

STUDY REPORT ON

MAPPING OF HUMAN RIGHTS AND SOCIAL JUSTICE ORGANIZATIONS

IN THE EASTERN AFRICA REGION
[KENYA, UGANDA, TANZANIA, RWANDA AND BURUNDI]

AKIBA UHAKI FOUNDATION

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Executive summary

The Akiba Uhaki Foundation (the Fund) envisions itself as playing a very crucial role in human rights and social justice in Eastern Africa. It will dedicate itself to strengthening of human rights and social justice related organizations in the region. The Fund aims to promote human rights and social justice in the policy and practice while addressing the relationship between human rights and the (historical) issues of inequality and social exclusion.

The mapping of human rights and social justice organisations in the Eastern Africa region (Kenya, Uganda, Tanzania, Rwanda and Burundi), commissioned by the Fund, has a four-pronged objective. Firstly, to study the state of human rights and social justice in the Eastern Africa region; secondly, to assess the condition of the actors in this sector; thirdly, to identify the challenges facing these actors; and finally, to hazard conclusions or suggest areas where intervention is required.

Our investigation into the state of human rights and social justice in the Eastern African region found the territory wanting in its observance of human rights obligations. Violations of human rights have been found to be prevalent just as neglect even of the most vulnerable in society. The most deplorable rubrics include: poverty, social and economic inequalities, ignorance of human rights, access to justice, socio-economic rights, insecurity/armed struggle/ political instability, civil and political rights, detainees rights and torture, corruption amongst others. Transitional justice as a theme has also been variously forgotten yet it should ideally constitute an imperative at the moment. However, the situation is not all that gloomy. Eastern African states are gradually adopting democratic and human rights practice. Indeed, there is emerging a culture of democratic transitions, for instance, in Kenya and Tanzania, and marked economic growth is fairly visible in certain states like Kenya, Uganda and Tanzania.

The human rights and social justice sector in the region under review is mostly served by two kinds of institutions – national human rights institutions as well as civil society organisations. The former are fairly recent phenomenon, state owned and usually derive their mandates from statute, constitution or both. All Eastern African states have established national human rights institutions, albeit, with varying degrees of autonomy, powers and mandates. Civil society organisations, on the other hand, are mostly non-state actors, are voluntary organisations and have effectively existed ever since the late 1980s (for instance in Kenya), early 1990s as in Tanzania and Uganda and are gradually gaining ground in Burundi and Rwanda. These organisations face a lot of challenges such as inadequate soft infrastructure, poor ratification of international human rights treaties and obligations by respective states, un-equal society and patriarchy, funding and sustainability, mutation due to scarce funding opportunities, credibility problems amongst others.

Even amidst these challenges, some civil society organisations have been able to identify and adhere to practices which are considered ideal. These best practices include: constituency development, specialization, use of promotion strategies such as press statements, public interest litigation, public education, research and publications, advocacy, networking, institution building and seeking basket or institution funding.

The suggestion made to the Fund is to intervene in the following cardinal regards: Getting involved in poverty reduction; to give a hand in the reversing of the aforementioned shortcomings such as: ignorance of rights and entitlements, lack of access to justice, rampant insecurity and or armed conflict, and neglect of children and women; Participating in the promotion of a civil and political environment that is conducive for democratic dispensation; Pursuing or helping in the pursuance of transitional justice, reconciliation, cease fire agreements, as the case may be; Ensure sustainability of civil society organisations through establishment of special funds geared towards nourishment of human rights institutions; conducting or facilitating the conduct of social engineering or public education to change gender discriminative cultures; funding and/or ensure the building of capacities for human rights actors to enable them satisfactorily advance the course of human rights.

Acronyms and abbreviations

4C's	Citizens Coalition for Constitutional Change
Akiba Uhaki	The Fund
CBO	Community Based Organization
CHRAGG	Commission for Human Rights and Good Governance
CKRC	Constitution of Kenya review Commission
CLARION	Center for Law and Research International
CRC	Committee on the Rights of the Child
CSO	Civil Society Organization
ECOSOC	Economic and Social Council
ECWD	Education Center for Women in Democracy
FCS	Foundation for Civil Society
FIDA	Federation of Women Lawyers
GAVI	Global Alliance for Vaccines and Immunization
GJLOS	Governance Justice and Law Order sector
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
HON	Honourable
HURINET	Human Rights Network
IMF	International Monetary Fund
KCDF	Kenya Community Development Foundation
KEWOPA	Kenya Women Parliamentarians Association
KHRC	Kenya Human Rights Commission
KNHRC	Kenya National Human Rights Commission
LRA	Lord's Resistance Army
MYWO	Maendeleo Ya Wanawake Organization
NAWOU	National Association of Women Organizations
NCEC	National Convention Executive Council
NGO	Non Governmental Organization
NHRI	National Human Rights Institutions
NOLA	National Organization for Legal Aid
RPF	Rwanda Patriotic Front
UHRC	Uganda Human Rights Commission
UN	United Nations
UPDF	Uganda Peoples Defense Forces
USAID	United States Agency for International Development
WB	World Bank

0.0 Introduction to the study

0.1 *Introduction and context*

The Akiba Uhaki Foundation (herein after ‘the Fund’) has adopted working definitions of ‘human rights’ and ‘social justice’. The institution’s definition of human rights,¹

Includes all those collective fundamental, social, economic, cultural, civil and political rights and freedoms as are recognized and embodied in the Universal Declaration of Human Rights, the African Charter on Human and Peoples Rights, the International Covenant on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights as well as the Convention on the Elimination of all forms of Discrimination against Women and the Protocol to the African Charter on the Rights of Women in Africa, and in the respective Bills of Rights enshrined in national Constitutions.

Elsewhere, human rights have been expressed to be inalienable – those entitlements which cannot be taken away and neither are they donated. Jefferson considered it to be self evident that:

... All men are created equal, that they are endowed by their Creator with certain unalienable Rights... ...²

A much more succinct and recent definition depicts human rights as,³

The social and political guarantees necessary to protect individuals from the standard threats to human dignity posed by the modern state and modern markets... human rights cannot be given. They must be earned - and maintained - through hard and persistent domestic political work. Rights-protective regimes are almost always the product of domestic, not international, political forces.

This definition vindicates the one adopted by the Fund in that the former also reckons both social and political entitlements as human rights. This stresses the inalienability, interconnectivity and interrelation of human rights. Both definitions envision human rights as guarantees protected by political regimes be they international or municipal, though the latter definition cites domestic regimes as the most effective protectors. Clearly, the Fund’s definition is in tandem with modern wisdom and can be preserved even herein as the working definition.

There does not appear to be a single universally agreeable definition of the phrase ‘social justice’. This study, however, has little difficulty identifying with the definition supplied by Pamela Edwards and Sheila Vance, candidly thus:⁴

¹ See, *Concept note*. Akiba Uhaki Foundation. Most of the information relating to the Fund referred to herein below is derived from this document.

² T Jefferson ‘The declaration of independence’ in RB Morris (ed) *Morris significant documents in the United States history* (1969) 105.

³ J Donnelly *International human rights* (1993) 23.

⁴ P Edwards and S Vance ‘Practice and procedure: Teaching social justice through legal writing’, *Berkeley Women’s Law Journal* 7 (2001) 64.

Social justice is the process of remedying oppression, which includes ‘exploitation, marginalization, powerlessness, cultural imperialism, and violence.’ Issues of social justice include problems involving race, ethnicity, and interracial conflict, ‘class conflict, gender distinctions ... religious differences,’ and sexual orientation conflicts. Social justice also includes public interest work in its many guises.

To adopt this definition is certainly to stick to the identical one supplied by the Fund which reads:

Social justice includes working towards structural change in order to increase opportunities for those who are the least well off to improve their economic, social, and political welfare and thus bridge the disparities in society through a more equitable distribution of resources.

According to Dr Willy Mutunga of the Ford Foundation and Janet Mawiyo of Kenya Community Development Fund (KCDF),⁵ much as describing human rights and social justice is variously problematic, it is very much possible to collapse the two concepts into one without any internal contradictions. This proposition is equally agreeable.

Understood in this connection, the human rights and social justice sector in the Eastern African region has grown over the years and with the introduction of the East African Community, this is bound to expand even more. The work in this area usually is interlinked and influenced by the politics of the day. Over the years, in Kenya since the early 1980’s, in Uganda and Tanzania since the early 1990s, and lately and gradually Rwanda and Burundi, there has been tremendous growth in civic awareness among the citizens on their rights and making demands of governments. This growth has extended in the area of elections and the need for proper institutions of governance. Accountability of governments and intolerance to corruptions among the citizenry has grown just as the demands made by the international funding agencies such as the World Bank (WB) and International Monetary Fund (IMF) on good governance. According to the Fund, this new found awareness and robust agitation among the citizenry can be attributed to the commitment of many individuals, non state actors and faith based organizations to raise the profile of human rights and social justice in the region.

Akiba Uhaki, the Human Rights and Social Justice Fund (“the Fund”), is in the process of registration and is presently hosted by KCDF.⁶ The Fund’s mission is to be an independent grant-making organization working to promote and strengthen human rights and social justice.

The Fund recognizes that human rights and social justice movement is itself a sub-sector of civil society at large and non governmental sector in particular. The Fund intends to carry out a comprehensive evaluation of the state of the sector within Eastern Africa.⁷ In order to determine how best to rejuvenate and strengthen the movement to enable it deliver more effectively, the Fund seeks to contribute to the way the sector institutions work. To achieve this end, the Fund places focus on strengthening sector institutions for efficient, accountable, and transparent administration of the various sector stakeholders. It is why Project and Allied, a consultancy firm, has been retained to evaluate the human rights and

⁵ Interview with Janet Mawiyo, 16 March 2007.

⁶ Most of the information in this section is drawn from the *Concept note*, Akiba Uhaki Foundation.

⁷ Kenya, Uganda, Tanzania, Rwanda and Burundi.

social justice sector and actors, as well as provide certain enumerated directions. Eventually, the terms of reference for the current undertaking require that the following issues be addressed in the final report:

- Summary of the state of human rights and social justice related organizations in East Africa;
- Challenges facing the sector;
- Key interventions that are needed in the sector;
- Conclusions;
- Recommendations as to how the Fund can strengthen and synergize the sector and build the movement; and
- Index of key participants/respondents

This chronology is adhered to in the current report. But that is after addressing preliminary issues alluded immediately hereunder.

0.2 Mapping the human rights and social justice sector: Rationale

The rationale for mapping the human rights and social justice sector has been provided by the Fund. In the estimation of the Fund, while the sector has been very vibrant and made significant strides, there has also been apparent lack of cohesive efforts among the players. Other challenges that have bedeviled the sector include funding, identity and accountability, leadership and capacity. The Fund envisions itself as playing a very crucial role in this. It would dedicate itself to strengthening of the human rights and social justice related organizations in the region.

The Fund aims to promote human rights and social justice in the policy and practice while addressing the relationship between human rights and the (historical) issues of inequality and social exclusion, and hence aims to be:

- A movement building institution that is passionate about the universal recognition and protection of all human rights, and the advancement of social justice;
- A grant-making institution with strategic program priorities in the human rights and social justice sector;
- A professionally run institution committed to good governance in the human rights and social justice sector;
- An institution that is reflective of the very changes it is trying to bring about in society, and hence mirrors equitable and rights based values in its internal policies and practices; and
- A sustainable institution whose strategic and operational policies reflect its intention to partner with individuals and society at large for the long term. Accordingly, the Fund shall also work towards creating a permanent resource (endowment fund), which will serve to support human rights and social justice related organizations while ensuring sustainable development.

The Fund aims to exist to promote human rights and social justice in the policy and practice while addressing the relationship between human rights and the (historical) issues of inequality and social exclusion.

The Fund has commissioned the carrying out of this mapping of human rights and social justice related organizations in the East African region to help it develop and refine its programming strategy. This will be done by clarifying the current state of human rights, social justice and organizations thriving in the sector and by critically assessing what drives and shapes the sector.

0.3 Approach and methodology

0.3.1 Overall approach

The consultant organization understands the task at hand to be an assessment of the current state of human rights and social justice sector, related organizations, in the Eastern African region and to propose recommendations that can clearly determine the strategic entry point in the sector for the Fund. The Fund therefore intends to treat this assignment as the first step in a process that will attend the design and implementation of its programme.

0.3.2 Detailed methodology

Amongst the methodology employed in the current task are: literature review; discussions and key informant interviews; observation; analysis, evaluation and report writing. Below, each of these methodologies is discussed.

Literature review: Various documentations, reports, books, strategic plans, pamphlets, newspapers *et cetera*, have been consulted in the preparation of this report. These publications assisted in disclosing the strategies, challenges, the constituents, institutional capacities, among others, of the various organizations in the human rights and social justice sector. They were also instrumental in providing information relating to the state of human rights and social justice. However, this methodology was not quite successful in the case of Burundi where a majority, if not all, CSOs communicate in French and Kirundi. Journal articles, text books and other scholarly publications have also been consulted not only to provide the study with the necessary intellectual impetus but also to ensure conformity with the prevailing wisdom.

Interviews with key informants: Interviews were held with aid of a semi-structured questionnaire. These interviews were aimed at obtaining information from the sector players on the development of the sector, its challenges and successes, best practices and to determine opportunities for the Fund. The information was used to verify and beef up information obtained from the literature review. The interviews also enabled the consultants to deepen the understanding and assessment of the sector by obtaining the opinions of various actors.

Observation of office premises, project outputs and interaction with staff and facilities of the organizations visited helped inform the compilation of the current report.

Analysis and report writing: The consultants then collated and analyzed the information obtained from the foregoing sources against analytical frames of the four imperatives of this exercise. Specific, detailed and action oriented recommendations have been made in respect of all the key imperatives of the assignment. The reports was then prepared as contemplated in the terms of reference.

0.4 Limitations of the study

The current investigation encountered a number of limitations. To begin with, it was not possible to access all the prominent actors in the human rights and social justice sector in the region. For instance, given the fact that limited time and resources were availed we could not access most of the major actors especially those based in the rural areas. The funding provisions of the study only allowed for one person to visit the five countries in which the field study took place. The research therefore relied heavily on sampling and questionnaires administered to a sample of mostly urban actors. In the case of Burundi, language barrier accounted for the limitations. Most of the actors could hardly speak English or fluent Kiswahili meaning that a lot of information could not be ascertained. Further, reading materials from Burundi, mostly published in French, proved to be quite a daunting task.

The scope of the study could not allow for comprehensive interrogation and analysis of the successes of the organizations visited. To do this would have necessitated not only more interaction with these organizations, but also with the beneficiaries of their work and some of their partners. In some cases, there was reluctance on the side of some targeted organizations to give the desired information. Some that were thought to be suitable to sample declined even just an appointment with the study team.

1.0 State of human rights and social justice in Eastern Africa

1.1 *The human rights and social justice situation*

Interestingly, an assessment of the human rights and social justice situation in Eastern Africa is capable of a fairly accurate generalization. The main issues of concern in the human rights realm in the region are interlinked and bear enormous resemblance. These issues range from poverty, ignorance of rights and entitlements, inaccessible justice, to deplorable socio-economic conditions, to rampant insecurity and or armed conflict, right to neglect of children and women and blatant violations of even the, elsewhere, most widely accepted civil and political rights. These issues are discussed below, each in turn. These negative items aside, it is critical to note that the region has lately witnessed some positive developments which are alluded to thereafter.

1.1.1 *Poverty*

Poverty, or deplorable living conditions, is a common thread that weaves throughout the geographical landscapes that make up Eastern Africa. According to a 2005 USAID report, poverty in Uganda had increased from 34% in 2000, to 38% in 2003. More recent reports in Uganda still place poverty at about 38% of the population. Based on the assumption that 56% of households in Kenya live below the poverty line, and assuming an average of two children per household, there are at least 7 516 859 children living below poverty line in Kenya.⁸ As a result the average life expectancy is 49.3 years with a slight variation from province to province. The death rate is about 4.7 deaths per 1000 while the infant mortality rate is estimated at 59.07 per 1000 lives. The demographic trends since 1969 are provided on the Table below.⁹

Indicators:	1969	1979	1989	1999	2002
Crude death rate	17.0	14.0	11.0	4.7	-
Infant mortality rate (per 1000 live births)	119.0	88.0	66.0	74.0	59.0
Life expectancy at birth (years)	50.0	54.0	60.0 F – 53.0	M – 51.1 F – 49.9	M – 48.7

This same sad story is consistent for Tanzania, Rwanda, and Burundi.

⁸ *Written replies by the Government of Kenya concerning the list of issues (CRC/C/KEN/Q/2) received by the Committee on the Rights of the Child relating to the consideration of the Second Periodic Report of Kenya (CRC/C/KEN/2)*

⁹ See, *Report of the Constitution of Kenya Review Commission*. Volume 1. P 25. Constitution of Kenya Review Commission.

Clearly, poverty has a direct bearing on human rights and social justice. For instance, it is responsible for poor socio-economic conditions, spread of HIV/AIDS, high infant mortality rates and high death rates *et cetera*. An audit of Uganda's democracy has noted of poverty:¹⁰

When people are poor their rights are easily trampled upon. They are never respected; they are often manipulated by politicians, donors and masqueraders who usually impose their will on the poor. The consequence normally is violation of human rights. It is necessary to note that some rights cost money. For instance the right to education, to food ... cost money. If one does not have money then it is sheer speculation to imagine that one would enjoy his rights if he is poor.

As if to demonstrate this theory in practice, Peace T. Kyamureku, the Secretary General of the National Association of Women Organizations in Uganda (NAWOU), narrated an instance in Eastern Uganda where young girls, due to poverty, were being exchanged for as little as a basket of cassava.¹¹ This instance speaks of human rights at their lowest, but yet it is the most authentic truth about the region under review.

1.1.2 Ignorance of human rights

Related to poverty is the problem of ignorance of rights and law. Indeed, in the entire Eastern African region, worrying levels of ignorance of human rights and other entitlements has been reported. Patricia Nduru, Senior Programme Officer, Uganda Human Rights Commission (UHRC), views human rights education as priority area in the fight against this human rights poverty and emptiness in Uganda.¹² Her prescription can only be precise as her prior diagnosis has been, thus, vindicated:¹³

All people should ideally enjoy all the aforementioned rights; however, lack of awareness has partially impeded such enjoyment.

Even though many initiatives have been attempted to conduct human rights education, a literate population in terms of human rights has yet to be achieved. Most citizens are unaware of their rights, and continue to suffer in ignorance. Respondents advise that urgently needed is massive civic and human rights education to empower the populations.

1.1.3 Access to justice

Access to justice, that is, courts of law, tribunals and institutions offering justice and legal representation, poses a serious challenge in Eastern Africa. The courts remain distant to a host of citizens due to a myriad of reasons. Quite a significant population can hardly afford lawyers and sometimes when they can afford them, the political infrastructure is against the procurement of such services. The later is mostly a consequence of unavailability or harassment of lawyers, for instance, in the adjudication of disputes considered political or against the political establishment. Court fees and technicality of procedures also appear to complicate matters for clients of justice, and the predicament ignores boundaries.

¹⁰ Uganda Democracy Audit (2006) 5. Ms Uganda.

¹¹ Interview with the respondent, 25 May 2007.

¹² Interview, 24 May 2007.

¹³ 8th Annual Report (2005) 21 Uganda Human Rights Commission.

In Rwanda, for instance, representation of accused persons in *Gacaca* tribunals is not tenable. *Gacaca* tribunals have been vaunted to be traditional courts, not needing technicalities such as the facility of legal representation. Yet these traditional tribunals constitute sanctuaries at which justice is sacrificed. According to the Head of Mission, Avocat Sans Frontiers in Rwanda, Zarir Merat, *Gacaca* courts try accused persons speedily often ignoring all known fair trial standards.¹⁴ Merat responded that in *Gacaca*, witnesses are only meant to accuse and sometimes they themselves are immediately converted into accused persons. In such cases immediate convictions are rampant. There are needed urgent mechanisms to ensure access to justice by all and sundry.

1.1.4 *Socio-economic rights/economic and social justice*

It is a candid observation that all Eastern African states have performed dismally in the delivery of socio-economic commodities. Housing is still a major problem; education cannot be said to be free and accessible; water remains a luxury and access to health or medical facilities is often a coincidence and not deliberate policy. In Tanzania, for instance, the¹⁵

... poor suffer a greater burden of ill-health. Infant mortality rates for the two poorest quintiles are around 40% higher than those of the least poor, and differences of similar magnitudes are seen for under-five mortality. For malnutrition, the gap is even larger, with the poorest suffering nearly three times the stunting rate of the poor.

It is equally true of Tanzania that:¹⁶

Health facilities are typically far away from where poor women live and are difficult to reach. Women reported having to walk as far as nine kilometers (km) away to reach a dispensary, and they sometimes walk much farther to reach a higher level health facility that can provide the services they need. In Korogwe district only 30 percent of the villages have a health facility. In Tunduru the nearest hospital may be 32 km away, and in Mpwapwa as far as 58 km.

As regards education, Tanzania, more than any other country in the world, has, hitherto, depended on its primary schools to educate its people. It has one of the lowest percentages of people who have attended secondary school (7%) of any nation.¹⁷

In the case of Kenya, although the Government has taken measures to ensure accessible free and compulsory primary education as required both by international and municipal law, the period 2005/2006 saw decreased expenditure by the Government on education at the pre-primary, primary and secondary levels. No allocation was made for pre-primary level education in the period 2005/2006 despite the much-vaunted concerns for elementary education. A tabulated version of this same information is provided below:

¹⁴ Interview 28 May 2007.

¹⁵ *Fair's Fair Policy Brief* Women's Dignity Project.

¹⁶ *In their own words: Poor women and health services* Women Dignity Project.

¹⁷ J Benson *A Complete Education? Observations about the State of Primary Education in Tanzania* (2005) 1. Working Paper 06.1. HakiElimu Working Papers.

Expenditure on Education (Development) in millions of Kshs

Education level	FY 2003/04	FY 2004/05	FY 2005/06	Total
Pre-primary	362.55	6.60	No allocation	369.15
Primary	2 214.10	3 196.90	1 311.60	6 722.6
Secondary	151.90	205.50	170.00	527.4
Total	2 728.55	3 409	1 481.6	7 619.15

Source: *Economic Survey, 2006*

The Constitution of Kenya Review Commission (CKRC) corroborated this Eastern Africa scenario, wanting in terms of economic and social justice, after collecting and collating the views of Kenyans. According to CKRC,¹⁸

Fears were expressed on the problems of access to the means of economic and social development, in particular, access to education, shelter, health, food, social security and other basic needs. They sought liberation from the chains of poverty as well as inequalities caused by bad governance that isolated sections of society from the main stream development.

Even where progress has been registered in the provision of socio-economic commodities, it has less often been due to conscious adherence to the human rights obligation of 'progressive realisation' of socio-economic rights. As regards the right to education in Kenya, a human rights report confirms this position:¹⁹

From the review of several documentation by the Ministry of Education Science and Technology, including the National Plan of Action on Education for All (EFA), 2003 – 2015, it is clear that no direct connection is made by planners and policy makers to link to the international obligations in the conventions that of the government is party to.

1.1.5 Insecurity/armed struggle/political instability and transitional justice

With the exception of Tanzania, most Eastern African states have recently or are currently experiencing armed conflict, massive insecurity or both; which have been faithfully accompanied by attendant violations such as violence against women and children, rapes, abductions, genocide and mass killings. In Uganda:²⁰

The Lord's Resistance Army (LRA) activities have had adverse consequences on the people of Northern Uganda. Besides the LRA there have been ADF activities including the burning of students of a College of Forestry at Kichwamba in Western Uganda. In addition to the above, the situation in Karamoja and surrounding districts has had devastating effects on the people there.

Human Rights Watch has reported that:²¹

¹⁸ See, *Report of the Constitution of Kenya Review Commission*. Volume 1. P 101. Constitution of Kenya Review Commission.

¹⁹ *Kenya: The State of Human Rights Report 2003 – 2004*, Kenya National Commission on Human Rights. P 63.

²⁰ *Uganda Democracy Audit (2006)* 4. Ms Uganda.

²¹ *Uprooted and forgotten: Impunity and human rights abuses in Northern Uganda* September 2005 Vol. 17. No. 12A. P 13. Human Rights Watch.

The conflict in northern Uganda has been designated 'one of the worst humanitarian crisis in the world' by UN undersecretary general for humanitarian affairs and emergency relief coordinator Jan Egeland.

The situation in Burundi, before the Arusha Peace and Reconciliation Agreement negotiations, had often spoken of bloodshed and the crisis is in abeyance only as long as the peace negotiations hold. True, the following fairly sad sentiments were accurate a few months ago:²²

Government armed forces were responsible for serious human rights abuses against the civilian population in Rural Bujumbura, including routine looting and the destruction of property, rape and extrajudicial executions. Civilians were caught in cross-fire as well as deliberately attacked. CNDD-FDD (Nkurunziza) fighters, who maintained separate bases in Rural Bujumbura operating under an ambiguous command structure, were repeatedly accused of rape, beatings, looting and killings of civilians in the area.

This situation persisted for sometimes even after the signing of the peace accord. The Human Rights Watch observed, as late as 2001, that:²³

Peace agreement offered hope of ending a seven-year-long civil war, but combat between the largely Hutu rebel forces and the Tutsi-dominated government forces increased after its signing in August. Early in the year, fighting was worst in the south and east and, more sporadically, around Bujumbura, the capital. In August and September rebels continued pressure in the south and east, stepped up attacks near and in Bujumbura, and began combat in the central parts of the country. They targeted Tutsi civilians as well as Hutu who did not support their movements. Tutsi soldiers killed Hutu civilians, sometimes in reprisal for rebel attacks, sometimes because they suspected them of supporting the rebel movements. By October, more than a thousand civilians had been slain, thousands of others raped or otherwise injured, and hundreds of thousands displaced from their homes or deprived of their property. More than 120,000 persons had been slain since the war began in 1993.

Even as recent as 2006, the country remained engaged in an armed conflict between the Government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU-FNL) led by Agathon Rwasa.²⁴ Although the security situation remained calm in most of the country, fighting continued in Bujumbura Rural Province, which surrounds the capital and was the traditional stronghold of the PALIPEHUTU-FNL. During this same year, fighting between the National Defense Force (FDN) and the PALIPEHUTU-FNL spread to the neighboring provinces of Bubanza, Kayanza, Muramvya, and Cibitoke.²⁵

²² *Burundi* Amnesty International.

²³ Human Rights Watch, World Report, 2001. <http://www.hrw.org/wr2k1/africa/burundi.html>.

²⁴ Country Reports on Human Rights Practices - [2005](#). Released by the Bureau of Democracy, Human Rights, and Labor, US Department of State. March 8, 2006.

²⁵ Country Reports on Human Rights Practices - [2005](#). Released by the Bureau of Democracy, Human Rights, and Labor, US Department of State. March 8, 2006.

In Kenya, insecurity, violence and crime registered perhaps one of their most successful epochs during the period 2006/2007.²⁶ Notably, the *Mungiki* sect members have mercilessly and continuously harassed members of the public, often halting lives. In the face of all these atrocities, the Government has appeared inept or unconcerned²⁷ - until fairly recently, very few and far between arrests of the members of the sect have been attempted.²⁸ Mr. Dickson Mbugua, Chairman of the Matatu Welfare Association, has decried the situation, lamenting that matatu owners are losing close to Ksh 45 million every month to illegal cartels believed to be controlled by the *Mungiki* sect.²⁹

In Rwanda, periodic threats and retreats by rebels allegedly residing within the Democratic Republic of Congo is a constant reminder of another major conflict in waiting. As late as 29 May 2007, media items still carried instances of criminal activities by Rwandan rebels in the neighboring Democratic Republic of Congo. The *New Times* reported that:³⁰

At least 17 people have been clubbed or hacked to death by suspected Rwandan rebels in Democratic Republic of Congo's eastern provinces of Southern Kivu...

Given these turbulent pasts, discourses around transitional justice will haunt the Eastern African region for sometime to come. Burundi has to decide whether or not it suffered genocide, and, therefore, dispense justice and reparations; Rwanda has to choose between amnesty and prosecution of the over one million alleged perpetrators of genocide; Kenya has had a bitter checkered human rights and political history; Tanzania's previous social, economic and political ideologies and actions call for a review; while Uganda has suffered profound usurpations under military regimes advancing a strong case for transitional prescriptions. These are situations calling for careful attention and handling, and the theme has a long life in the region.

1.1.6 Patriarchy, children and women rights

In the setting of patriarchy, studies indicate that children (especially the girl child) and women suffer the brunt of maltreatment, violence and other forms of neglect. The sufferations are heightened where poverty is prevalent. This is born out in practice as children and women rights in the Eastern African region continue to bear with violence, defilements, rape and other forms of abuse and neglect almost without a savior. The Women Dignity Project in Tanzania has been working in a unique area of reproductive health rights

²⁶ Throughout the entire season, news items glossed with headlines such as: *10 killed on the new year eve* 1 January 2006 East African Standard; *Gang attack leaves one dead* 2 January 2006 East African Standard; *Woman shot dead by gangsters in Nairobi* 10 January 2007 East African Standard; *Robbers shoot priest, school principal dead* 1 August 2006 East African Standard; *MP outwits carjackers* 5 August 2006 East African Standard; *Man kills four, injures three – As police informer is executed in cold blood* 22 August 2006 East African Standard; *Thugs on prowl on Thika Highway* 4 October 2006 East African Standard

²⁷ See, *Mungiki shoot, injure four police officers* 21 January 2006 East African Standard; *Mungiki gang kills woman* 14 February 2006 East African Standard

²⁸ See, *Ex-leader says arrests only add fuel to Mungiki fire* 6 February 2006 East African Standard; *Suspected Mungiki boss on gun charge* 10 February 2006 East African Standard.

²⁹ *Crack down on Mungiki, police told* 4 January 2006 Daily Nation.

³⁰ *Suspected Rwandan rebels kill 17 in Congolese village* 29 May 2007 New Times.

of women. The organization has noted neglect, for example, of obstetric fistula, a very indignifying condition for women. Of this condition, the organization has reported:³¹

Obstetric fistula is one of the most neglected issues in international reproductive health, despite its serious impact on the health and well-being of those who live with the condition. Obstetric fistula is a hole (or ‘false communication’) that is formed between the vagina and bladder, or vagina and rectum, of a girl or woman during a difficult childbirth. It leaves girls and women leaking urine and/or feces continuously through the vagina. While those who live with fistula have remarkable resilience and determination, they typically experience social stigma, shame and abandonment due to the constant leaking and smell.

This disturbing yet treatable condition has been variously neglected and it has badly hurt the poor who cannot afford medical facilities. Child neglect is also rampant.³²

Through its Directorate of Complaints and Investigations and Legal Tribunals, UHRC has over the years registered complaints of different categories but noted with concern that child neglect seems to be on an irreversible trend that requires a holistic approach to address. Between 2003 and June 2005, UHRC had recorded a total of 417 cases of child maintenance only at the headquarters in Kampala.

A further report in Uganda suggests that:³³

Defilement accounted for the highest number of convicted prisoners, at 1056 which constituted 13.7% of a total number of 7724 convicted prisoners. Of the total number of 11597 persons on remand, 3771 which is 32.5% were on defilement charges.

It would appear society is on a mission to violate children and women. Indeed, the same disturbing scenario is replicated in Kenya. According to the Chairperson of the Kenya Women Parliamentarians Association (KEWOPA), Hon Betty Tett, at least 16 482 women are raped every year, translating to one every half hour.³⁴ Statistics from hospitals and community based organizations indicate that 102 male sexual violence victims were treated at the Nairobi Women’s Hospital in the last three years compared to some 2329 female sexual violence victims over the same period.³⁵ According to Hon Tett:³⁶

Sexual violence has hit an all-time high in the history of Kenya. The youngest rape survivor in Kenya is five months and the oldest 82 years old.

1.1.7 Detainees’ rights and torture

A common feature of prisons in the region under review is the element of congestion, denial of relevant rights, poor health and medical facilities for those detained *et cetera*. Torture has

³¹ M Banger *Tanzania fistula survey 2001* August, 2002. Women’s Dignity Project.

³² ‘UHRC studies child neglect problems’ in *Your Rights*, Vol. IX No. 3 May/June 2006.

³³ ‘Defilement tops crime list of all detainees in Uganda Prisons’ in *Your Rights*, Vol IX No. 4 July/August 2006.

³⁴ *Rape committed every half hour, forum told* 27 January 2006 East African Standard.

³⁵ *Rape committed every half hour, forum told* 27 January 2006 East African Standard.

³⁶ *Rape committed every half hour, forum told* 27 January 2006 East African Standard

also been reported in these detention facilities.³⁷ The situation in Uganda has not escaped the Human Rights Watch:³⁸

The use of torture as a tool of interrogation is foremost among an escalation of human rights violations by Uganda security and military forces since 2001. In what most victims consider a state of sanctioned campaign of political oppression, official and *ad hoc* military, security and intelligence agencies of the Ugandan government have proliferated practicing illegal and arbitrary detention and unlawful killing/extrajudicial executions, and using torture to force victims to confess to links to the government's past political opponents or current rebel groups.

1.1.8 *Civil and political rights*

Although significant strides have been made in the sphere of civil and political rights, there is still a lot to be desired. The freedoms of the media, expression and assembly are not yet satisfactorily achieved. Even in Kenya, violations of these critical rights are not uncommon. Media operatives are still threatened, and sometimes political rallies and or demonstrations have been thwarted by the Government agencies. In Rwanda, the gestation period for the delivery of a proper dispensation yielding these entitlements seems lengthened; and Burundi has a long way to go. A mission to Rwanda recently unveiled that:

A number of newspapers in Rwanda have been banned in the recent past. For example, *Le Partisan* ceased publication in early 2002 when its owner Amiel Nkuliza fled into exile after he had been arrested and later released on bail on charges of promoting genocide leveled against him in December 2001. Other papers listed as having been banned include *Rwanda Herald*, an English private paper, and *Ubuntu* and *Rushyashya* both Kinya-rwanda private newspapers.

1.1.9 *Corruption*

Corruption and lack of transparency and accountability in the management of public resources is still prevalent in Eastern Africa. Uganda is currently witnessing the trial of immediate former Ministers for Health, Mike Mukula and Alex Kamugisha while Kenya's corruption and governance debates are constantly ignited. A survey expressed that:³⁹

Transparency and accountability in Government were major concerns for the people. In their view, the Government of the day had failed to be accountable and transparent in running public affairs, decision-making, use of national resources, expenditure, tendering and management of public projects, running of Government bodies, elections, administration of justice and law enforcement.

The Ugandan case is even more pitiful in that it involves the embezzlement of resources relating to the Global Alliance for Vaccines and Immunization (GAVI), a direct health right issue.⁴⁰

³⁷ See, *Who is responsible for my pain? A research on the prevalence of torture in Kenya prisons*. Legal Resources Foundation Trust.

³⁸ *State of pain torture in Uganda* Human Rights Watch, Match 2004, Vol. 16. No 4(A) 4.

³⁹ See, *Report of the Constitution of Kenya Review Commission*. Volume 1. P 101. Constitution of Kenya Review Commission.

⁴⁰ See, *Mike Mukula out on bail* 26 May 2007 The New Vision.

1.2 Light at the end of the tunnel? There are positive indications

It could safely be said that substantial gains have been made on the human rights and social justice front in the entire Eastern African region over the last fifteen years. Not that the situation is currently sound, rather, there is evidence of states emerging or about to emerge from dictatorial regimes, military rulership, *coup de tats, et cetera* to democratic dispensations – there is, indeed, transition to democratic governance however imperfect. Kenya and Tanzania have, for instance, already held at least three democratic presidential elections. Uganda and Rwanda have witnessed the transformation of military regimes to almost decent democratically elected civilian governments. On 23 February 2006, Ugandans took part in general elections under a multiparty dispensation after 25 years. But for an untimely assassination, Burundi had succeeded in democratically electing a president (P Ndadaye) as early as 1992.

Since 1990, more and more human rights actors are emerging. CSOs are quickly entrenching themselves, and soon, it will be impossible to ignore them. National human rights institutions are being created almost without exception, and this is not purely to pay lip service to the concept of human rights: It has served ends. Human rights issues are being highlighted in media and other fora, human rights reports are prevalent, mass involvement is increasing and sometimes appeals to international tribunals has been witnessed.

Increasingly, also, socio-economic issues are receiving attention. CSOs such as Pamoja Trust are participating in programmes aimed at directly changing the socio-economic conditions of their constituents. Other initiatives such as the New Partnership for African Development (NEPAD); the Millennium Development Goals, *et cetera* have been initiated to boost the social and economic conditions of especially the most vulnerable.

1.3 Major human rights and social justice issues in the next five years

It is almost a certainty that the human rights problems currently afflicting Eastern Africa (poverty, ignorance of rights and entitlements, inaccess to justice, deplorable socio-economic conditions, rampant insecurity and or armed conflict, neglect of children and women and blatant violations of civil and political rights) will continue to be a cause for concern even in the next five years. These issues are yet to be addressed satisfactorily and there is every indication that they will remain imperatives for a long time to come.

However, our assessment indicates that other novel but critical issues are likely to emerge in the next couple of years. Issues pertaining to trade and human rights, investment and community development as well intellectual property rights are likely to take centre stage. Globalization and its impacts will equally have to be addressed in the near future. This development is anticipated since trade, industrialization and other niceties such direct foreign investment are being pursued vigorously all over the region. The results are likely labour disputes, intellectual property problems, more economic inequalities and poverty.

There will, predictably, be an opportunity to network and redress human rights and social justice issues at the East African level with the fruition of the East African Community. The East African Court of Justice, the East African Legislative Assembly, the East African Law Society – these are likely forums for exerting human rights. Recently, the forum of the East

African Court of Justice has been seized by Kenyan politicians in a contest regarding fair representation in the East African Legislative Assembly. This course yielded commendable results. Further, five bar associations are currently litigating in before this same forum with a view to opposing amendments to the East African Treaty.⁴¹ There, thus, is every indication that human rights issues will directly be presented before this forum especially after relevant protocols are enacted to give the tribunal proper human rights mandate.

At the African regional level, the New Partnership for African Development (NEPAD) has initiated the African Peer Review Mechanism (APRM) which has engrained the concept of human rights. Under the APRM, peers, that is, head of states and governments, have occasion to question and even criticize each other in the performance of numerous items, human rights, democracy, poverty, gender and governance included. Already, Kenya and Rwanda are at advanced stages of review.

On a rather controversial note, issues such as homosexual (gay and lesbian rights), abortion and the rights of commercial sex workers are likely to commandeer a fair share of discourse. During the World Social Forum held in Nairobi, it shocked most Africans to see demonstrations on streets by those seeking homosexual rights. In Nairobi, recently, during an event organized by the Kenya Human Rights Commission, there were bitter exchanges by those for and against the legalization of abortion. Already, other jurisdictions, even as close home as South Africa have witnessed and legislated these debates. One could safely deduce that it is just a matter of time before such claims are unveiled in the Eastern African realm.

2.0 Nature of the human rights and social justice sector in Eastern Africa

Advocacy for human rights and social justice in Eastern Africa is mostly served by two kinds of outfits: national human rights institutions (NHRIs) and civil society organizations. The former are state agents while the later are non-state actors usually taking different forms. This is not, however, to belittle the work done by the respective judiciaries, legislatures, political parties, donor agencies and other political actors involved in the advancement of human rights.

2.1 *The state of national human rights institutions*

Although NHRIs are often traced to the Swedish ombudsman of 1809, their modern formulation owes its existence to the Economic and Social Council (ECOSOC). At its second session, ECOSOC earnestly invited Members of the UN to:⁴²

Consider the desirability of establishing *information groups* or *local human rights committees* within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights.

⁴¹ See, *The East African*, July 16 – 22, 2007.

⁴² Resolution 9(II) adopted 21 June 1946 (documents E/56/Rev. 1 and document E/84, para 4).

This ancient call is universally being heeded, and the Eastern African region has not been left out. Currently, NHRIs exist in Kenya (Kenya National Commission on Human Rights (KNCHR) and the National Commission on Gender and Development); Tanzania (Commission for Human Rights and Good Governance (CHRAGG)); Uganda (Uganda Human Rights Commission (UHRC)); Rwanda (National Commission for Human Rights); and Burundi (National Human Rights Commission)). As enacted in Eastern Africa, NHRIs are either constitutional (as in the case of Tanzania, Uganda and Rwanda) or statutory bodies (as in the case of Kenya) with mostly a two-fold mandate: promotion and protection of human rights. These broad mandates entail such items as human rights education, advice to government on human rights issues; visiting prisons and other detention facilities, ensuring municipal compliance with international human rights obligations and standards, inspections, investigations and resolutions of complaints pertaining to human rights.

Indeed, in all the aforementioned jurisdictions, NHRIs have conducted human rights education, they have investigated human rights violations, they have visited prisons and other detention facilities and they have received complaints from victims of human rights violations. In the year 2005, for example, the UHRC conducted awareness raising, research and training programmes throughout Uganda.⁴³ Human rights education was conducted for Uganda Peoples Defense Forces (UPDF), Uganda Police Force (Special Police Constables), primary and secondary schools, local councils and youth leaders. During the same period, the Rwanda NHRI organized lectures and sensitization sessions for various groups including teachers and students, students preparing to join tertiary education institutions, ex-prisoners, security authorities, former rebels, leaders at provincial levels of governance and serving prisoners.⁴⁴ At the same time, the NHRI requested the Government to ratify a number of treaties, key among them being the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984. These efforts are constantly bearing fruit on the human rights front, making a strong case for NHRIs.

Increasingly, NHRIs are also taking up the role of constituting human rights tribunals and thus issuing authoritative decisions. This power is evident, for instance, in Kenya and Uganda. In fact, the UHRC has already handed down crucial decisions against Government officials. A case in point is *Kizza Charles and Hon Miria Matembe*.⁴⁵ This same power has recently been extended to Rwanda's NHRI, although it has yet to be tested in practice.

Another advantage of these citadels of human rights is that they have audience with national legislatures in that they have the rare opportunity of writing annual reports and presenting their recommendations to the legislatures. The efficacy of this approach, even as an accountability measure, in Eastern and Southern African has, however, been questioned:⁴⁶

At present, most national institutions are required to send a copy of their annual report to parliament and/or to the head of state/government and this supposedly provides a detailed account of its performance. In practice such reports are frequently disappointing with little meaningful data on, or information about, the institution's operation. Furthermore, there are often lengthy delays in

⁴³ See, 8th *Annual Report*. Uganda Human Rights Commission.

⁴⁴ See, *Annual Report for 2005* (May 2006). National Commission for Human Rights. Kigali.

⁴⁵ UHRC 655/2000.

⁴⁶ J Hatchard *et al Comparative constitutionalism and good governance in the Commonwealth: An Eastern and Southern perspective* (2004) 219.

publication resulting in reports often out of date before they are even published. Even then, there is no obligation on parliament to debate the report and it appears that almost invariably they are effectively ignored.

Despite this shortcoming, this is a potentially effective method of protecting human rights and is one that ought to be seized.

Clearly, NHRIs are causing changes in the law and policy, transacting new international human rights obligations, speaking against violations of human rights and serving the cause of human rights in many other regards.

Budgetary constraints, limited human resources and restricted powers are some of the challenges affecting these institutions directly. NHRIs also suffer from the fact that they are part and parcel of the state and government and cannot therefore effectively engage in advocacy especially on issues thought to have high stakes. Their work is also dependent on the social and political environment in which they are found.

2.2 The state of civil society organizations

According to a writer, by the term civil society is meant many things.⁴⁷ The term, sociologically speaking, has a rather deep, ensconced meaning in both academic and public discourse. It is deeply associated with the Tocquevillean notion of a society whose citizens' liberty is protected by a rich fabric of intermediary bodies that stand between them and the state, and that themselves are shored up by citizens able and inclined to participate in these bodies - termed voluntary associations. The enemy of the civil society, thus, is the overbearing state.

Another typical definition of the civil society, the scholar reckons, is 'that area of social life that is neither familial and intimate on the one hand, nor state-directed on the other. It includes voluntary organizations of various kinds, ranging from private economic enterprises, to farmers granges, to the Little Leagues.' Similarly, another source describes civil society as 'a particular form of society, appreciating social diversity and able to limit the depredations of political power.' Etsioni cites a possible third definition of civil society:

The institutional core consists of the following combination of political and socioeconomic arrangements: a government which is limited and accountable and operates under the rule of law; a market economy (implying a regime of private property); an array of free, voluntary associations (political, economic, social and cultural); and a sphere of free public debate.

Scholars in Kenya have described 'civil society' as mopping up:⁴⁸

All those institutions that play out in the political space between the family and the state. Certain consensual features mark such organizations and groups; they are voluntary, self-regulating, autonomous of the state, and they evolve specific niches overtime, which become their areas of specialization. It is actually the fact that these groupings grow within and adhere to these normative boundaries that make them civil.

⁴⁷ A Etsioni 'The Constitution of Civil Society' *Chicago-Kent Law Review* (2000) 356 – 357.

⁴⁸ J Owiti, O Aluaka & A Oloo 'Civil society in the new dispensation: Prospects and challenges' in D Okello (ed) *Civil society in the third republic* (2004) 71 The National Council of NGOs.

Human rights and social justice CSOs as they exist in Eastern Africa have taken different forms and a number of categorizations are possible. On the one hand, going by geographical scope, CSOs may be seen as international, national or local. International CSOs usually have branches or headquarters in many other countries. Examples of these are Avocat Sans Frontiers in Rwanda or Transparency International, Kenya Chapter. National organizations are those acting at the national level, sometimes with branches in some regions of the nation. There are exceptions though. Organizations such as Kituo Cha Katiba, have programmes beyond their territories. Such organizations have conducted projects in more than one country. Local CSOs mostly work at the community levels and are best referred to as Community Based Organizations (CBOs).

Going by the modes of registration, CSOs are either companies, trusts, societies, religious organizations, professional organizations, trade unions, women groups *et cetera*. This criterion of nomenclature is common, for instance, in Kenya, where CSOs are registered under varying legislative frameworks.

Karuti and Owiti⁴⁹ have, perhaps, the most interesting taxonomy. They classify CSOs into seven categories. These are: first, development NGOs; second, democracy and good governance NGOs; third, knowledge generation groups; fourth, community based and mutual aid groups; fifth, religious groups; sixth, professional associations; and seventh, cooperatives and farmers associations. According to these scholars, development NGOs began work earlier, perhaps, before the emergence of all the other groups. Democracy and good governance NGOs emerged during the second wave of democratization demonstrating that CSOs have kept changing with the change in the social and political atmosphere. Indeed, when anticorruption became the main preoccupation, in the late nineties, a number of CSOs joined the bandwagon.

It is also possible to categorize CSOs depending on the themes that they seek to address. Our survey indicates that the most common themes include: gender, children, environment, development, torture and general civil and political rights. Most national CSOs have taken a focus or specialization, although this specialization is often not very strict. The Legal and Human Rights Centre in Tanzania or Kenya Human Rights Commission, for instance, handle human rights generally without a particular bias as say, the Federation of Women Lawyers in Kenya or Uganda. The mission of the Legal and Human Rights Centre is as wide as 'striving to empower the public, promote, reinforce and safeguard human rights and good governance in Tanzania'.⁵⁰ Areas of specialization that are often left out include socio-economic rights and minority rights. It is important to point out, however, that this specialization is often quite flexible as it allows the organizations to undertake many other human rights related aspects.

Other categories in which CSOs have found themselves are humanitarian, networks or umbrella organizations.

⁴⁹ K Kanyinga & J Owiti Development of civil society in contemporary Kenya. Report of project of 'Voices from southern civil societies.' NGO Research Group Project, University of Helsinki, 2002.

⁵⁰ *Five-year strategic plan 2003 – 2006*. Legal and Human Rights Centre.

2.2.1 CSOs in human rights and social justice sector: Best practices

Our investigation discloses several aspects considered ‘best practices’ by various actors in the human rights sector. These are alluded to below:

Constituency development

According to Dr Mutunga, a best practice in human rights and social justice work by CSOs is their ability to identify and relate to a particular group that consumes and appreciates their services. This idea has been tested on the ground with many CSOs responding that they have identified their constituency and that they are in the process of nurturing this relationship. Where this has happened, as discussed above, a host of respondents conceded there having been progress.

Specialization

Another approach to human rights and social justice work that is hailed to be effective is that of specialization. CSOs that have carved out a niche and are working in their respective areas of specialization have confessed success, recognition and efficiency. The trend in Eastern Africa appears to favour the formation of unique entities pursuing particular and single issues. The Women’s Dignity Project (*Utu Mwanamke*) in Tanzania typifies this condition in that it concerns itself with a fairly unique and limited condition in women’s reproductive health called obstetric fistula. The objectives of the organization have been stated as being:

To prevent and manage obstetric fistula, enhance the dignity and human rights of those living with the condition, and promote gender and health equity.

The efforts of this organization have borne fruit as there is greater awareness of the condition of obstetric fistula in Tanzania and the Government has commenced offering free treatment to women affected by the condition.⁵¹ Both FIDA – Uganda and FIDA – Kenya are in the public domain as their mandates are known and their clients aware of their existence. Such specialization also enables thorough research and investigations into the chosen area(s) and therefore efficiency. This is not to say, however, that only visions pursuing single issues thrive. Quite to the contrary, certain organizations such as KHRC have been successful in identifying a constituency yet they pursue numerous different human rights and social justice issues.

Promotion and protection strategies: Best practices

In the quest for a human rights society, Eastern African CSOs have employed a number of strategies. These include: press statements; media projects; public interest litigation; public education; training and capacity building; legal aid; advocacy; report writing; research and publication; demonstrations and mass action; shadow reports; communications to international tribunals; counseling and mediation; and investigations. Those eventually being

⁵¹ As per discussions with Festa Andrew, Programme Officer, Women’s Dignity Project, on 21 May 2007, at the organizations premises.

considered best practices by actors in the human rights and social justice sector include: use of press statements and media items, public interest litigation, public education, advocacy, research and publications.

Press statements: Most of the CSOs interviewed conceded having used press statements in the pursuit of their mandate. Press statements are important for CSOs in that they help the organizations communicate their agenda, invite the public to their activities, and to get known, especially by funding agencies. The media is equally an educative forum, a medium through which public human rights education is conducted. The approach of press statements is, however, dependant on free media, mostly a luxury in the jurisdictions under review. For example, CSOs in Rwanda confided that few media houses are willing to accept statements critical to the Rwanda Patriotic Front (RPF) Government.

Public interest litigation/ strategic litigation: By instrument of ‘public interest litigation’, or ‘strategic litigation’, a suit is instituted before a court of law, which litigation stands to benefit a large portion of society. Usually, the issue chosen is that meant to affect large sections often of the poor populations. The end is reform in either law or policy, or even both. Sometimes, strategic litigation results into the delivery of actual commodities by state agents or other bodies enjoying sufficient public character.

The advantages of public interest litigation are manifold. Using strategic litigation to propagate human rights as evidenced in Serengeti and Nyamuma cases in Tanzania, an evaluation report has noted, is clearly an appropriate, adequate and sufficient human rights strategy.⁵² Through it, law reform has been achieved. The strategy is least costly in that one litigation and decision could easily result into benefits to a large population of society, mostly the vulnerable. It allows poor segments of the population to access juridical apparatus through the institution of a group or class suit.

According to Kaleb Lameck Gamaya of National Organization for Legal Aid (NOLA),⁵³ through public interest litigation, the judiciary has designed a long arm to reach out to those who, due to socio-economic handicap, cannot approach the courts for judicial redress. Public interest litigation, therefore, exists to facilitate access to justice by these vulnerable groups. The Court of Appeal of Tanzania in *Julius Ishengoma Ndyanabo v Attorney General*⁵⁴ stated that the real test of public interest or social action litigation should rest on three fundamental principles, namely: (i) justification (proof) of the rule of law, (ii) facilitating effective access to justice to socio-economic weaker sections of the society and/or independent, impartial and accessible judicature, (iii) meaningful realization of fundamental rights. This means that a public interest case should be entertained by judicial tribunals if the same intends to redress public injury, enforce a public duty, protect socio-economic rights of weaker sections and justify public interest.

⁵² *Holistic evaluation report (1995 - 2005)*. Legal and Human Rights Centre.

⁵³ *The Justice Review* Vol 4, March (2007) 18, National Organization for Legal Assistance.

⁵⁴ Civil Appeal No 64 of 2004 (Unreported).

This approach has successfully been used by CSOs especially in Kenya, Uganda and Tanzania with resultant benefits. Rwanda has not tried this method, and the conditions in Burundi have not, for the umpteenth time, been favorable to ordinary litigation, let alone to public interest or strategic litigation. Again, this method thrives on a sound legal system where the rule of law is upheld, on an effective judiciary and flexible *locus standi* requirements. Without these prerequisites, the strategy cannot be successfully applied.

Public interest/strategic litigation is becoming popular especially to organizations that conduct legal aid. It has been found to be cheaper yet stands to deliver profound benefits. This is possible because it involves carefully identification of the disputes to present before courts of law. It is slowly realizing reform of both law and policy and a host of human rights organizations are opting for it. Already, FIDA in Kenya and Uganda have indicated interest in this strategy.

Public education: The importance of public human rights education has been given as:⁵⁵ prevention of possible outbreak of violent conflicts and related human rights violations; nurturing of democratic values and sustaining impulses for democratization; promotion of societal transformation based upon human rights and democracy; promotion and protection of human rights at national, regional and international levels and rooting them into the various cultural traditions; prohibition of possible rise of problems of ethnicity, racism, xenophobia and various forms of extremism and religious fanaticism; enhancing understanding of the threats stemming from environmental degradation, biomedical technologies and from the scourge of HIV/AIDS; and preventing state organs and other authorities from abusing their power and other related excesses.

Research and publications: Increasingly, CSOs are also making use of the facility of research and publications. Respondents opine that by conducting research, organizations are able to have a thorough understanding of the issues for which they advocate and defend them with authority. Research is more effectively administered where it is published and disseminated for consumption. The Centre for Law and Research International (CLARION) in Kenya and Kituo Cha Katiba in Uganda are already successful in research and publication. Their outputs have informed a number of processes and there is no gainsaying that fact that documented research has a lasting impact.

This strategy can be a supplementary source of income for the CSOs as well as a profile booster. Though research and publications is an effective strategy, the study noted that most of the CSOs hardly employ it due to limited capacity in form of fiscal and human resources.

Engaging rather than fighting the governments/ advocacy/ lobbying: Most CSOs are realizing that a more friendly approach to government rather than confrontation yields human rights advancement. Pamoja Trust, a social justice CSO in Kenya, has yielded tremendous fruits for her constituents courtesy of effective engagement with

the Government. For example, through such constructive engagements with government, Pamoja Trust has managed to bring the Kenya Government to the negotiating table over the plight and rights of squatters in informal settlements and in some cases an arrangement that suits all parties has been arrived at. These engagements have not been limited to Government alone. Through negotiations with Kenya Railways/Rift Valley Railways, an alternative to informal settlements close to the railway line has been arrived at through mutual agreement instead of forceful evictions. According to Gamaya of National Organization for Legal Aid (NOLA), there are instances when the Tanzania Government has even declined to obey court orders in contempt for the adversarial methods employed.⁵⁶ Through advocacy, Tanzanian society has reaped the enactment of the Land Act; Village Land Act (1999); Sexual Offences Act (1998); anti corruption legislation (2007) and a less harsh NGOs law. A respondent suggested that confrontation with the government mostly reaps contempt and opposition from the State and this does not augur well for human rights work.

It suffices to state that the approaches or strategies employed have mostly depended on the compositions of the organizations. For example, where the leadership is composed of lawyers, as is often the case, legal approaches are usually preferred. These include the use of legal aid, or public interest litigation. A case in point here is the Children Legal Action Network in Kenya or FIDA-U and FIDA-K. Where scholars or academics have been involved, research has been the main tool. CLARION is a case in point here. In the case of Independent Medico-Legal Unit (IMLU) (Kenya), pioneered, *inter alia* by medical experts, forensic medicine has been employed to advance human rights and social justice.

Networking

Establishment of networks to advance particular causes has been hailed as an effective way of advancing human rights and social justice. Through networks, CSOs are able to muster sufficient clout to be heard at the centre of political power. In an environment where mass action or demonstrations are viewed with contemptuous lenses by state authorities, networks offer an avenue for organizations to engage in these activities without fear of individual victimization. The Name and Shame Corruption Network (NASCON) in Kenya and the Uganda Human Rights Network (U-HURINET) have to a large extent been beneficial in that their umbrellas have shielded their members as well as enhanced their clouts in the advancement of human rights and social justice.

However, in reality, many CSOs see each other as a competitors, rivals and not partners. On a most disturbing note, the current strategic plan of the Education Centre for Women in Democracy (ECWD) identifies as a threat 'competition from other likeminded organizations i.e Kenya Women Political Caucus, MYWO etc'.⁵⁷ Not many CSOs have ventured to liaise with other institutions beyond those within their respected states.

⁵⁶ Interview, 21 May 2007.

⁵⁷ *Strategic Plan (2006 - 2010)* 30. Education Centre for Women in Democracy.

Institution building

Creating stable institutions rather than strong personalities at the leadership levels of CSOs stands to be beneficial. Institutions definitely have a longer life-line than individuals. Credibility also comes with strong institutions. CSOs that have emerged as professionally managed institutions are realizing growth and prosperity rather than those centered around individuals. There is evidence in the field however, that there is little in form of investment, that goes into CSO leadership, management and institutional capacity. Most support tends to be directed towards development of programmes, projects and project activities, without corresponding investment in the development of human resource capacity. An institutional review of five Kenyan CSOs⁵⁸ carried out recently by Projects and Allied Consultants Limited revealed that weaknesses in leadership and management of CSOs have a direct effect on the choice of issues and themes organizations focus on, the relevance and suitability of programmes, implementation strategies and ultimately results. Where leadership is weak, there is little in form of results to show for heavy investments that have been made over time. Essentially, though the number of non-profit organizations, as well as the number of people working in them, whether paid or volunteer, has grown dramatically over the last twenty years, the leadership, management, and organizational capability of the sector has been neglected, in terms of both attention and investment⁵⁹.

Multi-year/ basket funding

CSOs that fundraise in ‘baskets’ and for a long period of time rather than for individual projects responded having been successful in their endeavors. Funding stretching beyond one year has also registered positive results in that the CSOs involved are able to not administer the programme for a productive length of time, but also they have successfully monitored the impacts of these projects.

2.2.2 Impact of CSOs

CSOs have had significant impact on societies in which they have acted. They have catalyzed law reform, for instance. In Uganda CSOs lay claim to the enactment of the Children’s Act; Domestic Relations Bill; Access to Information Act; various anti-corruption legislations. In Rwanda, CSOs are taking credit for the elimination of the verdict of death sentence. Both in Kenya and Tanzania, the enactment of sexual offences laws is attributed to CSOs. Recently in Tanzania, CSOs have succeeded in eliminating the practice of ‘takrima’ which usually permitted politicians to extend gifts to their constituents during election time. This practice had been misused by political actors and critics argue it amounted to voter bribery. Alongside change in law have been policy reforms in various other respects.

CSOs have also acted as critical vessels for conducting civic education. Members of the public are increasingly becoming aware of their rights as well as law, and a significant portion of this success is attributable to CSOs. In Kenya, for instance, CSOs such as the National

⁵⁸ *Kenya Good Governance Programme Institutional Reviews (February – May 2007)*, by Projects & Allied Consultants Limited and the Royal Danish Embassy

⁵⁹ James A. Phills Jr., *Integrating Mission and Strategy for Nonprofit Organizations*, Oxford University Press (2005)

Convention Executive Council (NCEC) and Citizens Coalition for Constitutional Change (4Cs), amongst other actors succeeded in highlighting the urgency of constitutional reform.⁶⁰

Further, CSOs have influenced change in behaviour in society generally. Gradual recognition of women as equal to men, adoption of affirmative action measures and many other changes are occurring courtesy of CSOs. According to ECWD, through its activities, several women have been elected into Kenyan Parliament, while others have been appointed to key public service positions.⁶¹

Some CSOs provide actual commodities or services to members of the public. These services include: loans, blankets, schools or even medical aid.

Economically, CSOs have created income and employment opportunities for various people. These are mostly lawyers, sociologists, political scientists and other human scientists. Many support staff have also been recruited in these organizations, hence adding onto the gross domestic products of the respective states.

2.2.3 Staff and organization

The organization of CSOs differs from institution to institution. Most national CSOs, however, have increasingly adopted a structure that envisions the annual general meeting at the top, followed by a board of directors or council and a secretariat mostly headed by the executive director or director general. This makes such entities qualify to be called 'membership organizations'. This structure having members as key decision-makers introduces a democratic element in the running of CSOs. The membership pays subscription fees and makes important decisions such as election of board of directors. Some organizations, like FIDA-Uganda, have an additional leadership structure called, advisory directors.

Due apparently to financial constraints, the average number of programme staff members for most national CSOs is between 4 to 10. CSOs complain that there is a high turn-over rate of staff either because of low pay or stressful work or both. In the case of Rwanda, Kituo Cha Katiba has noted that the lack of capacity among CSOs has been exacerbated by poor sustainability of human resources due high staff turnover in search of better employment opportunities.⁶²

⁶⁰ See generally, W Mutunga *Constitution-making from the middle: Civil society and transition politics in Kenya 1992 – 1997*. SEREAT. (1998).

⁶¹ *Strategic Plan (2006 - 2010)* 5. Education Centre for Women in Democracy.

⁶² CM Peter and E Kibalama (eds) *Searching for sense and humanity: Civil society and the struggle for a better Rwanda* (2006) 158. Fountain Publishers.

3.0 Challenges facing CSOs

A number of factors pose a challenge to the well-being of CSOs. These are: soft infrastructure; ratification levels of international human rights instruments; the nature of society in which they operate; funding and sustainability; the development of a constituency; the mutation problem; politics and accountability measures. Each of these items are discussed below.

3.1 *Soft infrastructure*

CSOs do not act in a vacuum. They operate in a civil, legal and political context. The civil and political environment in which they act is therefore critical for their activities. Without freedom of assembly and expression, without peace and political stability, the activities of CSOs are greatly hindered. A functional judicial and legal system premised on the rule of law is condition precedent for legal aid and strategic litigation as it is for the enforcement of other civil and political rights. That the civil and political environment in the region under review has been wanting is, thus, a cardinal undoing for actors in the human rights and social justice sector.

A major cross-cutting infrastructural issue has been that of regulation and registration of CSOs. Governments seem keen on tightening the registration procedures for CSOs so as to restrict mostly their coming into being as well as their political activities. In Rwanda, the Government is in the process of legislating CSOs operations through the Non Governmental Organizations Bill. This proposed law intends to lay down further strict registration procedures for CSOs and other non government entities conducting 'political' work. Already, the situation is not accommodative:⁶³

... stringent registration processes for NGOs are one of the several challenges facing the growth of civil society in Rwanda. Not only does the laborious process deter NGO initiatives, but also undermines NGO confidence because... the majority operate under provisional licences without full legal status.

The Government of Uganda is still keen on such a regime while similar efforts were recently resented in Tanzania. On the other hand, in Kenya, CSOs are still registered under different legislative regimes despite there being in existent the NGO's Coordination Act. Such regimes include: companies law, societies law, and trusts law.

3.2 *Ratification and domestication of international human rights treaties/conventions*

Human rights standards and obligations are mostly contained in international human rights instruments. Without ratification of these standards, it is difficult to hold governments accountable. In the region under review, ratification of these instruments has not attained a satisfactory level making the promotion and protection of human rights complicated for

⁶³ CM Peter and E Kibalama (eds) *Searching for sense and humanity: Civil society and the struggle for a better Rwanda* (2006) 158. Fountain Publishers.

human rights actors. More and more human rights treaties ought to be ratified by states to increase the level of protection for the respective residents.

A further process is necessary in the case of 'dualist' states mostly of commonwealth background. In these states, international obligations have no direct force of law in their municipal realms. These international obligations must be given life through a process of domestication. By domestication, domestic laws are made to correspond to the international laws transacted by the state. All 'dualist' East African states have lagged way behind their international obligations, a state of affairs that complicates matters for the enforcement of human rights. Prof Michelo Hansungule has lamented this situation in Kenya:⁶⁴

The current Constitution is not exactly 'human rights friendly'. Since 1963, Kenya has ratified or acceded to a number of international and regional human rights standards designed to benefit the people. For example, there are now specific protections of women's rights as well as those of children in international conventions and declarations, which are not captured in the post colonial constitution of Kenya.

There is also evidence of a similar problem in Tanzania: the Legal and Human Rights Centre (LHRC) has reckoned that:⁶⁵

The trend of not incorporating these instruments is a failure to improve human rights situation in the country and hence violation of human rights. If nothing is done to address this state of affairs the government will maintain its good record of ratifying many international instruments without their benefit being reflected among the people of Tanzania.

3.3 Society and patriarchy

The preceding sections of this report have highlighted the plight of women and children.⁶⁶ These sections of the society have suffered mostly because of there being a society that is patriarchic in nature and which has little respect, if any, for women. As long as society retains patriarchy as a system of administration, there remains a major challenge in the implementation of women and children rights. It may remain tricky to erect women in leadership positions, to ensure equitable distribution and inheritance of property and estates and to eliminate violence and certain harmful cultural practices.

3.4 Funding and sustainability

Funding poses a challenge in different ways. Firstly, organizations acting at community levels or small national institutions mostly procure very little funding compared to national and international organizations. Bernard Kindole, the Capacity Building Officer of the Foundation for Civil Society (FCS), a donor agency based in Dar es Salaam, Tanzania, confirmed that their grants fall into three categories: rolling free grants; medium grants; and strategy grants.⁶⁷ Rolling grants target the small institutions and are hardly beyond Tsh 5 million. The programmes that are funded hardly last beyond six months. It follows that the

⁶⁴ M Hansugule 'Kenya's unsteady march towards the lane of constitutionalism' *University of Nairobi Law Journal* Vol. 1 (2003) 43.

⁶⁵ *Five-year strategic plan 2002 – 2006*. Legal and Human Rights Centre.

⁶⁶ See, section 1.1.6.

⁶⁷ Interview, 21 May 2007.

programmes and caliber of staff of the small organizations is limited as a result. Thus, they have difficulties writing proposals, developing or designing projects with mostly inexperienced staff coupled with less funding.

Even for larger organizations, contracting funding is not a given. An annual report of the NAWOU decried the funding situation at the beginning of the millennium:⁶⁸

... The secretariat still had financial problems in its day to day operations. Communications, utilities and personal expenses had to be paid but with difficulty. Fundraising efforts were made with modest results due to lack of seed money. There is an increasing need for institutional support in order to improve on programme implementation and monitoring.

This same situation has been captured by the Centre for Law and Research International (CLARION), perhaps, more succinctly thus:⁶⁹

CLARION is predominantly a project driven organization. Although the organization has established long lasting relationships with a number of donors, its funding base remains uncertain, unpredictable and unreliable. Its planning and programme projections have therefore been based on the availability of donor funds.

Secondly, almost all funding realized by CSOs in the region under review is courtesy of foreign donor agencies. These donations have usually conditionality attached to them and often depend on the aspirations of the donors and not necessarily those of the CSOs. This over reliance on foreign funding (in the case of Kenya) has since been noted:⁷⁰

The persistent challenge facing civil society remains a constant reminder of the dependency that faces our organizations in this sector. Over the years, the Kenyan civil society has been sustained through the financial goodwill of external donors.

Of Rwanda, a similar position has, thus, been documented:⁷¹

Civil society in Rwanda, as is the case in most developing countries is dependent on foreign donor funding and thus lacks financial autonomy... most NGOs receive no funding from government... most NGO programmes are donor driven and largely ignore organizational priorities and national interests. In some instances, some NGOs are forced to adjust their organizational missions to conform to donor demands.

As a consequence, like in the case of Kenya, CSOs are often blamed for courting national crises on behalf of donor agencies.⁷²

Thirdly, most donors hardly fund institutions' wellbeing, preferring instead to finance particular programmes. A case in point here is the FCS which categorically states that it does not fund 'purchase, construction or lease of buildings; purchase or lease of land; purchase or

⁶⁸ *Annual Report* July 2001 – June 2002. National Association of Women Organisations.

⁶⁹ *Enhancing and consolidating the gains of democratization in Kenya (2003 - 2007): Strategic Plan*. CLARIPRESS.

⁷⁰ J Owiti, O Aluaka & A Oloo 'Civil society in the new dispensation: Prospects and challenges' in D Okello (ed) *Civil society in the third republic* (2004) 83 The National Council of NGOs.

⁷¹ CM Peter and E Kibalama (eds) *Searching for sense and humanity: Civil society and the struggle for a better Rwanda* (2006) 159. Fountain Publishers.

⁷² J Owiti, O Aluaka & A Oloo 'Civil society in the new dispensation: Prospects and challenges' in D Okello (ed) *Civil society in the third republic* (2004) 83. The National Council of NGOs.

lease of vehicles and equipment' and 'endowment and scholarships'.⁷³ This leaves institutions weak, especially staff remuneration and capacity building, assets acquisition and other priorities. Moreover, with the exception of very few main organizations, few CSOs receive multi-year funding. Without sustained funding of a project for a long period of time, it is difficult for institutions to grow as well for their programmes to have a monitored impact.

Another problem currently afflicting CSOs has to do with many donor agencies opting to fund government programmes as opposed to civil society activities. This is clearly evident in Rwanda where the Government is urging donors to direct all resources to its budget at the detriment of CSOs. In Kenya, many actors opine that the Governance, Justice, Law and Order Sector (GJLOS) programme has siphoned away resources that would have capacitated non-government actors. This situation, it would appear, is calling for CSOs to request governments to consider funding them through state budgets. But even this avenue is not stress-free: as a mission by Kituo Cha Katiba experienced in Rwanda:⁷⁴

Umbrella organizations in Rwanda and a few other NGOs that receive government funding have been co-opted by government and in this way also lack autonomy.

3.5 The mutation problem

A problem that has been noted in the operations of CSOs is that of 'mutation'. By 'mutation', organizations that had a particular theme, specialization or focus alter their mandates to include other issues not originally their concern. Mutation has been noted to occur because organizations respond to issues that are easily funded. These organizations are known to change to accommodate other issues simply because the novel issues have a donor. It is this problem that has hindered the specialization of CSOs. It is also the same problem that has hindered the realization of constituencies for human rights and social justice actors. Constituencies can only be nurtured where organizations identify and work for a particular cause for a long period of time.

3.6 Credibility

Credibility, like goodwill in business, is an asset to CSOs. Credibility bestows respectability to an organization as well as authenticates its outputs. It is credibility that makes it possible for members of the public to rely on reports or publications issuing from particular institutions.

Credibility however hard-earned can be eroded away. This happens, for instance, when an organization takes a partisan stand in a hotly contested issue, or where the leadership is compromised in any other way. Organizations that engage in falsehoods or exaggerations could also lose credibility. According to Patricia Nduru of UHRC, many CSOs in Uganda have lost credibility and their reports and research findings are hardly taken seriously. This is a major challenge to CSOs, which must strive to keep their names even while they pursue sometimes very controversial ends.

⁷³ *Grants Application Guide* 6. The Foundation for Civil Society.

⁷⁴ CM Peter and E Kibalama (eds) *Searching for sense and humanity: Civil society and the struggle for a better Rwanda* (2006) 159. Fountain Publishers.

3.7 Politics or neutrality?

Human rights CSOs are usually registered as non-government and non-political organizations. However, the work they perform has a direct connection to politics and their ends are always political imperatives. Should CSOs partner with political actors in pursuit of their ends? Or should they or their members plunge into politics? These are the questions that nag actors in the human rights and social justice sector.

Plunging into politics may be disastrous in that it may attract ‘rivals’. It may also locate or identify the organizations in question with a particular shade of opinion hence eroding the neutrality and, therefore, credibility of the organization. But staying out of politics may imply that the organizations may not be able to influence reform or advancement in either law or policy for it is through politics that changes are effected. Engaging into politics but yet remaining neutral, truthful and credible avails itself as a worthwhile option in this regard. Numerous CSOs have suffered credibility problems because their leadership has taken personal political problems or even worst still plunged into politics on full time basis.

4.0 Conclusions, recommendations and required interventions

Clearly, the human rights and social justice situation in the region under review has been wanting. Indeed, a proper civil and political environment to enable the dispensation of transparent governance has yet to be attained. Equally, the social economic conditions are far below the stipulated core minimum while poverty and social and economic inequalities invariably compete for supremacy.

There are currently numerous actors acting to right the wrongs in the human rights and social justice realms. The most dominant voices emanate from NHRIs and CSOs. While the former are state agents, the latter take numerous non-state shapes and forms. These range from community based organizations, to societies, right to religious and professional organizations. Most CSOs in the human rights and social justice sector are tending to specialize.

A notable problem in Eastern Africa is that very few organizations actually engage in advocacy or action around issues of social economic rights such as food, medical care, labour and housing. Trade and economic empowerment is also a neglected area. In a host of cases, these issues are handled indirectly.

CSOs, however, face numerous challenges which include funding and sustainability, poor civil and political infrastructures and credibility problems. There is also a problem experienced in establishing a constituency or specializing on certain prioritized areas.

The consultants also noted a number of good practices that could be employed to hasten the work of these organizations. These practices can, however, only thrive in a context that is favorable for civil society work. The Fund in collaboration with CSOs, governments and other relevant actors could cooperate in the enactment of these favorable conditions. To effectively advance the cause of human rights and social justice, the following recommendations/interventions are suggested:

- a. First and foremost the prevailing socio-economic conditions have to be averted. Concerted efforts should ensure the reduction of poverty, elimination of inequalities and economic gaps as well as facilitate the provision of at least basic needs and services to the most vulnerable in society. More organizations should be encouraged to advocate for equality and social and economic rights. The Fund could play a role in this connection.
- b. There is also need to reverse the aforementioned shortcomings such as: ignorance of rights and entitlements, lack of access to justice, rampant insecurity and or armed conflict, and neglect of children and women. The Fund should consider funding and partnering with organizations working on these rubrics.
- c. There is need to promote a civil and political environment that is conducive for a democratic dispensation. Enabling entitlements such as speech, assembly, expression, media, fair trial ought to be guaranteed and sustained. Obviously, these will call for strategies such as advocacy, public education and community empowerment. The Fund is advised to design programmes geared towards these ends.

- d. Efforts ought to be made throughout the Eastern African region to ensure friendly operating conditions for actors in the human rights and social justice sector. For instance, registration restrictions ought to be relaxed, just as insincere regulation of the sector should be discouraged. Both law and practice should be changed or enhanced to realize this end, and this calls for concerted efforts. It is recommended that the Fund considers targeted investment in capacity for legal advocacy.
- e. Peace and political stability have to be pursued as a matter of priority. Transitional justice, reconciliation, cease fire agreements, as the case may be, will go along way in alleviating this deficiency. Intervention is required in this regard. The Fund could partner with CSOs to ensure advocacy and public education in these areas. It is recommended that the Fund considers targeted investment in advocacy and public education.
- f. In spite of hostile operational conditions at the domestic level, CSOs should be encouraged to seek remedies and audience beyond their boundaries. Resort to international tribunals such as the African Commission on Human and Peoples Rights or the Human Rights Committee where remedies are lacking at home is advisable. Current efforts by Uganda HURINET to lodge a communication with the African Commission on Human and Peoples Rights are therefore in line with recommended practice. Appeal to international monitoring bodies such as the Human Rights Committee under the International Convention on Civil and Political Rights by way of shadow reports is also advised. We recommend deliberate investment in local CSO capacity building for them to engage at this level.
- g. To ensure sustainability of CSOs and other actors in the human rights and social justice sector, the establishment of 'Special Funds' to nourish these institutions is recommended. Such donations should originate from transparent sources pursuing no hidden agenda, and funding projects with less strings attached. Both state and non-state actors should consider establishing different 'Funds' to finance civil society programmes. This funding should as much as possible adhere to the aspirations of the CSOs, the imperatives of the moment and not solely the agendas of funding agencies. The development of local philanthropy as seen in the establishment, say, of the Kenya Community Development Foundation, is commendable. Moreover, funding should not be in form of project approach, but rather should be envisioned on a multi-year basis and packaged as core funding. This should accrue to the large organizations as well as to the small ones.
- h. It is desirable that financial stability of CSOs be encouraged and pursued. CSOs require to be assisted to initiate income generating activities such as sale of publications, offering courses and training on various aspects at a fee, and subscriptions. Acquisition of assets for these actors is also highly recommended. Here there is a case for local philanthropy to play an active role in order to allow for increased investment in institutional arrangements of these organizations.
- i. There is also need to reverse the trends in society and societal relationships. Patriarchy as a way of life requires to be reversed. This could be achieved by well-strategized social engineering measures and these may include public education. Sufficient resources ought to be set aside to facilitate the conduct of sustained national civic and human rights education. Education, in this regard, could be both formal and informal and encompassing such issues as governance, corruption, gender, human rights, social relationships, *et cetera*.

- j. There is need to build the capacities of CSOs to analyze geopolitical forces to see the issues of human rights and social justice in a broader context. The visions of these organizations, the planning and conceptualization of projects should envisage emergent issues in a concise manner. Enhanced capacities will ensure flexibility in style and approach to issues as well as enable resort to upcoming strategies such as the writing of shadow reports and the making of communications to international tribunals.
- k. Most CSOs, especially community based ones, have tremendous capacity to turn around the human rights situation in the region due to the passion with which their movers take up the human rights issues that concern their communities. These organizations however have limitations in form of governance and leadership capacities, and most donors hardly invest in this area. It is recommended that the Fund considers investment specifically in developing governance systems and practices and leadership capacities of these organizations.
- l. The Fund should also encourage networking of CSOs engaged in similar project themes. Networking encourages exchanges, unity of purpose as well as information sharing and capacity building. Many local CSOs are averse to what they may perceive as “donor-imposed” networking, yet there is little in form of homegrown networking. The Fund should consider actively encouraging issue-based networking, which CSOs see as less threatening to their identity.

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Juma, Dan, Programme Officer, Kenya Human Rights Commission

Kanyua, Patricia, Programmes Officer, International Commission of Jurists (Kenya)

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Kimathi, Wambui, Commissioner, Kenya National Commission on Human Rights

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Mawiyo, Janet, Kenya Community Development Fund

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Musundi, Henri Maina, Deputy Executive Director, Legal Resources Foundation

Mute, Lawrence Murugu, Commissioner, Kenya National Commission on Human Rights

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ITEMS DISCUSSED DURING THE INTERVIEWS

Do you think CSOs operating in East Africa (Kenya, Uganda, Tanzania, Rwanda and Burundi) are capable of categorization?

List the categories in which these CSOs fall?

Briefly describe the nature of work you have been involved in with regard to human rights

What areas of human rights work is your organization involved in?

What areas of human rights has your CSO most worked/advocated for?

What areas of human rights work has your organization least worked/advocated for?

Have you or your organization initiated or participated in any project/programme concerning environmental rights?

Has your organization participated in the protection or promotion of the rights of minorities or indigenous people?

Have you or your organization initiated or participated in any project/programme concerning social and economic rights?

How would you rate your organization's success in the area of social and economic rights?

Would say your CSO is involved in the advancement of social justice?

What is the vision or objective of your organization?

What approaches/methods/strategies has your organization employed in the pursuit of your objectives and visions?

Of these approaches/methods/strategies which ones have proved most effective?

Have any of these proved ineffective?

Which ones have proved most ineffective?

Which of the following strategies have you or your organization employed in the course of your projects/programmes?

- ↑ Advocacy
- ↑ Research
- ↑ Publication of periodic reports
- ↑ Legal aid

- ↑ Mass action
- ↑ Training/teaching strategic groups
- ↑ Communications to international tribunals and treaty bodies
- ↑ Press statements
- ↑ Shadow reports to treaty bodies
- ↑ Public interest litigation
- ↑ Non of the above

Which other?

Which of these strategies is most effective in your experience?

Which one has been most ineffective?

Has your CSO been able to influence policy or legislation?

Which legislation(s) has your organization contributed to?

What kind of funding has your organization received/issued (Programme or Basket)

Would you consider your organization stable as regards funding?

What is the leadership structure of your organization? Who is in charge?

Has your organizations experienced leadership gaps?

How is your institution able to priorities/protect/monitor emerging and upcoming issues?

Are there emerging strategies? Which are these?

What is the experience with activism around social justice issues? Does activism work?

Has your organizations identified a constituency? How has this been possible?

Has your organization been able to maintain the same kind of donor(s) over a long period of time? Or do your donors fluctuate with time?

On average, what is the average number of staff in your CSO?

What is the caliber of leaders in your organization?