deeper at what else is going on in Uganda. After discussing with colleagues, undertaking desktop research and getting information from people from the region, it became clear that Uganda was not only interesting because of the anti-homosexuality legislation, but that other very worrying developments were

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.



taking place as well. For example, a move to ensure that everyone has identity documents and that they would not be allowed to travel on buses, attend church or even attend markets without a valid ID. We read speeches made by the minister who threatened the public if they did not move to obtain their IDs. Legislation regarding NGO registration was also looked at in terms of which NGOs were being de-registered based on whether they worked on LGBTI issues or not.

In the end, we decided to take the approach of looking at all these aspects of Uganda and prepared three speeches to address the issues in Uganda. The first was a more general but very provocative analysis comparing the anti-homosexuality trend to that in Nazi Germany. The second dealt with freedom of expression with examples of people who were now scared to articulate their opinions even in classrooms. And the third dealt with human rights defenders and here the issue of IDs and NGO registration was raised.

We understand that the deputy minister of justice was asked to attend the session when they were alerted to this agenda. Judging from their response, the response of the Commissioners, individually and from what we have been told, we believe that this strategy certainly had an effect. While we do not take credit for it, we believe that our efforts ultimately supported the resolution on sexual orientation and gender identity that was ultimately passed.

Rights of Disabled Children in Kenya

As a result of the consultations with partners, MULAC in Kenya informed us of a practice in terms of which children with disabilities were held in cells with children at risk with the law in the Rift Valley area of Kenya as there were no other special facilities for these disabled children. An impassioned speech was read regarding this issue with comparisons made with Franklin Roosevelt, where the question was asked as to what would have happened if Roosevelt was born in Kenya. At the end of that speech, the chairperson of the working group that deals with issues regarding people living with disabilities undertook to address the issue.

Prisoner Patients in Burundi

This is an issue that Burundians abroad and in Burundi are familiar with. As described earlier it relates to a circumstance where patients are held prisoner in public hospitals until the patient or their relative/friends are able to pay the outstanding fees. A speech was made by a Malawian who compared the situation with Malawi soon after independence when Hastings Banda imposed a hospital fee which led to large scale protest, the famous Cabinet Crisis and the ultimate death of Orton Chirwa in prison. Another impassioned plea for this matter to be dealt with was made and supported with a written submission to the HIV Committee of the ACHPR. We were informed that a letter has already been written to the government of Burundi and that the particular individual whose story was shared has been discharged.

Only 2 Cancer Specialists in Malawi

Research undertaken by the HRDI trainees in Malawi established that there were only two cancer specialists in Malawi. This issue was raised with the working group on economic social and cultural rights. We were not there at the time the speech was read so are not sure as to the impact it had.



Principles and Guidelines on the Implementation of Social, Economic and Cultural Rights in Africa

HRDI noted that these guidelines contain sexual orientation as an explicit ground for discrimination and called upon the working group to ensure that they invoked this dimension when they engaged state parties on this issue. Once again, since we were not there when this speech was read, we do not know if it had any impact or not.

HRDI Appointed as Secretariat for the ACHPR Study on Illicit Financial Flows

In 2014, the ACHPR formally appointed HRDI as its secretariat for the study on illicit financial flows from Africa. This was an important step as it gave HRDI a formal mandate to write, speak and raise funds on behalf of the ACHPR for the study.

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

In 2014, HRDI continued to support the HIV Committee with two legal assistants. They were both based in Banjul during 2014. Their presence in Banjul has not only assisted the ACHPR and its HIV Committee, but also HRDI in our work with the ACHPR as they have helped ensure that documents are submitted correctly and that the procedures of the ACHPR are properly followed.

SOME HIGHLIGHTS AT THE DOMESTIC LEVEL

Under this section we will only raise two issues that stand out. The first arose from Lubumbashi where a child was held in custody since 2012 on the assumption that he was involved in opposition politics just because he shared the same nickname with another child who was well known in Katanga as a member of the rebel group. As a result of the intervention of our trainees in Lubumbashi, the child was eventually released in October 2014 after spending more than two years in custody.

The second issue that stands out is of women in Rwanda who face severe financial and material consequences as a result of not being formally married. Our partner in Rwanda, GLIHD addressed the issues raised by the individual clients but has also realised that this is a systemic issue that needs to be addressed at a policy and legislative level. They are currently developing their strategy on this.



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.

Actual Results:

Views and opinions of grassroots organisations have been articulated at each session attended by HRDI and its partners. In 2014, views of ordinary PLHIV from Malawi, Burundi, Uganda and Kenya were articulated at the session.

As stated in the preceding section, the issues raised regarding prisoner patients in Burundi, disabled children in Kenya and cancer specialists in Malawi were raised at the ACHPR session as a result of consultation undertaken by HRDI partner institutions. The issues regarding Uganda were also refined as a result of consultations with HRDI partners.

However, HRDI's main concern on this issue was what would happen once HRDI closed. Would the voice of the community be heard at the ACHPR for example? Would any of the partners take the lead in obtaining observer status, requesting their colleagues to consult and then, very importantly would they be able to ensure that the authentic voice of the community is heard at the session even if they cannot afford to take the representative of the community to the session.

Consequently, in 2014, our work was geared at ensuring that this was possible. We pushed harder to encourage our partners to apply for observer status. We also designed the training programme in such a way that this issue was addressed. We prepared simulations and exercises to enable the teams to prepare themselves from the beginning to the end. In other words – the community consultations beforehand. The decision on the team that will attend the session, the logistical arrangements to enable them to attend the session, the drafting, rehearsing and final delivery of the speeches and ultimately translating the speeches into written submissions to enable to ACHPR to formally follow-up on the issues raised.

At the end of 2014, we were satisfied that all those who participated in this process were able to do everything that is listed in the preceding paragraph.



MANAGEMENT AND ADMINISTRATION

FINANCIAL MANAGEMENT

After experiencing certain problems with the PwC team in 2013, and realising that the regulatory environment prohibits PwC from being both the audit firm and the firm responsible for accounting services, in 2014, we appointed a new financial administrator, Lizette Muller. She is a qualified chartered accountant, trained at PwC and is experienced. We are extremely pleased with her work as she has assisted with improving systems in some ways.

HUMAN RESOURCE MANAGEMENT

In view of the fact that the structured network of the fact that the structured network of partners and institutions was not yet established and that the work on illicit financial flows required more time from HRDI, we decided to employ two HRDI trainees to assist us going forward. One person was selected by the students, namely Isaac Afunaduula, from Uganda and another by HRDI, Emile Luketa Mukuna, from DRC. Both people took up offices on a part-time basis in 2014 with the intention of full time employment in 2015.

THE EXTERNAL EVALUATION

The external evaluation has been completed and while we accept some of the findings, conclusions and recommendations, Sida and our team were required to deal with extremely unprofessional work. There were several examples of factual errors, the first draft was riddled with errors that bordered on the absurd – for example several instances were whole paragraphs were cut and pasted into two different sections of the document, footnotes that were essentially a cut and paste of the text in the body of the document and not a footnote at all, the executive summary and conclusion being inconsistent with the body of the text and several value judgements reflecting a specific leaning of the evaluator. We also stumbled across several instances which demonstrated that the evaluators simply did not read the documentation sent to them.

We reviewed each draft as they came, and found ourselves dealing with a situation where they say they have addressed a comment but when we looked at the body of the document, the comment had not been addressed, and other occasions where they say that they stand by their text but then when we looked at the body of the text we found that they did make changes.

In the end the document that was accepted as the final evaluation report was done by both Sida and HRDI as a way of getting over this. We were concerned about how to deal with this and at one point thought we ought to just leave it be and commission another external evaluation. But in the end we decided to let it be and hosted a forum where the findings were discussed.

The final straw was when the evaluator suggested that he will only be available until 11am to present the findings of the evaluation. After referring them back to the terms of reference where they set aside three days including travel days, they decided to comply with the agreement and participate fully. In the circumstances, Sida have lodged a formal complaint and report regarding Indevlop with their monitoring and evaluation section.



RESULTS BASED BUDGET ANALYSIS

BUDGET VS. ACTUAL FOR JANUARY – DECEMBER 2013

BUDGET CATEGORY	TOTAL BUDGET	ACTUALS	VARIANCE	% VARIANCE
REGIONAL COSTS:				
Developing Jurisprudence	216,000.00	96 811.30	109 188.70	53%
Building a Cadre of Activists	216 250.00	99 824.95	116 425.05	54%
Students Costs	937 300.00	631 423.88	305 876.12	33%
Manual Work with PLHIV	35 988.00	33 099.16	2 888.84	8%
Direct Contributions to ULCs	1 537 500.00	696 125.00	877 375.00	56%
Building Partnerships and Community Outreach	165 000.00	139 102.15	25 897.85	16%
Developing Centres of Excellence	159 000.00	46 212.32	112 787.68	71%
Developing a Regional Network	420 200.00	334 919.33	85 280.67	20%
ACHPR, REC and other Meetings and Conferences (including support to the ACHPR)	842 000.00	625 972.05	216 027.95	26%
CORE COSTS:				
Salaries and Related Costs	2 241 096.00	2 151 783.25	89 312.75	4%
Professional Fees	271 940.00	245 208.56	26 731.44	10%
Overheads	591 764.00	404 003.23	187 760.77	32%
Governance	20 300.00	18 726.80	1 573.20	8%
Furniture and Equipment	10 000.00	0.00	10 000.00	100%
TOTAL	7 690 337.00	5 523 211.98	2 167 126.02	28%



BUDGET ANALYSIS – EXPLANATION OF UNDER-SPENDING AND OVER-SPENDING

Over-Spending – Materials and Resources (sub account under Training)

HRDI budgeted ZAR 50 000 for materials and resources for the training programme and spent ZAR 53 783.04 resulting in an overspending of ZAR 3 783.04. This over-spending is a result of items bought to enable HRDI to undertake the manual work in Mamelodi. As stated above the original intention was to renovate. For this purpose, HRDI staff and two students donated their personal funds for this purpose. However, in the end we needed to buy poles, metal sheets, water-proofing supplies and so forth which we were unable to do from within the funds donated by the staff and two students. After discussions, and in view of the fact that this element was part of the training, we decided that it constituted essential materials necessary and allocated the expenses to this line item.

Overall Under-spending

The overall underspending is by and large a result of prudent spending. However, as will be seen below, certain line items relating to the outcomes is explained in detail below.

Under-spending of Core Line Items

Underspending on office running costs, overheads, professional fees and so forth are a result of prudent spending, prudent behaviour with HRDI resources and careful planning.

Under-spending on Key Line Items related to Outcomes

However, underspending under line items related to outcomes is a result of both prudent spending and other factors as expanded upon below.

Direct Contribution to partner institutions

Most partner institutions did not receive the full amount due to them in 2014 as they did not use all the funds and/or report on time. In view of the fact that our payments are tied to their reports, we carried over quite a large sum into 2015 for each partner.

Student Costs – Building a Cadre of Social Justice Lawyers

Only 37 of the 50 students participated. This accounts for most of the underspending here. However, since we also make all the flight bookings and administrative arrangements, we save on inflated flights costs had we used travel agents.

Developing a Regional Network

The main sub-line relevant to the underspending here is the study visit. HRDI did not pay for any study visits in 2014 as none of the partners requested for this funding. They were informed of the line item but did not request it. As stated in the report above, the team from Lesotho visited Malawi but obtained funding from another source for that.



Developing Jurisprudence, Training, Manual Work, Building Partnerships and Developing Centres of Excellence

The overall underspending under these line items is mainly a result of the “piggy backing” strategy that HRDI uses to accomplish many things on one trip for example. It is also due to a culture of “doing more with less” that has been developed among all HRDI staff, students and partners. Consequently, what was supposed to have been an inordinately expensive trip – the session in Angola, ended up being a normal and even less expensive trip than Banjul. We shared rooms, found a hotel that was reasonable and negotiated very well for dinner and meals at the hotel. As a result we spent very prudently for most meals, save for two where we were caught off guard. But in view of the overall prudence we still found that the expenses of that trip were more than reasonable. This took effort from all those who attended – including staff and HRDI trainees.



CONCLUSION

This report was meant to be the report that celebrates HRDI's achievements and affirms that we have achieved what we set out to achieve and it is indeed now time to close. However, it is a report that has shown that we are closer now than we were before, but we are not yet there. We need a little more time to enable us to finally get there.

Thankfully, HRDI has a no-cost extension agreement with Sida in terms of which we have six more months to finish what we started. We need a few more members on our team to help us during this last phase as two students have come on board to provide the assistance we need. We are poised to end this phase in as good a way as possible.

Our organisation is comprised of people from many faiths and traditions and atheists. In ending with these verses from the Bible, may we all appreciate the essence of the message:

Everything in the fullness of time!

He has made everything beautiful in its time. He has also set eternity in the hearts of men; yet they cannot fathom what God has done from beginning to end. I know that there is nothing better for men than to be happy and do good while they live. That everyone may eat and drink, and find satisfaction in all his toil--this is the gift of God. I know that everything God does will endure forever; nothing can be added to it and nothing taken from it. God does it so that men will revere him. Whatever is has already been, and what will be has been before; and God will call the past to account.

Ecclesiastes 3:11-15