

**Human Rights House Foundation**

# **Establishing a Human Rights House**



# **Manual**

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# Preface

This Manual has been developed by the Human Rights House Foundation, an independent, non-profit NGO located in Oslo, Norway. We promote the establishment of Human Rights Houses worldwide, and we believe that the creation of a global network of Human Rights Houses will be an important contribution to the international struggle for human rights. The purpose of this Manual is to assist human rights organisations that wish to establish new Human Rights Houses and join the international Human Rights House Network.

When a Human Rights House is established in a country it represents a test of the freedom of organisation, the freedom of expression and the freedom to be a human rights defender in that country. The process of establishing a Human Rights House can be tedious and complicated, and the participants must invest considerable time and effort in the project. Apart from the participants themselves, the project may involve legal and technical experts, donor agencies, individual members of the organisations, partner organisations and government officials. Because so many people and organisations are involved, careful planning and coordination is called for.

The purpose of this manual is to cut down on the workload by sharing experiences from the existing human rights houses. The manual outlines the steps that must be taken from idea to reality and provides sample documents that may be useful for those involved in the project.

The Manual is divided into four parts:

- Part 1: Theory**      The theory and principles of Human Rights Houses.
- Part 2: Practice**      How to establish a Human Rights House. This part contains detailed advice based on experience from former project.
- Part 3: FAQ**      Frequently asked questions from meetings with organisations, donors, clients, and others.
- Part 4: Appendices**      Documents that may be useful when establishing a Human Rights House.

For more information about the Network and the Human Rights House Foundation, please visit our website on <http://www.humanrightshouse.org>:



# Part 1

## Introduction to Human Rights Houses

Topics of this chapter:

- Background on Human Rights Houses and the Human Rights House Network
- What is a Human Rights House?
- What is the purpose of establishing a Human Rights House?
- How may human rights victims benefit from a Human Rights House?
- How may human rights organisations and civil society benefit?
- Which principles apply in Human Rights Houses?
- How are Human Rights Houses organised?
- What is the Human Rights House Network?
- What is the The Human Rights House Foundation?

### Background

During the past decades many new human rights organisations have been established all over the world. Human rights groups have sprung up in countries that formerly clamped down on organisational freedom, and almost everywhere there is an increased awareness of the importance of human rights and democratisation. Democratisation has led to an increase not only in the number of organisations, but also in the level of cooperation and networking between human rights groups, both within countries and across borders.

As the number of human rights organisations has grown, the human rights community has become more diverse, with a great variety of different human rights groups and organisations. In some countries, human rights defenders live in constant fear of harassment, intimidation, persecution, and even death, while elsewhere human rights activists work in complete freedom. Some organisations lack funding, personnel and organisational capacity, while others have sufficient resources. Different organisational environments create their own particular challenges and difficulties. These differences occur not only between different countries, but also within countries.

There is no fixed solution as to how an organisation best can achieve its goals or ambitions. Yet, despite the differences the organisations share a common goal of promoting human rights, either in their own countries or abroad. There are also a number of challenges and problems that seem to be shared by most organisations - whether they are big or small, rich or poor, international or domestic - despite the differences in political, social and organisational environment.

**Challenge no. 1:  
Co-operation and  
co-ordination**

One challenge is to co-ordinate activities and to create common agendas. Far too often the activities of the organisations overlap and they work with the same issues and in competition for the same funds. Organisations that could achieve much through partnership and collaboration compete for projects and money instead of co-operating. This particularly is a problem in countries where much of the human rights work is donor-driven. The large donor agencies often have their own priorities as to which human

rights activities should be given priority. In such circumstances the human rights organisations may put a lot of effort into establishing and running projects that are eligible for funding, and not necessarily projects that are required by the public.

**Challenge no. 2:  
Networking**

Another challenge is to gather moral support and awareness among other human rights groups about the organisation. This is achieved mainly through networking and sharing of information between human rights groups. When an organisation becomes well known and supported by other organisations, this may add great value to the work of the organisation. For example, there have been numerous examples that when human rights defenders have been arrested or threatened, human rights groups throughout the world have mobilised support and put pressure on the offending authorities, in many cases with success.

**Challenge no. 3:  
Utilising scarce  
resources**

A third challenge is to make the most of scarce resources. Human rights organisations often spend a large proportion of their funds on rent, logistics, equipment and communications. Ideally, more resources should be spent on human rights related activities and projects, but those activities and projects can only be carried out if the necessary organisational infrastructure is in place. Hence, organisations are forced to devote too much of their often meagre resources on activities that have nothing to do with human rights. Furthermore, donors who fund human rights projects usually want to spend the money directly on projects and not on rent or salaries, and it can be difficult to find the funding needed to sustain the organisational infrastructure.

**Challenge no. 4:  
Gaining influence**

A fourth challenge is to promote the organisation and gain influence. Nearly all human rights organisations pursue political agendas: they oppose repressive laws, defend victims of human rights violations, promote freedom of speech, and fight against social injustices. In order to achieve political goals organisations need influence, and one way to get influence is make the organisation known and establish contacts with decision-makers and their constituencies. It is not enough to have political programmes and important messages if this does not lead to concrete results in terms of policies and changes in society. Thus, human rights organisations need *platforms of dialogue* and *channels of influence* in order to translate demands into action.

**Challenge no. 5:  
Security**

A fifth challenge is security. Too often, human rights activists find themselves in danger, being subject to intimidation and threats from authorities or political "activists" with opposing views. We have all heard of human rights defenders who have been persecuted, detained without trial, killed, or just disappeared, but human rights defenders also face problems such as break-ins where office equipment is stolen or destroyed, sabotage, confiscation of funds, and violence. Hence, human rights work is a risky business in many countries, and human rights organisations need the best protection available.

## **The Human Rights House - a way to meet common challenges**

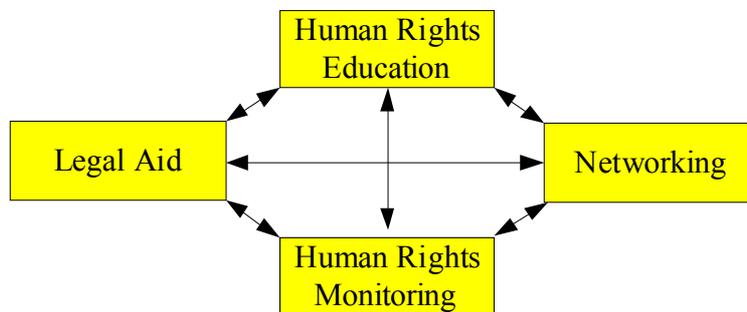
When a Human Rights House is established, human rights organisations co-locate their activities in one building in order to:

- create an environment that stimulates collaboration and co-operation
- enhance networking, moral support and solidarity among organisations
- cut costs and free funds for projects and activities
- make the organisations more visible to the public and decision-makers
- provide a stable and secure base of activities

In other words, when a Human Rights House is set up, it is intended as a way to overcome some of the problems and difficulties mentioned above and to meet those challenges that seem to be shared by human rights organisations all over the world.

In 1989 the first Human Rights House was established in Oslo. The project was regarded as so successful that the Human Rights House Foundation was set up in 1992 in order to promote the model and establish new Human Rights Houses in other cities. Since then an international network of Human Rights Houses has been established, with Houses in Oslo, Moscow, Warsaw, Sarajevo and Bergen. New houses are being set up or planned in Nairobi, Zagreb, Minsk, London, Istanbul, Kampala and Baku. While the Human Rights Houses are very different from each other, they still have much in common. In particular, we would like to mention the following three characteristics:

**1. Common activities generate synergy effects and co-operation.** The Houses in the Human Rights House Network host a large number of organisations (see organisational chart at the end of this chapter.) The organisations are involved in a broad range of activities. Some of these activities generate co-operation and collaboration both within each House and within the Network, as shown in the following model:



Thus, legal aid, human rights education, human rights monitoring and networking are the most common types of activities of the organisations in the Human Rights House Network. Co-locating these joint activities in one building creates important synergy effects, as the organisations draw on the expertise and knowledge of others who work in related fields. Furthermore, those "four pillars" of human rights work have contributed to extensive co-operation between the Houses and their partner organisations worldwide.

**2. Human Rights Houses are developed and controlled by local organisations.** They are not controlled by the Human Rights House Foundation or any other external organisation or central office. Hence, the Human Rights House Network is different from many of the large international human rights organisations that consist of national committees that are subordinate to an international head office.

**3. "Organic" model.** The Human Rights Houses have over the years hosted a large number of human rights groups. Some have left, while others have joined. Hence, the Human Rights Houses are not dependent on any of the member organisations. Instead they provide the infrastructure where an environment for human rights work can develop over time.

The aim of the Human Rights House Foundation is to develop the Human Rights House Model and promote partnership and collaboration for democratisation and human rights, and to establish structures of cooperation, both nationally and internationally. Our political vision is that in 10-15 years time, many new Human Rights Houses will be operating all over the world. This manual looks at how this can be done, both in order to explain the model and to give ideas to organisations that would like to establish new Houses.

## **What is a Human Rights House?**

A Human Rights House is a collaborative project of non-governmental organisations that work in partnership to promote human rights in their own country and abroad. It is founded on principles of equality and democratic participation. The Human Rights House is an independent institution whose member organisations are involved in a wide range of activities and projects, and where there is room for debates, diversity of opinion and difference in methods. The organisations share common values of universal human rights and are committed to defend and protect the rights of individuals and peoples.

In addition to being a community of organisations, the Human Rights House is also a physical structure - a building or an office facility hosting the member organisations. When a new House is established, the participating organisations move their entire secretariats to the Human Rights House. In other words, the House will not be an addition to already existing offices but a completely new location, and the participating organisations should move to that location. However, in many cases, external organisations will be associated with the Human Rights House and will use the facilities for meetings, seminars and other activities, even though their secretariats are not located there.

There is no fixed solution as to how a Human Rights House should be established and organised. Focus should be on how the House best can serve the human rights cause in the country in which it is established. The Human Rights House must enable the organisations to work more efficiently and with greater capacity, thus allowing them to exert greater influence and produce better results.

A Human Rights House should be regarded as part of an effort to build civil society in a country. It should help strengthening the scope and capacity of civic organisations, not only within the Human Rights House itself but also in society as a whole. This is a different approach than traditional project assistance on which so many human rights organisations depend. Instead of supporting specific projects or activities, the Human Rights House provides the infrastructure needed to carry out those activities. The time and effort put into the establishment of a Human Rights House is an investment aimed at strengthening civil society, both financially and in terms of political influence and leverage.

Although primarily a project of non-governmental organisations, a Human Rights House will attract the participation and attention of numerous people and institutions. For example, the authorities may provide housing or office space at a low cost and take part in activities and projects. In some cases, Human Rights Houses have been invited to take part in law-making or policy processes.

Donor agencies may wish to fund the establishment of the House or some of the activities that take place in it, while national and international NGOs and research institutions may be involved in workshops and projects. On the individual level, victims of human rights violations, such as torture victims, may receive help and assistance from the Human Rights House through organisations working with legal aid, counselling or psychiatric care.

Hence, the Human Rights House should seek to become a national centre of human rights and a place that draws the attention of anyone engaged in human rights in the country. When many activities are gathered in one place they become more accessible to the public. This may be important for people who depend on NGOs for help, but also for human rights defenders and activists, students, researchers, and others.

The purpose of establishing a Human Rights House extends far beyond the needs of each partner organisation. We believe that a Human Rights House will have a positive effect on the national capacity to uphold and protect human rights. By providing a stable and sustainable base of human rights activities the Human Rights House will be of benefit to the human rights community as a whole.

## **Human Rights House Principles**

Human Rights Houses must adhere to the following principles:

<b>Independence</b>	The House must be an independent institution.
<b>Sustainability</b>	The Human Rights House is an investment aimed at reducing long-term costs, in order to make the organisations less dependent on donor funding. The House will thus help sustain the core activities of the organisations.
<b>Diversity</b>	The partner organisations should be involved in a wide range of different activities. This should reflect problems and needs in society.
<b>Equality</b>	Each participating organisation must be an equal partner.
<b>Democracy</b>	The House must be run and managed by equal participation and representation of the partner organisations.
<b>Autonomy</b>	Each partner organisation must retain its autonomy.
<b>Reduced costs</b>	As a rule of thumb, if the House is bought the organisations should enjoy a 50% reduction in rent after moving into the Human Rights House. Even if the House is rented, sharing of facilities should lead to reduced costs for the members.
<b>Security</b>	The Human Rights House must provide protection and security for the member organisations and human rights activists working there.
<b>Joint facilities</b>	The Human Rights House should contain facilities that are useful to the partner organisations and users, for instance meeting rooms, documentation centres and conference halls.

The first three principles - independence, sustainability and diversity - relate to human rights work at the systemic level, in other words the role of the Human Rights House in the political, legal and social context. If the Human Rights House is to become a national centre of human rights, it must be accessible and of benefit not only to the participants, but also to clients, users, other organisations and anyone who is interested in human rights. If this aim is to be achieved, the House must become a permanent and open institution in which a wide range of activities take place.

The principles of equality, democracy and autonomy address the relations between the member organisations. A Human Rights House must be a project of true collaborative partnership between equal partners, in which everyone involved feels that their rights and interests are protected.

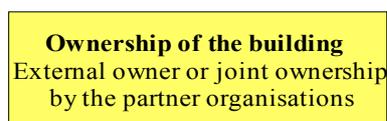
Finally, the principles of reduced costs, security and joint facilities relate to the individual needs of the member organisations. If the Human Rights House is to become a success, the participants must feel that it is in their organisations' interest to take part. Many human rights organisations struggle with limited access to funding, insufficient safety and poor infrastructure and facilities. The Human Rights House must address those problems and make it attractive for human rights organisations to join.

## How Human Rights Houses are organised

There are three organisational levels in a Human Rights House, as shown in the model below:

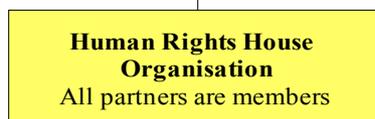
Level 1:

### Ownership



Level 2:

### Management



Level 3:

### Membership



Ownership should be set up in such a way that the House will remain an institution for human rights, and nothing else. In no way should it be possible for one organisation to sell part of the building or rent it to third parties. If an organisation chooses to leave the Human Rights House it must forfeit all rights to the property, which can be made available for other human rights organisations that wish to move in. The Human Rights House is an independent institution that will continue to host human rights organisations although membership in the house may change.

The simplest but also most expensive solution is to rent office space on a commercial basis. This ensures that ownership is independent of the organisations that occupy the House. With rented offices it is quite simple to move to a new location if the existing premises are no longer suitable, for example if more space is needed. However, renting is not only costly, but in many countries there is little security against eviction, surveillance or other methods to clamp down on the activities of the organisations. The danger of such problems may be reduced if the organisations own the building themselves.

Another solution is to buy a building. In the short run this is more expensive and complicated, and it requires a major investment by the organisations and their supporters. However, it will provide a permanent and long-term solution that leads to reduced costs and rent and gives the partner organisations greater autonomy. Various ownership models are discussed in Part 2 of this manual.

The House is managed by a joint organisation set up by the members. This organisation may, for example, be called "Human Rights House of [City]". The joint organisation is responsible for the daily management, maintenance, collection of rent, cleaning, etc. The joint organisation may also carry out projects and human rights activities if so desired by the members.

The joint organisation could be an association, a foundation, or even a private company. Ideally, it should be registered as a human rights organisation, but in some countries this may be difficult due to repressive laws or a hostile political environment. Therefore, other organisational forms may be chosen if this simplifies the registration process or entails less risk to the member organisations. The main concern is that the joint organisation is democratically run by the members, and that it will be able to perform the necessary functions.

Membership in the Human Rights House is regulated in several ways. The Statutes of the joint organisation states which organisations are members, their rights and obligations, how joint decisions are made, and so forth. Membership in the House must not impair the autonomy of the member organisations, and they must be free to carry out their own activities and projects without undue interference from the other organisations.

Although the partner organisations retain organisational autonomy, all organisations have an obligation to be *partners* and not merely tenants. The Human Rights House is meant to stimulate co-operation and networking, and all members should define their roles beyond the needs of the individual organisation. A Human Rights House always leads to increased informal relations between member organisations and the people working in them. Simply being close to like-minded organisations and colleagues in other organisations brings about important synergy effects and opens up possibilities of increased co-operation. In our experience, informal modes of co-operation can be of invaluable importance to the member organisations and other users of the Human Rights House.

Political parties, governmental organisations, businesses and organisations not involved in human rights work cannot be members of a Human Rights House.

## **The Human Rights House Network**

The Human Rights House Network currently has members in Moscow, Warsaw, Sarajevo, Bergen and Oslo. New Houses are planned in Nairobi, Zagreb, Minsk, London, Istanbul, Kampala and Baku (see organisational chart at the end of this chapter). The Human Rights House Foundation is the secretariat of the Network but exercises no control over the member Houses. Each year one of the members of the network hosts the annual Network Meeting. Representatives of each member House attend, and also people working in organisations that plan to establish new houses have attended. The Network has its own webpage at [www.humanrightshouse.org](http://www.humanrightshouse.org). Each member House has editing rights on the web page and may publish information about ongoing projects, activities and other news.

## **The Human Rights House Foundation**

The Human Rights House Foundation is a non-governmental organisation located in the Norwegian Human Rights House in Oslo. It was founded in 1992 and promotes the establishment of Human Rights Houses worldwide. The Foundation has been a partner in the establishment of human rights houses in Oslo, Moscow, Warsaw, Bergen, Sarajevo and Bergen, with a network of around 50 human rights organisations. The Foundation was also a partner in the Human Rights House of Ljubljana, which was opened in 1994 but closed down in 1996.

The Human Rights House Foundation has extensive experience in organising and co-ordinating large-scale projects. In addition to the establishment of Human Rights Houses, the Foundation co-ordinated the work to establish the independent radio station “Voice of Tibet” in 1995 and headed the project “Dugnad ’98” in 1998; a Norwegian national festival of human rights that involved some 50 human rights organisation and other institutions and staged numerous concerts, debates, theatre plays and other events. For several years the Foundation has been involved in a project to introduce human rights education in Albanian schools in co-operation with Albanian human rights organisations, and Albanian schools and ministries, and Norwegian teachers and teacher organisations.

We are currently involved in a number of human rights projects, mainly in co-operation with organisations in the Human Rights House Network. Recent activities include capacity building and information transfer, civil society support, and human rights monitoring and education in Russia and Bosnia and Herzegovina. We are a partner in several projects to distribute human rights information, and have developed – and maintain – the Human Rights House Network web pages. The Foundation supports internet projects at the Human Rights House in Moscow. We also edit and maintain the Norwegian Human Rights Portal [www.menneskerettigheter.no](http://www.menneskerettigheter.no), which was established by the Foundation in 1999. For more information, see our website at [www.humanrightshouse.org](http://www.humanrightshouse.org).

# The Human Rights House Network

## Established Houses

OSLO	WARSAW	MOSCOW	SARAJEVO	BERGEN	NAIROBI	ZAGREB	MINSK	LONDON	ISTANBUL
International Society for Human Rights	Graduates of Human Rights School	Human Rights Network Group	Heilaki Committee for Human Rights in Bosnia and Herzegovina	Amnesty International West-European Section	Center for Law and Research International	B.A.B.a. Helsinki Committee Human Rights Group	Belarusian Association of Journalists	Article 19	
Norwegian Helsinki Committee	Helsinki Committee in Poland	Independent Psychiatric Association of Russia	Independent Union of Professional Journalists	Freidkopsket (Norwegian Peace Corps)	Child Rights Advisory Legal Center	Croatian Helsinki Committee Human Rights	Belarusian PEN-Center	English PEN	KAMPALA
Norwegian P.E.N.	Helsinki Foundation Human Rights	Moscow Center for Prison Reform	Renasansa	Norwegian Afghanistan Committee	Coalition on Violence against Women	Croatian Law Center	F. Shkyn's Partnership for the Belarusian Language	Index on Censorship	BAKU
Norwegian Tibet Committee	Polish Section of the International Commission of Jurists	Moscow Helsinki Group	Serb Civil Council	Ratio Foundation	Federation of Women Lawyers		Human Rights Center VASNA		
Amnesty International Norway	Polish-Tibetan Friendship Association	Mother's Right Foundation	Zone Znamena (Women to Women)	American Field Service	Kemay Human Rights Commission		Law Initiative		
The Norwegian Burma Committee	Young Journalists' Association "POLIS"	Movement Without Frontiers Group		War and Children Identity Project	People Against Torture		Lev Sapaga Foundation		
The Norwegian Council for the Rights of Kurdish People		Non-violence International		Norwegian Church Aid	Release Political Prisoners		Supohast Center		
Human Rights House Foundation		Right of Child							
Network Secretariat		Right to Life and Human Dignity							
		Soldiers' Mothers							
		Society for the Defence Convicted Businessmen							



# Part 2

## How to Establish a Human Rights House

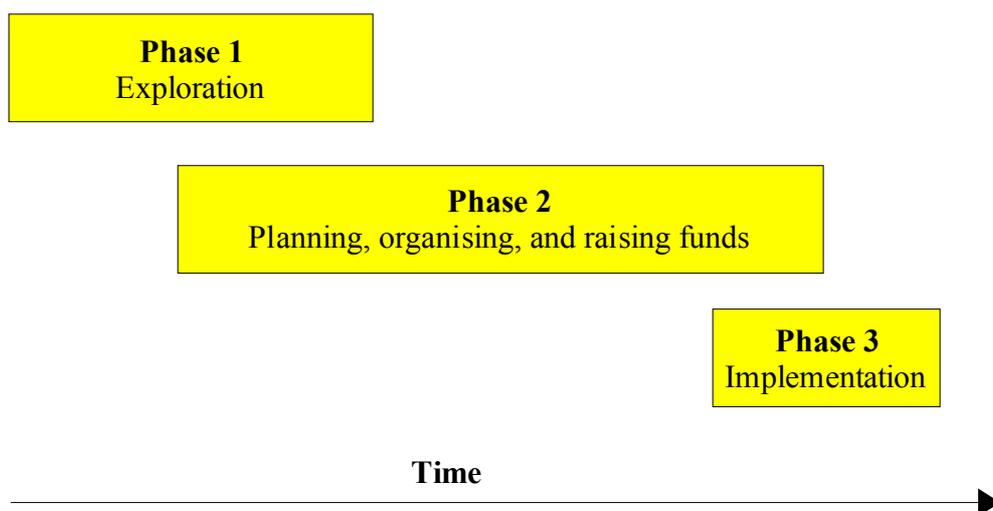
Topics of this chapter:

- The main phases in the project to establish a Human Rights House
- The role of the Human Rights House Foundation
- When should a Human Rights House be established? What criteria should be met?
- How to carry out a feasibility study
- How to organise and co-ordinate the different phases of the project
- Fund-raising
- Judicial and technical preparations
- Establishing the Human Rights House and moving in

### Introduction

Establishing a Human Rights House takes time and effort, and the project will usually be a long process involving a lot of paperwork. Although this Manual concentrates on the "bureaucratic" tasks, one should always keep in mind that the primary goal of a Human Rights House is to enhance the work for human rights. The project should only be initiated if it can be argued that the House will add value to the work of the involved organisations and human rights work in general.

The project can be divided into three overlapping phases, as illustrated below:



**Phase 1** During the **exploratory phase** one looks at whether it is possible and desirable to establish a Human Rights House in the country in question. This assessment

requires a detailed analysis of the needs and possibilities, based on a wide range of relevant sources of information, such as human rights organisations, politicians, judicial and technical experts, potential donors and researchers. One must be able to argue that the Human Rights House has a positive role to play and that it is possible to establish it within the legal and political framework of the country.

**Phase 2** If a group of organisations decide to establish a Human Rights House, a longer phase starts when the necessary preparations are made, including **planning, organising and raising funds** for the project. This phase is more costly and may require funding from external donors. This is also a very *committing* phase in which the leadership of all partner organisations must be involved and actively take part in the decision-making process.

**Phase 3** When all preparations have been made and funding is available, the Human Rights House can be established and the **implementation phase** begins. This is a very hectic phase that requires much effort from all the involved organisations. During this phase a house is bought, constructed or rented, and the participating organisations move their secretariats to the new location. The implementation of the project entails challenges in logistics, organisation and management for everyone involved.

The Human Rights House Foundation may be involved in all phases of the project. Our role is to facilitate the process as much as possible. We can inform interested human rights organisations about the idea and concept of Human Rights Houses, introduce the project to potential donors, facilitate communication between the participants, and provide advice and consultancy whenever needed. When the House has been established we will pull out, and the ownership and management of the House will be with the local partners. However, the Foundation may still take an active role in project co-operation, as secretariat of the Network, and as a future adviser and partner.

## **Phase 1 - Exploring the possibilities**

The main objective of the exploratory phase is to assess whether it is possible to establish a new Human Rights House and whether the House will be able to play a useful role in the country where it is established. The assessment should be based on a thorough analysis of the human rights situation in the country in question, the situation of human rights organisations and activists, the legal and political framework, and the relations between human rights organisations.

Although the primary goal is to assess whether a Human Rights House can be established, this should not be the only purpose at this stage. One of the key objectives is to instigate co-operation between human rights organisations, and even if this co-operation does not lead to the establishment of a physical Human Rights House, it may still lead to useful projects and activities. Furthermore, the project may lead to better co-ordination of activities, networking, building of trust and dialogue, and promotion of the organisations. In other words, even if a Human Rights House cannot be established, the project may still be useful to the participants and may help them to meet some of the challenges mentioned earlier in this Manual.

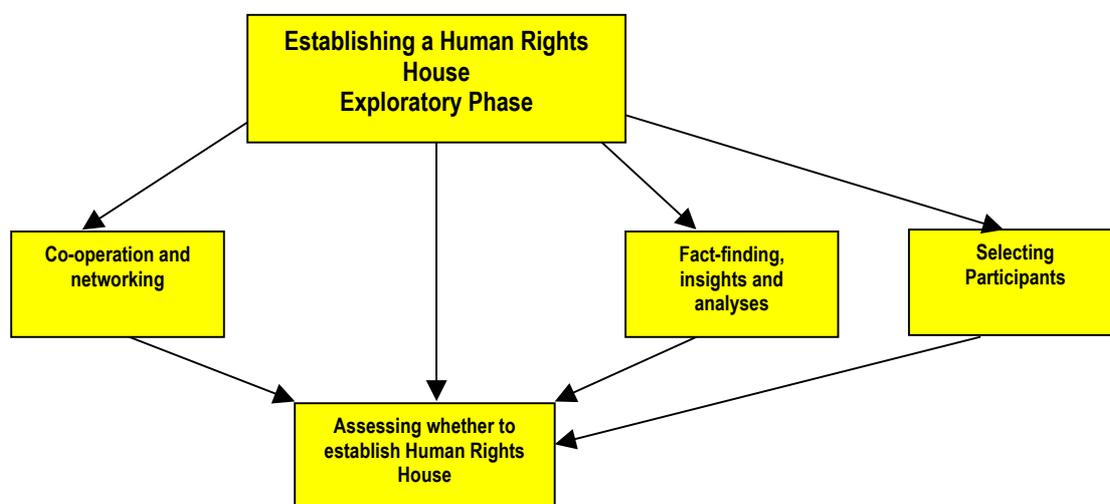
A third objective of the exploratory phase is to provide useful, important and interesting information about the situation in the country - in the form of facts, insights and analyses. This information should be relevant even if it is decided not to establish a Human Rights House.

Finally, and very importantly, during the exploratory phase the **initial partners in the Human Rights House will be selected**. The leadership of relevant human rights organisations must be introduced to the Human Rights House model and will decide whether or not it is interesting for their organisations to take part. If informal contacts between representatives of the initial group organisations have shown that there is a clear interest in the project, the idea must be further discussed within each organisation.

In our experience, the number of organisations that are interested in the project is often too large, and therefore an initial group of participants must be selected. **The Human Rights House Foundation will make the final decision**, on the basis of extensive interviews and meetings with representatives of the organisations themselves, donors, international organisations, researchers and human rights experts, and any other sources of information. We base the selection on the following criteria:

- The initial partners in the project should consist of human rights organisations that are involved in a range of activities
- The organisations should have complementary rather than overlapping activities
- The participants must demonstrate a clear will and ability of co-operation with other organisations
- The participants should be well-known and reputable organisation

To sum up, the exploratory phase has four interrelated objectives, as shown in the following model:



It is usually an advantage if one local organisation takes the lead in co-ordinating the work. The co-ordinating organisation will convene meetings, produce progress reports, and communicate with the Human Rights House Foundation.

## Feasibility study

The exploratory phase should yield a feasibility study that addresses all aspects of the project. The following are some of the main points of interest:

### 1. Human rights and political background

- What is the general situation for human rights in the country?
- Is the political environment conducive to the establishment of a Human Rights House?
- What are the main challenges and obstacles to the project?

## **2. Institutional and legal framework**

- Will legal obstacles create problems for the realisation of the project?
- How can a new organisation to manage the House be set up within the legal framework of the country?
- What ownership model is preferable?
- How can security for the investment best be ensured?

## **3. Organisational environment**

- Is there a clear will and ability for collaboration and co-operation between the leading human rights organisations in the country?
- Is the community of organisations ready for such a project?
- Is the organisational environment conducive to the establishment of a Human Rights House?
- How well do the human rights organisations co-operate, and what forms of co-operation take place?
- Is the relationship between human rights organisations marked by a culture of rivalry and competition for funds?

## **4. Security**

- Will co-location provide better security for the member organisations?
- Will the Human Rights House make the organisations more exposed and vulnerable to sabotage?
- Will the Human Rights House adversely affect the security of the member NGOs?
- How can security risks be averted?

## **5. Funding**

- Approximately how much money will be needed to establish the Human Rights House?
- What are the main potential sources of funding?
- How much can be funded by the participants themselves and how much must be obtained from external sources?
- What are the views of the donors that have been contacted?
- Will the donors be willing to finance the purchase of a building, and on what terms?

## **6. Analysis**

- In what ways does a Human Rights House represent something new to the human rights community in the country?
- Will the House contribute to civil society development and democratic development?
- Will the House make it easier for the member organisations to carry out their activities?
- Will the House reduce administrative costs and free funds for projects?
- Will the House provide security for the organisations?

- Will the House enhance co-operation in the human rights community?

Examples of feasibility studies are included in **Appendices 1, 2 and 3**, to show the early stages of the emerging Human Rights Houses in Kenya, Belarus and Uganda.

## **Phase 2 - Planning, organising and raising funds**

In Phase 2 the plans and preparations are made for the implementation of the project. This may take from a few months to several years. Phase 2 should start only if a thorough analysis has shown that there is every chance to believe that the project will be a success.

We suggest the following task list for Phase 2:

1. Set up interim board
2. Raise funds
3. Start looking for a suitable building or offices
4. Engage a lawyer, technical advisor and project co-ordinator
5. Establish the organisation that will manage the Human Rights House
6. Decide whether to buy, build or rent
7. Draft legal and technical documents
8. Produce budgets for the establishment of the House and the first two years of operations
9. Produce cost-benefit analysis
10. Write project description

### **Task 1: Set up interim board and sign preliminary agreements**

We recommend that a representative of each of the interested organisations be appointed to an **interim board**. The interim board will have a key role in planning and co-ordinating the project and should consist of representatives of the *leadership* of each organisation. In our experience, involving leaders of the organisations directly in the interim board greatly speeds up progress. The members of the interim board take part on behalf of their organisations and keep their boards and secretariats informed about the progress. The work of the interim board usually requires secretarial support that should be supplied by one of the partner organisations or, if funding allows, by a project co-ordinator (see below). The interim board will establish the organisation that will manage the Human Rights House in the future. Once this organisation has been established it takes over the functions of the interim board.

The initiation of the project should be based on a written agreement between all interested organisations. As a first step, the each participant may sign a **Letter of Intent**, confirming their interest to take part in the project. A standard Letter of Intent can be found in **Appendix 4**. As a next step, in order to further formalise participation and commitment to the project, we recommend that all participants sign Memorandum of Understanding. The Human Rights House Foundation may be a signatory to the MoU. An example of an MoU is included in **Appendix 6**.

### **Task 2: Raise funds**

Fundraising is important from the beginning of the project until the end, and also after the Human Rights House has been established. Therefore, prospective donors must be approached as early as possible, and dialogue with donors should continue throughout the project.

In the initial phase of the project, the ideas and principles of Human Rights Houses must be presented to potential donors and explained as clearly and precisely as possible. The following points are worth stressing:

- A Human Rights House is a long-term investment aimed at reducing administrative costs of the members and freeing funds for projects and activities.
- The sustainability of the Human Rights House will be secured because the House will reduce costs and thus reduce the organisations' dependence on donors.
- The Human Rights House will add value to the work of the member organisations by creating a stimulating environment, enhancing co-operation and connecting the organisations to an international network.
- The Human Rights House will be an independent institution that cannot be abused or exploited by any single member organisation.

If the planning phase will incur extra costs, such as legal fees and salaries, we recommend that the organisations apply for pre-project funding. An application for pre-project funding should include a report from the feasibility study and focus on how the Human Rights House will strengthen the work for human rights. The following items may be included in the pre-project budget:

- The cost of engaging a project co-ordinator
- Costs of a lawyer and technical advisers
- Costs of external consultancy and project assistance

Overheads, office costs and salaries incurred by the participants should in principle be covered by the organisations themselves and will represent their own contribution to the project.

In some of the Human Rights House projects the involved organisations have chosen to fund the planning phase themselves, while in other cases legal and administrative costs have been rather high and required external funding. In projects where the Human Rights House Foundation is involved, we will discuss with the involved organisations how these issues best can be solved.

When negotiating with donors, it is important to show that the Human Rights House is something which is desired not only by the participating organisations but also by co-operating organisations, public institutions, foreign partner, and others. It can be very useful to obtain **statements of support** from authorities, external organisations and others who are regarded as important players on the political scene.

### **Task 3: Start looking for a suitable building or offices**

The process of identifying a building or offices should start as early as possible. Finding the right place for a Human Rights House will invariably be a time-consuming and complicated process. In our experience, this is one of the most difficult parts of the project, and it is important to get the process going quickly.

A real estate agent can be of invaluable assistance in identifying and selecting a suitable building or offices. The agent will have detailed knowledge of property prices and legal regulations, and will be able to give advice on contractual matters, property laws, mortgage, etc. Moreover, this advice is usually free and the agent will only charge a commission on sales and purchases of real estate. Therefore, we recommend that the interim board establishes contact with at least one reputable real estate agent already during the early stages of the planning phase.

#### **Task 4: Engage a project co-ordinator, lawyer and technical adviser**

Normally, the project will be so time-consuming that it is necessary to employ a **project co-ordinator**. By employing a person who is not member of any of the participating organisations, one avoids problems related to impartiality. Also, this ensures that the manager devotes his/her time to the Human Rights House project and not the projects and activities of his/her own organisation. For practical and economic reasons, one of the participants will normally provide office space for the project manager.

A **lawyer** should review all legal arrangements, such as statutes and contracts. In order to ensure impartiality and to avoid conflicts of interest, it may be an advantage to engage a lawyer that is not working for or affiliated to any of the participating organisations. Furthermore, lawyers working in human rights organisations are not always experts in property law, rental contracts, etc. On the other hand, it may be very costly to engage an external lawyer, and an external lawyer may not be well enough acquainted with the organisations.

Finally, if the plan is to undertake major construction works, a **technical expert**, such as an engineer, architect or entrepreneur, may give advise on property prices, costs of construction, make drawings and technical briefs, and otherwise be useful during the entire planning and construction period.

#### **Task 5: Establish the organisation that will manage the Human Rights House**

The management organisation will be set up by the participating organisations and will be responsible for running the House on a day-to-day basis. Its statutes will state which organisations are members and regulate the co-operation between them. Hence, the management organisation is fundamental to the project. When registered it will be able to take on legal and economic obligations.

We suggest that the management organisation is established through the following five steps:

**i. Agree on the main principles.** The participants must agree on how the Human Rights House should be organised: which organisations will be the initial members, how will the rights of all members be secured, what ownership model is desirable, etc. In other words, the fundamentals of the Human Rights House project should be discussed as extensively as possible in order to avoid conflicts at a later stage. It is *extremely* important that the leadership of each organisation takes an active part in this process, in order to steer away from possible future problems. If necessary, the Human Rights House Foundation may give advice or take part in the negotiations.

**ii. Select legal category.** Should the joint organisation be registered as a foundation or an association or other legal entity? What will be easiest to establish given the laws and regulations of the country? What type of organisation will best suit the interests of the members? Ideally, the new

organisation should be registered as a human rights organisation; however other organisation types may also be chosen. As far as possible, one should opt for a form of organisation that will

- keep taxation to a minimum
- minimise state interference and control
- ease registration procedures
- ensure long-term security of investments and property.

**iii. Draft statutes.** Drafting of statutes must involve all participants. We recommend that the Interim Board produces the first draft for review by the boards of all participating organisations. The statutes should also be reviewed by a lawyer who will give an opinion as to whether they fulfil legal requirements.

In order to facilitate the process, standard statutes in English are attached in **Appendix 5**. Although the standard statute must be modified to suit local conditions, some basic principles must always apply:

- The Human Rights House must be an independent institution not controlled by any single member.
- It must be possible for existing members to withdraw membership and for other organisations to become new members.
- An organisation that withdraws its membership must not have any claims on property owned by the Human Rights House.

**iv. Hold founding meeting.** When the draft statutes are found to be acceptable to all parties, the participants may hold a founding meeting of the new organisation. The legal requirements of such meetings vary from country to country, and must be clarified by the Interim Board.

**v. Register the new organisation.** The final step is to seek formal registration of the new organisation. Once it is registered, the organisation will be able to take on legal obligations, employ staff, and to take over the functions of the Interim Board.

## **Task 6: Decide whether to buy, build or rent**

The decision whether to buy or build a house or to rent offices and the choice of ownership model must be based on an analysis of the needs of the participants, taking into account factors such as long-term costs, risks of investment, property laws, possibilities of funding, etc. In the existing and emerging Human Rights Houses there are many different models:

### **Model 1: Renting**

The Human Rights Houses in **Oslo** (from 2004), **Moscow** and **Warsaw** rent offices in the commercial market. This is the common solution for most small organisations, and here we cannot talk of “houses” in the physical sense of the word. Rather, human rights “house” refers to the community of organisations that rent offices together. Renting may be less risky than buying, both for the participants and donors, because the organisations are not responsible for the property. This will ease procedures if the co-operation fails or for some other reason the Human Rights House is dissolved. However, renting on the commercial market is costly and reduces security against eviction and termination of rental contracts. In many countries, renting makes the Human Rights House more exposed to interference by authorities and political opponents, who may harass the

landlord or in other ways make renting difficult. Furthermore, renting makes the Human Rights House as an *institution* less permanent, i.e. there is a certain risk that if some members choose to leave the House the remaining organisations will choose to dissolve the Human Rights House rather than inviting new organisations to join. This is what happened when the Human Rights House in Ljubljana had to close down in 1996.

**Model 2:  
Inexpensive or  
free lease**

From 1989 until June 2004 the Human Rights House in **Oslo** was located in a medium-sized house owned by a private investor. The investor let human rights organisations use the house free of charge, only on the condition that organisations cover running costs and maintenance and that the house is not used for purposes other than human rights work. Not only did this arrangement save the organisation great amounts of money, but it also provides a neutral and benevolent ownership that prevents any abuse of the property. Similarly, the House that is being set up in Croatia the plan is to enter a long-term lease of a building with the Government of Croatia.

**Model 3:  
Joint ownership**

The Human Rights House of **Sarajevo** is a medium size house owned by the management organisation, which is an association of the organisations that use the House. The funds for this project were raised by the Human Rights House Foundation, which donated the House to the association. If an organisation leaves the association it forfeits all ownership to the building. Furthermore, the association cannot sell the building or use it for other purposes than human rights work.

**Model 4:  
Foundation/  
Trustees**

In the emerging Human Rights House in **Kenya**, a so-called Trust Fund has been established whose sole purpose is to own the House and let it be used by Human Rights organisations. The Trust Fund is separate from the organisation that will manage the Human Rights House and has its own board and statutes. Its members are esteemed Kenyan citizens with no vested interests in the organisations that will move into the House. This arrangement separates ownership and management of the House and ensures that the House becomes a permanent institution whose ownership is independent of the organisations that at any time are members.

**Model 5:  
Ownership by  
one of the  
members**

The Human Rights House in **Bergen** - the Rafto House - has been set up by the Rafto Foundation. First, the Rafto Foundation bought a house and refurbished it. Other human rights organisations were then invited to join. Although the Rafto Foundation is the owner, the other member organisations are equal partners in the management of the House.

**Model 6:  
Networking**

In some cases it is not possible to buy a building or rent offices. This may be due to oppressive laws or a hostile political climate. An example is the emerging Human Rights House in **Belarus**, where for the time being it is too dangerous for the organisations to move into joint offices. While this remains a long-term goal, the participating organisations have in the meantime established forums of co-operation and established an interim organisation with representatives of the participating organisation. Thus, a “Virtual Human Rights House” leads to useful collaboration and networking even though the actual physical infrastructure has not yet been established.

As can be seen, there are many possible solutions, and there are no doubt other possibilities than the ones mentioned above. It should be kept in mind that the most important function of a Human Rights House is to provide a physical environment for human rights defenders. Another purpose is to reduce the costs of administration of each organisation. When deciding on the ownership model,

it should be kept in mind that the House must both provide an environment that will enhance the work of the organisations while at the same time be economic and cost-saving.

## **Task 7: Draft legal and technical documents**

The ownership model chosen will to a large extent dictate which legal and technical documents are needed. **Appendix 6** contains documents that will be useful in emerging Human Rights Houses:

**Memorandum of Understanding.** A Memorandum of Understanding is an agreement between all participants in the project about their commitment to carry out the project and a common understanding of the purpose. The MoU should include articles on at least the following:

- The purpose of the project
- Implementation of the project - the rights and obligations of the participants, and project coordination
- Resolution of disputes
- Termination of membership

**Project outline brief.** If a house is to be built or refurbished the architect or technical adviser should produce a technical analysis and cost analysis on the construction works, based on a needs assessment produced by the participants. The Project outline brief includes a description of office needs, space required, time of construction or refurbishment, cost of construction, etc.

The brief must be based on a detailed **needs assessment** that takes into account the needs of all participants. Each organisation should specify their office needs as clearly and in as much detail as possible, and this will form the basis of a needs assessment for the group of participants as a whole. Some of the main questions that should be asked are:

- How many offices and how much office space does each organisation need?
- How many people will be working in each organisation?
- How many people will be working in the Human Rights House altogether?
- How many clients of the organisation will, on average, be visiting the House on a day-to-day basis?
- Will the clients need a separate entrance and private conference rooms?
- What joint facilities, such as library, conference- and seminar rooms, are necessary?
- Which security systems and other forms of protection must be installed in the House?

**Legal Opinion.** The project lawyer should review the project plans and give an opinion as to whether it is possible to implement the project within the legal framework of the country. The legal opinion should also include advice on registration procedures and matters such as tax, property law, etc.

## **Task 8: Produce budgets**

Two budgets are necessary:

**1. Investment budget.** This is the budget for the establishment of the Human Rights House. It will include costs of construction, consultancy fees, legal fees, costs of project co-ordination, etc, i.e. all extra costs incurred by the project.

**2. Budget for the administration of the House.** By attaching a future administrative budget of the House to a funding application, one will be able to show the viability of the project. Preferably, one should be able to demonstrate that the house will lower the core costs of the member NGOs, hence freeing funds for projects.

Examples of budgets are included in **Appendix 6**.

## **Task 9: Produce cost-benefit analysis**

A cost-benefit analysis shows how the current costs of the organisations compares with projected costs in the Human Rights House. The analysis has several uses:

- The organisations need documentation that the project will reduce and not increase costs
- Donors need documentation that the money invested will reap long-term benefits
- The process of producing a cost-benefit analysis forces all partners to think thoroughly through the financial aspects of the project and how it will affect their economic situation

In order to produce an accurate cost-benefit analysis, one must compile data on the current cost of all partner organisations and produce a detailed budget for the Human Rights House. An example of a cost-benefit analysis can be found in **Appendix 6**.

## **Task 10: Write project description**

The project description is a plan on how to implement the project as well an essential part of the final funding application. The following items should be included in the project description:

- introduce to the concept and idea of a human rights house
- summarise what has been done on the project so far
- list the organisations that are part of the project and their activities
- argue for the non-material benefits of establishing a permanent institution, such as co-operation, co-ordination, strengthening of civil society, strengthening of the national human rights network, international networking, increased security, etc.
- show how the project will have long-term economic benefits
- present a detailed plan for the implementation of the project
- demonstrate the sustainability of the project
- specify which donors have already pledged support and how much they will contribute

**Appendix 6** includes a complete project description from our project in Kenya, with all necessary attachments.

## **Phase 3 - Implementation**

Once all plans have been finalised and funding is available, the plans should be carried out in the best way possible. This will be a very hectic phase that requires commitment from all participants. The plans on how to carry out the actual project must be made during the pre-project, and will involve legal expertise, technical advisers, the interim board and the participating NGOs.

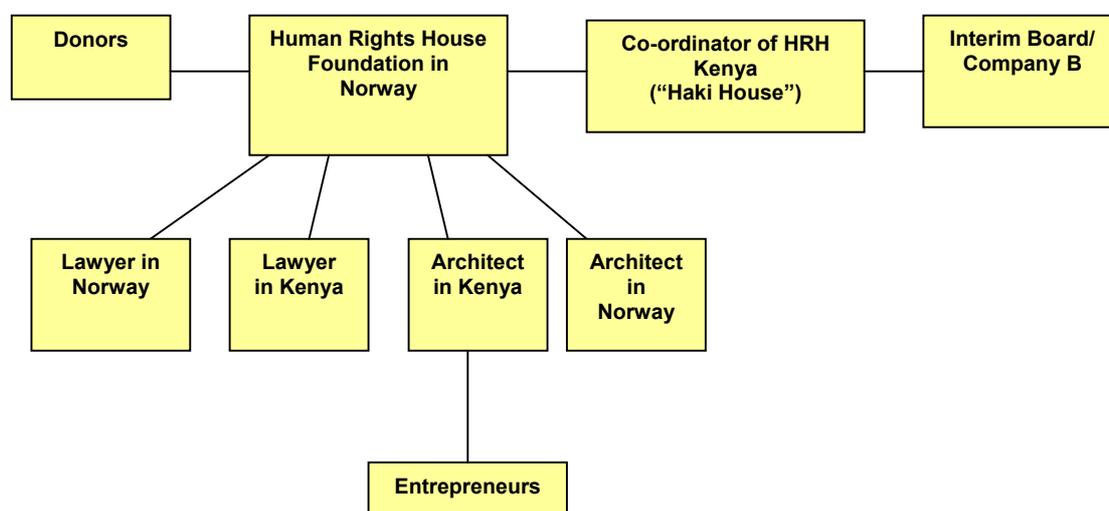
Before the project implementation starts the planning phase must have shown that the project can be brought to a successful conclusion. This means that:

- It must be absolutely certain that funds are available for the implementation of the project and
- There must be provisions in the House statutes and other legal documents that ensures that the House may only be used for human rights purposes. In no way whatsoever should it be possible for any individual or organisation to appropriate funds or real estate acquired in connection with the project or to use the House as a base for commercial activities.
- Each organisation must have made plans for how best to carry out the task of moving from their old offices to the human rights house, how to deal with old lease arrangements, etc.

The project execution phase involves five main steps, some of which should be initiated already during the pre-project phase:

1. Select a plot, house or offices. At this stage the ownership model has been selected and the decision been made on whether to buy or rent. Furthermore, one should already have identified the building that will host the new Human Rights House. Now is the time to make the final arrangements related to purchase or lease of the property.
2. Make the legal and economic arrangements with contractors, entrepreneurs, landlords, etc.
3. Carry out refurbishments, technical installations and repairs.
4. Sign contracts and agreements between the Human Rights House and the member organisations.
5. Move in. The organisations will move their entire secretariats to the Human Rights House.

The Human Rights House Foundation may have a leading role in co-ordinating the implementation of the project. In the projects in Sarajevo the Foundation signed the necessary contracts with donors and handled the project funds. We were responsible for financial reports, auditing and supervision of the entire implementation period. We also wrote contracts with construction agencies, lawyers, advisers and other external partners. The Human Rights House Foundation will have the same role in the emerging Human Rights House in Kenya, as illustrated in the following model:



No matter how the project is implemented in each particular case, it is important to notice that one organisation *must* have the role as *implementing partner*. This organisation will sign contracts with donors, architect, lawyer, etc., and will be responsible for status reports, financial reports, accounts and all other matters related to overseeing progress and making sure that everything is carried out in the best manner possible. In the project in Kenya, the Human Rights House Foundation is implementing partner, and we were also the implementing partner when the Human Rights House of Sarajevo was established.

# Part 3

## Frequently Asked Questions

### **What is a Human Rights House?**

A Human Rights House is a community of human rights organisations. The organisations have their offices in one building and share facilities such as meeting rooms, seminar rooms and library, but remain as independent organisations. The Human Rights House is an institution that is not dependent of any single member organisation but a permanent and dynamic institution that aims to become national centre of human rights.

### **Why should a Human Rights House be established?**

The main reason for establishing a Human Rights House is to promote human rights, both nationally and internationally. We believe a Human Rights House will

- Develop civil society
- Provide security for the member organisations
- Make the organisations more accessible to clients, users and the public
- Reduce costs
- Promote co-operation, both nationally and internationally

### **Must the participating organisations move their entire secretariats to the Human Rights House?**

Yes. This is important. In some of our projects the participants have wanted to establish “branch offices” in the Human Rights House while retaining their old offices. This is not a good solution. The main reason is that if the Human Rights House is to become a national centre of human rights and an important institution, it must host the headquarters of the participating organisations, and not branches. Furthermore, branch offices will incur extra costs, and thus the Human Rights House would not have the desired effects of reducing long-term expenses in the participating organisations.

### **Which organisations will become members of the Human Rights House?**

The Human Rights House will host some 5-10 organisations that wish to work together in partnership under one roof. The organisations should

- be involved in a wide range of activities
- have complementary rather than overlapping activities
- be reputable organisation
- have the will and ability to co-operate with each other.

In addition to the actual members of the Human Rights House, there may be associated members and others who use the House for seminars, meetings and projects but who do not actually have offices there. The selection of participants in new projects will be made by the Human Rights House Foundation, on the basis of a thorough analysis of the political and organisational environment in the country in question.

### **How can the sustainability of the Human Rights House be secured?**

The Human Rights House will be a permanent institution that is not dependent on any single member. It will reduce dependence on donors by reducing long-term costs and providing a stable base of activities for the participating organisations. Thus, the Human Rights House will boost the **financial sustainability** of the participants and make them less vulnerable to outside interference.

By stimulating co-operation and networking, the Human Rights House will enhance the **organisational sustainability** of the organisations. Finally, the Human Rights House will make the organisations more visible and accessible to the public and decision makers. This will help the organisations gain more influence and give them a better possibility to make their voices heard. This will boost the **political sustainability** of the organisations, i.e. their chances to sustain influence and political leverage.

**Will the organisations retain autonomy in the Human Rights House?**

Yes. The organisations will be able to carry out the same activities as they did before moving into the House, and there will be safeguards against interference by the other organisations. However, each participating organisation must contribute to the community and take its share of joint cost and common tasks necessary to run the House. It is also expected that the members take part in some joint activities, such as public statements, seminars, etc.

**How can the security of the House and the member organisations be protected?**

It is always difficult to protect human rights organisations against violent attacks, harassment and threats. However, when organisations move into a joint location they become more visible, and in our experience this visibility makes the organisations stronger and more difficult to attack. Isolated organisations are easier to target than organisations that stay together. Being member of an international network can also be important. Furthermore, when several organisations move together, they will be able to share the cost of security systems and thus get better protection.

**What happens if an organisation changes profile and is no longer eligible for membership?**

The Human Rights House will have statutes that define what activities are acceptable within the House. Businesses or political parties cannot be members. There will be institutional mechanisms that ensure that the organisations that are members are human rights organisations and nothing else, and organisations that do not comply with the conditions will no longer be eligible for membership.

**Will the Human Rights House Foundation fund the establishment of a new Human Rights House?**

No. Funding must be obtained by the participating organisations and their supporters and donors. The Human Rights House Foundation does not have a fund for this purpose, and all former projects have been funded by external donors. However, we have been active in fund-raising in all former established Human Rights Houses, in co-operation with the local partners. In addition, the Human Rights House Foundation may provide advice, consultancy and project co-ordination, if so desired by the participants. We may also be partners and assist in fundraising in other projects carried out by the new Human Rights House and their member organisations.

**What is the Human Rights House Network and how does it work?**

The Human Rights Network is a network of Human Rights Houses with members in Moscow, Warsaw, Sarajevo, Bergen and Oslo. New Houses are planned in Nairobi, Zagreb, Minsk, London, Istanbul, Kampala and Baku. The secretariat of the Network is in Oslo, but all member Houses are free to carry out their own activities. Our focus is on sharing of information and co-operation on specific projects, in particular human rights monitoring and human rights education. Each year one of the member Houses hosts the annual Network Meeting where representative of each House attends. The Network has a web page with contact information and news from each member, and where each House has editing rights.

**Should the Human Rights House be purchased or rented?**

This depends on the needs of the participating organisations, costs of rent and purchase, and other factors that vary from country to country. The choice must be based on a thorough analysis of legal, financial, political factors, as well as organisational issues. In general, buying is the best long-term solution, because it reduces costs and gives the organisations a working environment that they themselves own and control. Renting is cheaper in the short term and may also make it easier to implement the project, but leaves the organisations more vulnerable to fluctuating prices of rent, threats of eviction, and other forms of external influence.

**What are the commitments of the investors once the House has been established?**

The investors' commitment will be limited to the period necessary to establish the Human Rights House. After that, the organisations will be responsible for obtaining funds for their projects, just like they were before the establishment of the House.

**Why should donors support the purchase or rent of real estate and not activities?**

There is no contradiction here. Good offices and efficient infrastructure are essential if organisations are to carry out projects and activities. By funding the purchase or rent of a Human Rights House, it will be easier and less expensive for the organisations to carry out their work. The purchase or rent of real estate will boost activities and projects while making the organisations more independent of donors.

**What happens if the project fails and Human Rights House must be closed down?**

Neither the members of the Human Rights House nor the Human Rights House Foundation will benefit if the project fails. If the House must be closed down and sold, the value will be transferred back to the donors that funded the establishment of the House.

# Part 4

## Appendices

Documents found in this section:

Appendix 1: Feasibility study from Kenya 1998	page 30
Appendix 2: Feasibility study from Uganda 2003	page 45
Appendix 3: Feasibility study from Minsk 2002	page 83
Appendix 4: Letter of Intent	page 114
Appendix 5: Human Rights House Statutes	page 115
Appendix 6: Project description from Kenya 2002 with (among others) the following documents: <ul style="list-style-type: none"><li>- Budgets</li><li>- Cost benefit analysis</li><li>- Memorandum of understanding</li><li>- Legal opinion by lawyer</li><li>- Project outline brief by architect</li><li>- Revision by two external architects</li></ul>	page 116

**Appendix 1**  
**Feasibility study from Kenya 1998**

**Human Rights House - a Model of Co-operation between Kenyan NGOs?**  
**Norwegian Support for Democracy and Human Rights in Kenya**

**Report from Visit to Kenya 14-25 November 1998**  
**for the Human Rights House Foundation**

**Baard-Anders Andreassen and Magnar Naustdalslid**

## **1. Background and Mandate**

The Human Rights House Foundation (HRH) sent two representatives, Baard-Anders Andreassen and Magnar Naustdalslid, to Kenya from 14 to 25 November 1998. The trip was financed by the Norwegian Ministry of Foreign Affairs, and was made for two main reasons: First, HRH wishes to expand its international network. Human rights houses have proved to be a good model of co-operation between human rights organisations, and the long-term strategy of HRH is to work for the establishment of more human rights houses, through active promotion of the idea and by supporting the establishment of new houses.<sup>1</sup> Second, the Norwegian government wants to strengthen Norway's support for human rights and democracy in Kenya, which was why the Norwegian Human Rights Minister, Ms Hilde Frafjord Johnson, visited Kenya in May 1998. A human rights house is one of several possible means of increasing the Norwegian involvement in Kenya.

Our mandate consisted of two main parts. The first was to assess whether it is desirable and possible to establish a human rights house in Nairobi. The need for a human rights house depends on whether human rights organisations see it in their interest to enter the kind of co-operation which a human rights house entails, and whether a human rights house can play a positive role in the Kenyan human rights community. With regard to the possibility of implementing the project, we have sought to identify political, organisational, judicial and economic obstacles, and to weigh these against the possible benefits of the project. A decision to carry out the project must be based on the conclusion that the benefits are greater than the costs.

The second part of our mandate was to make recommendations on other forms of human rights co-operation in which Norwegian authorities and organisations could get involved. Such co-operation could involve both the Kenyan the civil society and the authorities. This part of our mandate should be seen in relation to the idea of establishing a human rights house, and we have sought to assess how such a house could complement other possible forms of co-operation. Our objective has been to make a general evaluation of the Norwegian involvement for human rights and democracy in Kenya, and to make recommendations concerning future human rights co-operation between Norway and Kenya.

## **2. Methodology**

It soon became clear that there was a considerable interest in the idea of a human rights house. Representatives of several of the organisations thought the idea was a good one, both due to the substantive role such a house could play and because of economic considerations. It was also thought that it would be possible to put the idea into practice and actually establish a Kenyan human rights house. Because of this positive response, and because of the limited time at our disposal, we chose to devote more time to this part of our mandate than on assessing other possible forms of co-operation between Norway and Kenya. Still, a human rights house should be part of a more concerted Norwegian effort to support human rights and democracy in Kenya, a topic which we discuss in the final part of this report.

This report is based mainly on information gathered in meetings with representatives of human rights organisations and the donor community. When it became clear that several of the organisations were interested in the idea of a human rights house, we arranged a joint meeting

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<sup>1</sup> A human rights house is a working community of human rights NGOs, where the member organisations share premises and a joint secretariat but operate independently. Human rights houses now exist in Oslo, Bergen, Moscow, Warsaw and Sarajevo. The houses are part of the Human Rights House Network.

where the idea was discussed. In addition, the Norwegian Embassy arranged a meeting with representatives of so-called 'like-minded' donor countries, where we discussed both the idea of a human rights house and other types of human rights co-operation. A list of meetings and organisations is given as an appendix to the report.

### **3. Civil Society, Democratisation and Human Rights in Kenya**

The successful establishment of a human rights house in Kenya depends upon a number of factors, including the general political situation. We therefore wanted to get an up-to-date impression of developments in democracy and human rights, in order to assess how the political situation would affect the establishment and running of a human rights house. Three questions were particularly relevant:

- Do current political developments represent a continuation of the process of democratisation that started in the early 1990s?
- How is the situation within the civil society, and in particular, how much freedom do the organisations have to operate without government interference?
- What challenges are the civic organisations facing, in view of the political situation?

This section briefly discusses each of these questions.

#### ***Recent Political Developments***

In the elections of 29-30 December 1997 the incumbent party, KANU, won a slim majority in Parliament (113 seats against the opposition's 109, including proportionally distributed 'president-nominated' candidates). President Moi was re-elected by a clear margin (41% against the most popular opposition candidate, Mwai Kibaki's 31%). Compared to the 1992 elections, there were far more, and probably more serious, problems with the implementation of the elections in 1997. The most serious problems were of administrative nature, but again the country was shaken by a series of ethnic clashes, especially in the coastal areas (a similar, but more serious situation arose in connection with the 1992 elections). One can never tell with certainty how these irregularities affected the final results, but an analysis of some of the constituencies with the greatest problems, indicates that it is likely that the opposition would have won the elections if they had been carried out in the correct manner.

Seen in a longer perspective, we still conclude that there has been a positive democratic development in Kenya in the 1990s, even though the process has been slow, with periodic setbacks, and marked by a strong element of hostility between the government and the opposition. This has been a process in which the authorities to a large extent have felt itself pressurised by an articulate domestic opposition in alliance with the donors. The authorities have reluctantly given concessions (hence the term *hobbled democracy*).

The 1997 elections, and in particular the compromise between the government and the opposition shortly before the elections (the so-called IPPG reform package on constitutional and administrative reform), seem to have brought a new dynamic into Kenyan politics. The ruling party and the opposition have become less antagonistic, and negotiations in Parliament on budgets and legal reforms are constructive and characterised by real dialogue, unlike what used to be the case. The government's co-operation with the National Development Party (NDP) has been much criticised, but signifies a more constructive attitude towards multiparty politics on the part of KANU and the government.

Another important indication of a new political trend, is the Aliwiki Commission, which for several months has conducted hearings on the ethnic clashes that occurred prior the 1992 and 1997 elections. The hearings have been frank and open, and the commission works without interference. In November this year Parliament debated a bill concerning the composition of a constitutional review commission, which will be responsible for carrying out a process of rewriting the constitution within 18 months. Also in November, the so-called Kwach Report, which reveals very serious problems in the Judiciary (corruption, inefficiency, drunkenness, etc.) was submitted to Parliament.

At the same time an intense power struggle is taking place within the ruling party over the so-called 'succession issue', as leading party figures are positioning themselves to take over when Moi steps down after his final term in office. KANU must prepare for a time without Moi, a fact which may bring about a more reconciliatory attitude vis-à-vis other parties, with a will to political compromise and democratisation through development of political institutions and civic education. But the power struggle may also lead to conflicts and factionalism within KANU, and hence a more unpredictable political situation.

Even though we do not know how genuine the constitutional reform process will be, this question will no doubt dominate much of the political debate in Kenya over the next two years. Depending on how it is organised, this may be an extensive learning process for large parts of the society. The organisations of civil society have a fundamental role to play, and several of the organisations we met prepare to take an active part in a process with a high degree of popular participation. This must also be seen in connection with the priority the donor community places on the reform process.

### ***The Situation within Civil Society***

Organisations that promote democracy and human rights constitute a new sector of civil society, and have with a few exceptions emerged after the liberalisation in the early 1990s. The so-called DG-sector (the *Democracy and Governance* sector) is in other words 5-8 years old, with the limitations such a time frame places on institutional development and professional consolidation. This part of civil society is therefore going through a relatively intensive period of development.

Financially, the DG-sector is very dependent on foreign aid, and there is a high degree of competition for funds. This is one reason that the sector is characterised by a low degree of co-operation, even though some attempts at co-operation have been made. At the same time, the leaders in DG-sector constitute a relatively homogenous group, consisting of a 'fraternity' of well educated intellectuals with a relatively similar liberal-democratic ideological basis and social background. The DG-sector is largely Nairobi based, but some organisations have access to national networks, especially those that co-operate with the church communities.

Before the liberalisation started in 1990/91 there were three main organisations that worked for human rights and democratisation; the Law Society of Kenya (LSK), Kituo Cha Sheria (legal aid centre) and the National Council of Churches in Kenya (NCCCK). In addition there were the legal aid organisations Federation of Women Lawyers (FIDA) and International Commission of Jurists (ICJ). These organisations are still active members of the DG-sector, but in addition there are a host of new organisations, the most important ones being the Centre for Governance and Development (CGD), Centre for Law and Research International (CLARION), Civic Resource and Information Centre (CRIC), Citizens' Coalition for Constitutional Change (4Cs), Institute for Education in Democracy (IED), Kenya Human Rights Commission (KHRC) and Release Political Prisoners Committee (RPP). Many of these organisations were founded as part of the democratisation process

in order to influence relevant issues of the time, but they typically also seek to sustain a long-term perspective. Key activities have been election monitoring, civic education in connection with elections, and to an increasing extent constitutional reform. Another common characteristic, is that the organisations are project based, with relatively short time frames, and hence are constantly looking for funding from the donor community. Few of the organisations are membership based, and while the key objectives are mainly civic education and advocacy, some conduct relatively extensive research programmes and publish reports and books. A common activity is education through workshops (training, and training of trainers, so-called 'tot').

Not many independent studies have been made on the activities, efficiency and achievements in the DG-sector - matters which the donors are becoming increasingly more concerned with. While the organisations are becoming aware of this stronger donor interest in cost-efficiency, at the same time many organisations are frustrated by a lack of dialogue with the donors, and they experience different conditionalities, priorities and criteria amongst the donors with regard to the distribution of funds. There are clear indications that the disbursement of funds has been accompanied by serious shortcomings in administrative routines (for example lack of dialogue and transparency), and by insufficient communication of demands for achievements and efficiency. A source among the donors pointed out that the donor community in the early 1990s - when all attention was directed at pressurising the regime to make democratic concessions - hardly placed demands on the organisations at all ("money was very loose"). Now, following more stringent requirements on administrative routines within the donor agencies themselves, much stricter requirements for documentation and reporting are also placed on the organisations. While this in itself may be justifiable, the organisations feel it as yet another 'donor driven' change of their working conditions. A lack of clear communication inhibits civil society's adjustment to new standards. Continual changes in what the donor community finds 'interesting' to support ('politically correct') makes long-term planning difficult, according to sources in the organisations.

One important development affecting the organisations, is that the authorities now seem to display a more reconciliatory and positive attitude towards the DG-sector. Throughout the 1990s the authorities have accused the human rights organisations of being political organisations fighting Moi's regime. The authorities' discontent became evident in the mid-1990s when CLARION was de-registered after publishing a report on corruption. CLARION has later been reregistered, and our impression is that the authorities now pursue a 'softer' line and do not limit the freedom of assembly to the same extent as before. Such an assessment must take into account the fact that the DG-sector is young, and that its relations with the authorities have been predominantly negative. It will take time to establish a more constructive relationship. Still, we got the definite impression that the relationship is changing, and that the "authorities do not attack the NGO-sector" as much as they used to. As an example, the Institute for Education in Democracy (IED) will possibly co-operate with the authorities on public education in connection with the constitutional reform.

### ***Challenges Facing Civil Society***

The political developments mentioned above lead to the conclusion that the DG-sector is facing fundamental challenges in the years to come. Key words are demands from the donors for more co-operation and co-ordination, the need to develop complementary and focused activities, and stricter requirements of reporting and goal attainment.

The issue of co-operation and co-ordination has been raised by donors earlier, but probably (in common development aid fashion) more as a directive than as a strategic element in the co-operation between donors and organisations (through institutional development). We did not get a

clear answer as to why these initiatives had failed. This is an important question with regard to the possible establishment of a human rights house, and it should be further addressed if the project is to be pursued.

The question of focus and complementarity is a complex one, but is something most are concerned with (when the question is raised!). Our impression is that the funding situation has important implications: The most rational short-term strategy for the organisations is to develop projects that can be funded, and when the donors seem to prefer limited issues (before the elections it was election monitoring and civic education; now it is the constitutional reform process), the structure of funding in itself is a barrier against focus and complementarity because the organisations do what is possible to fund.

There is an obvious need for a better evaluation of results and achievements in the DG-sector if it is to be developed and strengthened in the years to come. This will require a dialogue between the donors and the organisations, where criteria for the evaluation of results must be more clearly defined than today. It is difficult to measure efficiency within organisations; however, this is something that both donors and organisations are concerned about, which at the same time creates much uncertainty among the organisations.

Another 'parameter' that affects the organisations, is the administrative capacity of the donor agencies, which often have inadequate time and resources. The DG-sector draws rather limited resources, but the processing of applications for funding is very time consuming. For example, it takes as much time to process an application for 50.000 USD for a human rights project, as a health project of USD 5 million. It is then felt as the wrong use of resources to give the DG-sector the same amount of attention. This leads to mutual frustration, and is at the same time inadequately communicated. One question that can be raised in this connection, is how detailed scrutiny is necessary, and how much 'trying and failing' that should be tolerated from the organisations. Some of our interviewees thought the level of tolerance is too low, in view of the limited time the DG-sector has had to develop.

Finally, it should be mentioned that Kenya at the moment is experiencing a serious economic crisis. This does not make it easier to find domestic sources of funding. Some of the more professional organisations are contemplating the possibility of getting funds through consultancy, but this would violate the whole idea behind the organisations and transform them into consultancy firms.

It is a problem that the 'culture of dependency' that is the product of 30 years of development aid to Kenya (and where the donors must take much of the responsibility) has not complemented a culture of voluntary work. Kenya had a rich tradition in this area in the two first decades after independence with the so-called harambee tradition, but over the last two decades this tradition has to a large extent been corrupted and destroyed by politicians who have used harambee for their own benefits (harambee is Kiswahili and means something like "let's carry the burden together"). In the long term, this tradition must be restored and supported, so that external support becomes complementary and not as dominating as it is today. Securing a stable environment through a permanent infrastructure (for example a human rights house) may, as we discuss below, contribute to such a development.

## **4. Assessment of the Needs and Possibility of Establishing a Human Rights House in Nairobi**

The idea of a human rights house was positively received among most of the NGOs, both in view of the substantive functions such a house might have, and due to economic considerations. The early positive response prompted us to make a more thorough assessment of whether it is desirable and possible put the project into practice. The following questions were central in the assessment:

- How may the organisations benefit from a human rights house?
- What functions can a human rights house serve in the Kenyan human rights community?
- What problems may arise in connection with a possible implementation of the project?
- Judicial and economic matters
- Which organisations are possible partners?
- What is required of Kenyan organisations, Norwegian authorities and the Human Rights House Foundation if the project is to become a reality?

### ***Advantages of a Human Rights House***

In our opinion, a human rights house may increase efficiency among the involved organisations. Both the donors and the organisations regard it as a problem that the activities of the organisation are determined more by where it is possible to obtain funding than by actual human rights problems. There is a clear need for better communication between the organisations, and for a better co-ordination of projects and specialisation of activities. By bringing organisations together in a working community, the involved organisations will more easily avoid overlapping activities, and hopefully become more efficient. A working community will facilitate co-operation on joint projects and enhance both formal and informal communication. Hence a human rights house may contribute to institutional development as well as more focused activities within the DG-sector.

A human rights house may contain joint facilities, such as seminar- and conference rooms, where the organisations can conduct meetings, seminars or other activities. Today the organisations lack premises that are suitable for such purposes. A human rights house may also contain a documentation centre for human rights, which could be accessible both to the organisations themselves and to others.

One of the most important advantages of a human rights house, is that it can serve to reduce costs of rent and infrastructure. As mentioned earlier, Kenyan human rights organisations work with projects that have relatively short time frames. Because donors generally require documented and measurable results, it is difficult to obtain core funding to cover running costs. Furthermore, the organisations we met feared that a larger part of the donor money in the future will be spent on administrative reform within the public sector, and expected a reduced flow of funds to the DG-sector. However, representatives of the donors denied this, and expected a continued high level of support for the human rights organisations. In any case it seems like the DG-sector is entering a transition period in which the organisations will have to adjust to different conditions. Most interviewees in the organisations placed great emphasis on the need to secure stable sources of core funding in order to secure long-term operations and free funds for projects. The cost of rent has already forced many of the organisations to move out of the city centre, and many are moving from location to location for economic reasons.

It seems clear that economic benefit is crucial if Kenyan organisations are going to be willing to take part in the project. A human rights house will not be attractive solely due to idealistic visions

of co-operation, especially if one takes into account the extensive competition for funds that exists among the organisations. The cost element becomes even more important in view of the more stringent donor conditionalities that are now becoming evident. Even though several of our interviewees placed greater emphasis on the functions a human rights house may serve, there are (as discussed below) so many uncertainties and risks attached to the project, that it must be economically attractive to take part.

### ***The Role of a Human Rights House***

There is currently no natural contact- or reference point in the Kenyan human rights community where 'outsiders' can raise ideas and present project proposals, even though the Kenya Human Rights Commission to some extent fulfils this function. The Netherlands' representative gave the following concrete example: The Netherlands has for some time wished to finance projects to prevent abuses against children in Kenyan prisons. However, no organisations in Kenya are currently working with this problem. Therefore, the available funds are left untouched, because there is no place to direct suggestions and because it is too costly and creates conflicts to 'shop' around looking for possible partners among the organisations. Similarly, if there is an external initiative to invite for example a foreign human rights expert to train representatives of human rights organisations, there is no natural contact point where the initiative can be presented. Consequently, conflicts arise in the human rights community with regard to choice of venue, choice of participants, etc. A human rights house, if successful, could serve as a focal point for both Kenyan and foreigners involved with human rights.

A human rights house may also serve as a link of communication between the donors and the organisations. The financing situation within the DG-sector is today very complex. Due to a lack of co-operation among the organisations, and also among the donors, each organisation often sends applications for funding to each and every possible donor. Consequently, the donor agencies in the various embassies get swamped with applications. The organisations and the donors put a lot of effort into preparing and handling applications, and the work load is too large in relation to the actual amount of funding. One source among the donors pointed out that there is a crying need for better co-ordination of project support, both among the donors and among the organisations, and thought a human rights house might be an important means to achieve this on the part of the organisations.

### ***Problems and Difficulties***

One problem with the whole idea of a human rights house, is that it comes from the outside and not from the Kenyan organisations themselves. In meetings with the organisations we stressed that a human rights house must be tailored to suit local conditions and developed in such a way that the ownership of the idea becomes Kenyan, and not Norwegian. The key question is how to develop a model that is possible to put into practice, and that is acceptable to the involved organisations, HRH and possible sponsors. A number of issues must be resolved before one can arrive at such a 'least common denominator'.

Representatives of both the donors and many of the organisations claimed that there is no culture of co-operation between the organisations in Kenya. Many thought that this could be the greatest threat to the implementation of the project. The general picture is that both the organisations and the donors compete for the best projects. Organisations that develop good projects want to keep those for themselves, and therefore regard co-operation as a threat, both against their organisational

development and against access to funding, because co-operating organisations may 'steal' projects and ideas.

This competition is a major reason why former attempts at co-operation have mostly failed. It is worrying that projects that have been less extensive than a human rights house, and where funding has been available, have not been possible to implement. One example is the attempt to establish a joint documentation centre for human rights. This project, which involved, among others, KHRC, ICJ, FIDA and CLARION, came to a halt in 1995 due to problems of co-operation. "We just could not get it going", as one of our sources put it. The project collapsed even though the organisations were offered free premises at the Faculty of Law at the University of Nairobi and there was a clear will among the donors to finance the documentation centre.

Another possible reason why former attempts at co-operation have failed, is that co-ordination and efficiency are not necessarily the objectives of even the largest and most serious organisations. As long as money is available to finance overlapping activities and inefficiency, it can be more profitable to 'go it alone'. However, as discussed above, this picture is about to change, a fact which will probably lead to more co-operation in the future. This became evident in connection with the 1997 general elections, when the donors forced the organisations to develop a joint scheme of election monitoring and reporting as a condition for receiving support. Representatives of the donors pointed out that the organisations received a larger total amount of support as a result of that co-operation, than if they had worked separately.

One example that it is possible to overcome mutual suspicion and rivalries, is the newly opened Kangemi Women Empowerment Centre in Nairobi. The centre has been established by five Kenyan women's organisations; FIDA, the Family Planning Association of Kenya, Maendeleo ya Wanawake, Kenya Medical Women's Association and Kenya Home Economics. Those are organisations with very different objectives and membership bases, which have managed to develop a model of co-operation by which each organisation sends representatives to the Centre. The Centre works to enhance women's rights in a slum area in the outskirts of Nairobi. It is the result of a three-year planning period and an intensive 6-month period of needs assessment. The director of the Centre stressed that the needs assessment was absolutely essential. Another factor is that the Centre has had access to foreign funding from the very start.

Ethnicity is an important cleavage in Kenyan politics and civil society. This is a factor which cannot be ignored in the establishment of a human rights house. No matter what organisations one chooses to co-operate with, it is likely that conflicts will arise due to ethnic differences. The central Nairobi-based human rights organisations are mainly Kikuyu, partly for geographic reasons (Nairobi is located next to the Kikuyu-dominated Central Province) and partly because they were established in opposition to Moi's Kalenjin-dominated regime. The proximity of the Kikuyu-dominated organisations to the donor community (practically within walking distance of embassies and donor agencies) give them better access to resources and funding than organisations of other ethnic groups. There is a risk that a human rights house may serve to cement or strengthen this situation.

Finally, it should be noted that the approval of the authorities is essential if the project is to be successful. If the authorities do not accept the idea of a human rights house, the project cannot be implemented. Unfortunately, we did not manage to conduct meetings with representatives of the authorities. In particular, we wished to meet the Attorney General, both to present this concrete project, and to gather general views on Norwegian human rights policies. In that connection, we delivered a letter to the office of the Attorney General with a request for a meeting, but

unfortunately he was unable to meet us during our stay. If the project is to be pursued, it is important to sustain a positive dialogue with the authorities.

### ***Judicial and Economic Issues***

In order to rent or buy real estate in Kenya, one needs to be registered as a legal person, for example as an organisation or as a company. For a human rights house, the most plausible form of co-operation is to register a 'house organisation' in which the co-operating organisations appoint representatives to a common board. This organisation will be responsible for running the house on behalf of the member organisations.

Such a human rights house organisation must be registered under the Non-Governmental Organisations Co-ordination Act (1991). This takes more time and is more difficult than to register a company or a trust, which some of our contacts mentioned as possible models. The problem is that if the human rights house organisation in the legal sense is to be regarded as an NGO, the authorities can demand that it be registered under the NGO Co-ordination Act, even though it initially was registered as, for example, a non-profit company. The advice we got from a lawyer, was to start by establishing an organisation and not to enter any contracts on buying or renting premises before this organisation has been registered by the NGO Bureau, which normally takes 6-8 months. However, there is no guarantee that the organisation will be granted registration; it can be denied registration, or the registration period can take a very long time. Especially because a human rights house may be regarded as politically sensitive, this is a real possibility.

When a human rights house has been established and HRH has thus established a base in Kenya, it is possible to rent or buy premises and make them available for the member organisations. The price of real estate in central Nairobi is around 5000-6500 Kenyan shillings per square foot, while leasing premises costs around 1% of that amount per month, including service charges. This means that 1.000 square metres (11.000 square feet) will cost 50-70 million shillings (around 1 million USD) to buy and 500-700 thousand shillings (around 10.000 USD) per month to rent. Those are approximate figures, but still give an indication of the total costs of the project. Because the major Kenyan human rights organisations already have rather large premises, a human rights house must probably be at least 1.000 square meters, if 5-6 or more organisations are to take part.

Apart from buying or leasing premises, it is also possible to buy a plot and *build* a house, and plan it in accordance with the wishes of the member organisations. However, the lawyer we spoke with did not recommend this, because it would take much longer time, and because there are many more legal problems involved (getting licenses, permission from the City Council, etc.) and hence a much greater risk of failure. For the same reasons it is problematic to buy a house outside of the city centre. There are not many houses available that are large enough, and possible expansions will encounter the same legal problems as building a new house.

### ***Possible Partners***

We concentrated on meeting secular, Nairobi-based organisations that work with civil and political rights. Of these, Kenya Human Rights Commission is regarded as the most important. The organisation concentrates on human rights monitoring and reporting, and serves as an umbrella organisation for a number of non-registered organisations, which operate as projects under the KHRC. Examples of such 'project organisations' are 4Cs and RPP. All the organisations we met are reputable and central actors in the Kenyan human rights community.

In order to bring organisations together and to identify possible partners, we arranged a joint meeting where representatives of 12 organisations took part (see appendix). The selection of organisations was limited, and we made it clear that this did not represent a final or fixed selection of partners. The organisations that took part in the meeting appointed a steering committee of 4 organisations - KHRC, ICJ, FIDA and RPP - that were to follow up on the project. Hopefully this will initiate a process whereby the Kenyan organisations develop a concept of a human rights house that is acceptable to them.

It is at this stage too early to name particular organisations that should take part, or to limit the project to a certain number of organisations. The limited time available for the preliminary study prevented us from doing more than introducing the idea to as many actors as possible in the Kenyan human rights community and initiating a process whereby the organisations themselves continue developing the idea.

### ***What is Required of Kenyan Organisations, Norwegian Authorities and HRH if the Project is to Become a Reality?***

A human rights house should contain registered, serious organisations with documented results. It is important that the organisations that take part in the project, do this due to a genuine desire for co-operation. They must actively take part in the development of a concept for how the house should be organised. The organisations should agree on a neutral contact person who should be in charge of the practical implementation of the project on behalf of the involved organisations. This contact person should also be responsible for co-ordination and communication between the Kenyan organisations and the Human Rights House Foundation.

If HRH chooses to go ahead with the plans to establish a human rights house in Nairobi, this entails that the organisations takes on both a professional and financial responsibility. HRH must have adequate capacity at its headquarters, and should also train and pay a local contact person in Kenya. No matter what happens after this preliminary study, HRH has initiated a process that has created expectations of a further involvement, both from HRH itself and from Norwegian authorities. HRH has a responsibility to ensure that all the involved parties are informed about the plans ahead and how HRH envisages its future involvement in Kenya.

On the part of the Norwegian authorities, it is necessary with a manifest commitment to ensure the financing of the project. In addition, it is necessary with a stronger involvement on the part of the Norwegian Embassy with regard to human rights and democracy in Kenya. We discuss this in more detail in the next section.

It is fundamental that the project is developed at the NGO-level. The concept that is developed must be the result of a dialogue and planning period of at least half a year, probably more. For HRH this means that there is a possibility to end the project if it turns out that it cannot be implemented. Such a possibility of exit is necessary, which we made clear to possible partners. As mentioned, it is not at this stage possible to determine which organisations should take part in the project, or what human rights house model is the most desirable. However, it is very positive that the most important organisations are interested to take part, and that they have established a steering committee discuss for the planning of a Kenyan human rights house.

## **5. Assessment of Other Forms of Human Rights Co-operation**

As already mentioned, due to the generally positive reception that the idea of a human rights house received, we concentrated on that part of the mandate. The limited time at our disposal inhibited a systematic evaluation of other activities in Kenya. Therefore, we chose instead to identify more general questions that must be taken into account in the case of a more comprehensive co-operation between the Norwegian government or organisations and Kenyan partners.

### ***Background***

When the diplomatic ties between Kenya and Norway were re-established in 1994, expectations arose that support for human rights and democratisation would constitute an important component of the Norwegian policy towards Kenya. This objective was expressed on the Norwegian side, and it was probably also expected by the Kenyan authorities. In retrospect, however, there have been few systematic or significant Norwegian initiatives to support democracy and human rights in Kenya. In the DG-sector, there is the impression that Norway has not been - and is not - present on the 'arena'.

Such an impression - which clearly exists - must be seen in view of the very limited Norwegian representation in Kenya. A Norwegian ambassador was only appointed in the second half of 1997, and in the year that has passed the embassy has moved into new offices, but still only has a small staff. This has probably limited the possibilities this far. At the same time, the embassy wishes to find ways to provide more support to the DG-sector. How can this be achieved, and what areas of co-operation can be found?

### ***The Need for a Long-Term Strategy***

Against the background of how the support for democracy and human rights is currently organised (as described above), a long-term strategy for donor support is needed in the years to come. Such a strategy must be based on a thorough assessment of the needs of the DG-sector, and identify clear objectives. If it is decided to establish a human rights support with Norwegian support, this could be an important element in a strategy in the sense that it could provide a significant contribution to the infrastructure of key DG institutions. Assuming that support from Norwegian voluntary organisations will be publicly financed, Norwegian organisations that wish to get involved in human rights and democratisation in Kenya should co-ordinate their activities with the Norwegian authorities. In other words, there is a need for close consultations on the Norwegian side.

Furthermore, a credible strategy should be designed as a 'democracy contract' where mutual obligations of the participants are defined. Such a strategy must identify the Kenyan needs, the Norwegian criteria for support, the time frame for support and co-operation, and establish channels of continuous dialogue that makes it possible to revise the strategy if conditions change.

### ***Some Elements in the Development of a Strategy***

Some key words with regard to how a strategy should be developed:

- It should be developed through dialogue with Kenyan partners, and be founded on principles of participation, consultation and mutual respect. Therefore, relevant partners must be identified. An interesting possibility would be to identify a limited number of partners for some years, especially in order to secure stability and predictability in the institutional development. This could contribute to an institutional learning process both on the Kenyan and the Norwegian side.

- Support should be given both to the private DG-sector and to the public sector. This is of principal importance, and probably more easily done now than ever before. The authorities will always have a primary responsibility to honour international human rights commitments. At the same time, support to both the private and the public sector will add legitimacy to co-operation with private organisations.

- An increased Norwegian involvement must develop in close contact with other donors in order to avoid overlap, ensure complementarity and to the largest possible extent facilitate a clear communication of criteria and requirements. A newly initiated co-operation with Canada is positive, but must be complemented by close contacts with other donors.

- The amount of support should be set in relation to Norwegian priorities and available administrative resources. Therefore, one should consider whether the capacity at the Norwegian embassy is adequate, in view of the political signals from the Norwegian side that activities in Kenya should increase. The amount of Norwegian support should be communicated both to the Kenyan authorities and civil society. The support must become more transparent, just like the donors demand that the recipients (public and private) should portray openness and trust.

As mentioned, we feel that there is a need for a thorough needs assessment of the Norwegian assistance to Kenya in the years to come. We therefore do not wish to recommend specific areas of support. An evaluation should be made in which both Kenyan authorities and organisations are given a possibility to define their needs, make priorities and express their opinions. Far too often, development aid in this field has been characterised by unfortunate forms of communication between donors and organisations. One point that was raised was that the donors hence take on a role as political actors. In our interviews, we also repeatedly noted a mutual disapproval between donors and organisations with regard to weak contacts, unclear motives, inadequate communication of expectations and criteria, etc. The organisations fear cut-backs due to 'donor fatigue'. The donors, on their part, complain of a lack of transparency, unclear agendas, lack of co-operation and uncertainty of whether results match the expectations.

A more energetic Norwegian effort for democracy and human rights in Kenya should be designed in such a way that it draws on existing experiences and avoids some of the unfortunate consequences of donor support to the DG-sector.

## **6. Conclusions and Recommendations**

Our mandate has been to conduct a feasibility study in order to assess whether a human rights house is a possible and desirable project in Kenya. In our opinion, there are so many positive sides to the project, that it deserves to be pursued further, both by HRH and the Norwegian authorities. We base this conclusion especially on the positive response we received in the NGO community, where it was expressed a clear wish for a strengthened international co-operation at the NGO level. Even the most sceptical of our interviewees thought the idea of a human rights house is a good one that - if it becomes a reality - would represent an important contribution towards strengthening the Kenyan human rights community.

However, there are as yet so many uncertainties, that we at this stage cannot conclude that it will be possible to establish a human rights house. Possible problems that may arise, are a lack of co-operation between the organisations and competition for funds. The choice of which organisations should take part represents another likely source of conflict. Furthermore, there is the possibility that a Kenyan human rights house will be denied registration, or that the registration period will take a very long time, and that the Kenyan authorities thus prevents the implementation of the project. In view of these factors, there is a risk that the project will not succeed. Therefore, it will be

necessary to plan the project in much more detail, in co-operation with Kenyan organisations, before one decides upon larger investments and possibly to buy or rent premises.

The Human Rights House Foundation must as soon as possible decide whether to go ahead with the project or not, and possible partners among the NGOs and donors should be informed of the decision, preferable by the end of 1998. HRH's contacts must be informed of the main conclusions of this report and whether the organisation wishes a further involvement in Kenya.

If HRH chooses to work for the establishment of a human rights house in Nairobi, it should as soon as possible initiate a dialogue with the Norwegian ministry of foreign affairs about the planning of the project. Financial support from the Ministry is needed if the project is going to be implemented. It is too early to determine the cost of establishing a human rights house, but the total cost is likely to be 10 million Norwegian kroner (1,5 mill USD) or more, with a time-frame of at least a year, probably more. Norwegian authorities must make clear whether they are willing to take on the responsibility to fund the planning of the project and contribute to the eventual establishment of a house.

In a wider perspective, a human rights house should complement a strengthened and more concerted Norwegian effort for democracy and human rights in Kenya. In the first half of 1999 an appraisal of the Norwegian support for the DG-sector should be conducted, where both Norwegian and Kenyan experts take part. The appraisal should aim at making a needs assessment and develop a strategy for supporting both the private and public sectors. It is crucial that the Embassy has sufficient capacity to take on this responsibility, and in this connection it should be considered whether expanding the staff is called for.

Finally we would like to point out that our visit to Kenya in itself creates expectations of an increased Norwegian involvement for human rights and democracy in Kenya. Our impression after talks with representatives of both the donor community and the organisations, is that there is a gap between words and deeds; that the expectations which have been created do not match the actual results. A more energetic Norwegian effort over the next year, in which a Norwegian strategy is worked out in co-operation with all involved parties, will hopefully serve to change that imbalance.

## **Appendix: Meetings and Interviews**

This report is based on interviews with Kenyan organisations, representatives of donor countries, and independent experts. This section contains a list of persons, organisations and institutions (in alphabetical order).

### ***Kenyan Organisations***

Cactus Villa Health Clinic: Dr. Ling Merete Kituyi (Director)

Centre for Law and Research International (CLARION): Prof. Kivutha Kibwana (Chairperson)

Citizens' Commission for Constitutional Change (4Cs): Erastus Wamugo (Director)

Education Centre for Women in Democracy (ECWD): Hon. Tabitha Seii (Director, Member of Parliament)

Federation of Women Lawyers (F.I.D.A.): Jean Njeri Kamau (Director)

Institute for Education in Democracy (IED): Grace Githu (Executive Director)

Kangemi Women Empowerment Centre: Jane Kiragu (Executive Director)

Kenya Human Rights Commission (KHRC): Willy Mutunga Executive Director)

Kituo Cha Sheria (legal aid centre): Rose Otieno (Legal Officer), Alice Kwendo (Financial Officer)  
Law Society of Kenya: George Kegoro (Secretary)  
Release Political Prisoners (RPP): Muthoni Kamau (Chairperson), Ndungi Githuku (Vice Chair),  
Gitau Wanguthi (Programmes Officer)

### ***Representatives of Donor Countries***

Norwegian Embassy: Per Haugestad (Ambassador), Ane-Karine Arvesen (Counsellor)  
SIDA / Swedish Embassy: Lena Schildt (First Secretary)  
DANIDA / Danish Embassy: Marie-Louise Wandel (First Secretary), Karin Steffensen (Adviser on  
human rights and democracy)  
Netherlands Embassy: Jelte E. van Wieren  
Canadian High Commission / CIDA: Bryen E. Burton (Counsellor), Mavis Nathoo, (Human Rights,  
Democratic Development and Good Governance Coordinator)

### ***Joint Meeting of NGOs***

Representatives of 12 organisations attended a joint meeting where the idea of a human rights house  
was discussed. The following took part:

Centre for Law and Research International: Kivutha Kibwana (Chairperson)  
Centre for Legal Education and Aid Networks: Donald Deya (Programme / Legal Officer)  
Citizens Coalition for Constitutional Change: Betty Ndomo (Programme Officer)  
Collaborative Centre for Gender and Development: Caroline Lintari (Assistant Programme Officer)  
Federation of Women Lawyers (FIDA): Jean Njeri Kamau (Executive Director)  
Institute for Education in Democracy (Francis Ang'ila): (Programme Assistant)  
International Commission of Jurists (ICJ): Millie Odhianbo (Programme Officer)  
Kangemi Women Empowerment Centre: R. Biruri  
Kenya Human Rights Commission: Willy Mutunga (Executive Director), Wambui Kamathi  
(Programmes Coordinator)  
Legal Resources Foundation: Alfred Ndambini (Co-ordinator)  
League of Kenya Women Voters: Cecilia Kimemia (Programme Coordinator)  
Release Political Prisoners: Ndungi Githuku (Vice Chairman)

### ***Others***

Hamilton Harrison & Mathews (law firm): Christine A. Agimba (lawyer). In addition to legal  
advice, Agimba provided information on real estate prices, through contacts with a real estate  
broker.  
Norwegian Church Aid: Halvor Aschjem (Adviser)

**Appendix 2**  
**Feasibility Study from Uganda 2003**

**REPORT FROM**  
**THE HUMAN RIGHTS HOUSE FOUNDATION'S**  
**FACT FINDING MISSION AND RESEARCH TRIP TO**  
**UGANDA**

**24<sup>th</sup> of June to 2<sup>nd</sup> of July 2003.**

***Maria Dahle and Niels Jacob Harbitz***

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## **I THE HUMAN RIGHTS SITUATION**

This section presents an overview of the human rights situation in Uganda. While the facts are drawn partly from our meetings in Kampala, partly from various written sources collected before, during and after our visit, the opinions and evaluations are entirely our own.

### **1. Introduction**

Historically, Uganda is notorious both for the scale and for the extreme seriousness of the human rights offences committed against its nationals. Nearly 25 years after the fall of the most notorious offender of them all, the dictator Idi Amin, the human rights situation still leaves a lot to be desired. In fact, Uganda is still marked by several serious issues of concern.

First of all, there is a war being fought in ever larger parts of the country, and with no peaceful resolution in sight. Second, there is gross inequality in access to justice, obvious limitations in freedom of speech, expression and association, numerous shortcomings of the legal system resulting in severe discrimination in particular of women, children and other already disadvantaged, and a permanent tension between on the one hand the constitutionally declared rule of law, on the other traditional ways of settling disputes and resolving conflict.

Three years ahead of the next Presidential elections, to take place in 2006, there is also increasing anxiety about how the country will negotiate a transition beyond President Yoweri Museveni, who has been in power for more than 17 years, although in office under the 1995 constitution for only two terms. For this reason, the biggest political debate in Uganda at the moment goes under the name of 'the third term debate'. Museveni himself is probably weighing his options and leaving the actual debating to others.

While this is being discussed, the possibility to organise competing political parties continues to be restricted. The Ugandan constitution, adopted in 1995, restricts the freedom of assembly and association by allowing political parties to exist in name but prohibiting them from opening and operating branch offices, holding delegates' conferences or public rallies, or sponsoring candidates. While effectively operating as a party, the ruling National Resistance Movement (NRM), commonly known as 'the Movement,' is exempted from these restrictions.

In the wake first of the bombings of the US Embassies in Dar es Salaam and Nairobi on the 25<sup>th</sup> of August 1998, then of the attacks on Pentagon and the World Trade Center on September 11<sup>th</sup> 2001, Uganda has adopted an increasingly restrictive stance on what is now broadly, but still vaguely, defined as 'terrorism'. The Anti-Terrorism Bill of 2001, passed in Parliament on the 19<sup>th</sup> of March 2002, licenses the Minister of Internal Affairs to declare an organization 'terrorist' without seeking parliamentary approval. Already, several rebel movements have been classified as 'terrorist'. It is feared that the Minister's wide and unchecked discretion may be open to abuse, for instance by targeting also peaceful groups simply for being critical of the political establishment. The Bill includes a Penal act, which stipulates severe punishments, including the death penalty, not only for the 'terrorists' themselves, but also for their supporters and sponsors. Throughout 2002 former

rebels who had been pardoned under the so-called Amnesty Act were rearrested under The Suppression of Terrorism Act, thus proving that different acts openly contradict each other.

The new 'anti-terrorist' legislation has also introduced widened licences to the police, for instance to access the accounts and monitor the private communication, of all citizens. Restrictions on the media have also increased. The new legislation provides for severe penalties, including imprisonment for up to ten years, for journalists accused of encouraging 'terrorism'. Amnesty International reports that journalists now run the risk of such accusations for criticising government policies towards armed opposition groups, especially if these classify as 'terrorist' under the same legislation. HURINET; the Human Rights Network of Uganda, contributed to the preparation of a memorandum by a coalition of civil society organisations which was presented to the Parliamentary Committee on Defence and Internal Affairs. The memorandum expressed the signatories' fear that clause 11, seeking to prevent the promotion of terrorism by and through any institutions including the media could threaten the public's enjoyment of the right to information. According to the same clause, the freedom of the press and of any other kind of expression may also be inhibited, says the memorandum.

More generally speaking, journalists continue to experience excessive use of force by the police. In February of last year, a military police officer beat a *New Vision* photojournalist during an eviction in Kampala. In October, *the Monitor* was raided, again by the police, and closed for seven days after publishing an article alleging that an army helicopter was shot down in the north, where the army is fighting LRA rebels. Frank Nyakairu, the author of the article, was detained and accused of publishing a false report "likely to cause fear and alarm to the public".

Nevertheless, the President has claimed that within two years, Uganda will be a multi-party democracy. There is reason to doubt whether this will happen, though. 'The Movement' was initially pushing for the Political Organisations Act of May 2002 to be adopted. This would have prevented other political parties than 'the Movement' from establishing branch offices and arrange gatherings. The new law was successfully challenged in March this year, when the Constitutional court ruled that provisions of the Act contravened the Constitution. Since this ruling, President Museveni has called for restrictions on political parties to be lifted, but has also submitted the issue to the Constitutional Review Commission for consideration<sup>2</sup>. Meanwhile, the police continue to obstruct all other political activity than that of 'the Movement'. This spring, it has for instance prevented the Democratic Party, which originally brought the challenge against the Act, from holding a rally in Kampala.

Such police actions fit into a pattern of clampdowns on all kinds of oppositional activity. In recent years the police has interfered with strikes and demonstrations, rallies and assemblies, public lectures and open meetings, in urban and rural areas alike. The total message of these interferences is that all calls, implicit or explicit, for pluralism, are unacceptable. On the 12<sup>th</sup> of January 2002, the police arrested James Rwanyarare, the leader of Uganda People's Congress (UPC), right before he was about to participate in his own party's rally in the capital's Constitutional Square. In the wake of the arrest, when a crowd confronted the police outside the UPC headquarters, police fired into the crowd and killed Jimmy Ojotre Higenyi, a trainee journalist. The police officers involved were arrested and subsequently released on police bail. A police inquiry was ordered, but no information about its outcome emerged. Jimmy Ojotre Higenyi's family began legal proceedings against the state, but as of August 2003, no further information has been released. Nobody has been brought to justice.

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<sup>2</sup> *Beyond Workshops. Challenges and Strategies in Human Rights Interventions in Uganda*, a report commissioned by the Netherlands Embassy, Kampala, May 2003.

In addition to the use of violence against the political opposition, Uganda also puts its oppositionals to prison. The exact number of political prisoners is not known, but amounts to a minimum of several hundred. The killing of 17 people during the presidential and parliamentary elections in 2001 also remains fresh in the memory of many Ugandans. Again, none of the responsible has yet been brought to justice. Hence, even if the Political Organisations Act has yet to be formally implemented, its message is already being acted out. Oppositional activity is restricted, and Articles 19 and 20 of the Universal Declaration of Human Rights, spelling out the freedom of opinion, expression, assembly and association are both being violated against, despite the fact that Uganda, like all other members of the United Nations, has committed itself to observe and obey all the thirty articles of this declaration.

Many of the human rights NGO representatives we met, among them the Executive Director of the Foundation for Human Rights Initiative (FHRI) Livingstone Sewanyana, referred to this Bill, currently under scrutiny in Parliament, as a clear threat, not only against political parties, but against human rights NGOs as well. According to Mr. Sewanyana, there is no doubt that the new bill will impose undue restrictions on the human rights NGOs, infringing their right to freedom of opinion and expression, assembly and association.

Some of the representatives we met drew our attention to yet another indicator that Ugandan society is changing; the rapidly increasing crime rates, more so in the capital and other urban areas, and particularly over the last couple of years. While this is of concern to society at large, many among the human rights NGOs also worry that the public call for law and order is already showing signs of leading to an increased leniency with the practice of mob justice against criminals. This may happen from the moment they are caught, even before the police get involved, and right through the time they serve in prison, with or without charge or trial.

Another concern expressed by some of the human rights activists we met is that wherever crime rates increase, the authorities tend to make the most of it, calling for wider licences, particularly in the use of violence, for the police, the army, all prison staff and whatever security agencies also involved in 'the fight against crime'. If need be, and this is the case in Uganda, attention is also tentatively diverted from the authorities' own human rights record.

All of these are relevant concerns in Uganda. Crime rates have risen and an increase in the use of mob justice has followed. Regardless of who is guilty of this, the tendency is also for this kind of extra judicial and often violent attempts at keeping law and order to be acclaimed, or at least go unnoticed. In this area, impunity is more widespread than anywhere else.

## **2. The war**

The source of Uganda's most serious human rights problems is the war in the northern regions. Commencing in 1986, as President Museveni came to power, the war between government forces and the independent rebel group called the Lord's Resistance Army (LRA) is now in its 18<sup>th</sup> year. It now counts as one of the longest running and most brutal insurgencies anywhere in Africa, ever. Since last year, moreover, when the LRA re-entered Uganda from the south of Sudan, this conflict has escalated to an unprecedented scale. It is now affecting ever larger parts of the country, both west, south and east of its original area. Even in the capital, in the south, the conflict is having an ever bigger impact. Bombs have been planted there, too, and the citizens of Kampala live in fear of more such attacks.

The government can no longer claim to be in control of the situation. Kitgum, Pader and Gulu, the main towns in Northern Uganda, are overcrowded with refugees and internally displaced, seeking the safety of bigger cities, where the LRA might find it more difficult to carry out its guerrilla tactics, often involving massacres of innocent civilians. Many of these refugees and internally displaced have been taken to the 'protected camps' of the Ugandan Peoples' Defence Forces (UPDF), the official name of the Ugandan Army. These large scale moving operations are known to have been brutal, and the living conditions in the camps leave a lot to be desired, with inadequate access to housing, water, food, health care, and education. In addition, protection has proved to be insufficient, and the LRA has carried out numerous attacks, both on food convoys and on the camps themselves. Because of their support for what the LRA has called 'Museveni's concentration camps,' nongovernmental aid workers have off and on been considered legitimate military targets. Even so, the population of the camps remains almost completely dependent on international humanitarian organizations for nutrition. Due to the increased tension between the UPDF and the LRA, however, aid agencies have been forced to scale down their activities or withdraw entirely.

North of Uganda lies Sudan, and since the LRA receives support from Sudan, including food, weaponry, protection and the permission to operate from Sudanese government-controlled territory, whilst the Ugandan government supports the Sudanese People's Liberation Army (SPLA) in its attempt to overthrow the Sudanese government, the war in Northern Uganda is also threatening Uganda's international relations. In March 2002, Uganda and Sudan signed a protocol allowing Ugandan soldiers to hunt for the LRA inside Sudan, but this has not prevented the rebels from increasing their activity. One year ago, in August, President Museveni bowed to the pressure of several church leaders and wrote to Joseph Kony, the leader of the LRA, proposing a peace deal. The LRA rejected the terms of the deal and declared instead their own unilateral cease-fire on the condition that the army stopped attacking their positions. When the government rejected this, the LRA broke its own cease-fire. Since then, there has been open war between the two parties.

UN has been called upon to intervene, and the Ugandan Parliament is discussing whether or not to request military aid from Kenya and Tanzania. The underlying ambition, to halt what some see as 'the Arabs' march south' is also adding to the international threat of this conflict. Hence, partly because of the LRA's own conduct; partly because of the policies and priorities of the Ugandan government's response, the conflict in Northern Uganda is now on the brink of becoming a full-scale international war. Even if full diplomatic ties between Sudan and Uganda were resumed last year, the improvements of the relations between the two countries seem to have stalled. According to Tore Gjøs, Norway's Ambassador to Uganda, the relationship with Sudan is still and is likely to remain Uganda's biggest problem.

Others, among them Ireland's Chargé d'Affaires Máirtín O'Fainín, describe the LRA as the most appalling active rebel movement in the world. For nearly a decade, Joseph Kony has seen no voluntary recruitment to his ranks. Instead, among the LRA's tactics is mass kidnappings of young boys, forcing them to become child soldiers. Since 1995, more than 10.000 boys have been captured for this purpose. A large number of girls have also been kidnapped, in their case to become the soldiers' sex slaves. Raids on girls' schools are another favoured way of terrorising the people of Northern Uganda. In these raids, hundreds are being assaulted and raped and, according to the Ugandan newspaper *the Monitor*, more than 80 % of those who return alive test positive for HIV. So far, this conflict has forced close to a million Ugandans to leave their homes, adding to the already large numbers of refugees and internally displaced in the region. Tens of thousands have also been killed or maimed in the conflict.

While LRA's motivation for its continued fighting remains unclear, lack of discipline within the government forces also add to the misery of this conflict. Whether to boost their ranks or merely force assistance, for instance in pointing out LRA positions, army units are also known to have carried out abductions of young boys. Likewise, the army is not innocent of having taken advantage especially of girls and women on the run from the worst war zones. The army and security agencies frequently also take the liberty of arresting scores of people, purely on suspicion of collaboration with the rebels. These raids frequently include both rapes, random killings and extra judicial executions, also within their own ranks. Some of these have come after resorting to the Field Court Martial, a decision lying solely with the army itself, and from which there is no right of appeal.

Attempts to reach peace with the LRA, including the appointment of a team to negotiate with Kony, have yet to get anywhere. The main reason for this is mutual suspicion, but an offer of unconditional amnesty for all LRA suspects also failed, mostly because the majority of LRA soldiers were initially abducted and subjected to harsh indoctrination. Hence, they bear little or no personal moral responsibility for being in the rebel ranks. Hence, it was acknowledged by both parties that the amnesty offer was misplaced to the point of being rendered irrelevant.

Most human rights NGOs agree that the conflict in the north is Uganda's biggest human rights related problem. They do so for two reasons: First come the gross violations of human rights resulting from the war itself. Second comes the fact that the conflict has also disrupted the performance of the institutions and agencies, which would normally provide protection against such violations. These include the courts, the police and various human rights activist groups. Hence, the experience of those subjected to one kind of human rights abuse is, more often than not, that they are being caught up in circles or sequences of neglect, miscarriage of justice or outright mistreatment, amounting to further abuse.

The seriousness of the abuses caused by the war makes for dramatic differences between the human rights situation in the north as compared to all other parts of Uganda. This is not to say, though, that the situation elsewhere does not merit both national and international attention. Instead, all possible efforts are needed to amend the numerous other kinds of violations against human rights that happen every day, all over Uganda.

### **3. Access to justice**

Leaving the war aside, inequality in access to justice rates as the second largest human rights issue in Uganda. Albeit in different ways, many of the organisations we met, among them the Legal Aid Project (LAP), the Legal Aid Clinic (LAC), the Public Defender Association of Uganda (PDAU) and the Foundation for Human Rights Initiative (FHRI) all devote significant amounts of their resources trying to address and amend this problem. Much of the inequality in access to justice is related to infrastructural weaknesses and the all-encompassing centre-periphery problem suffered by most developing countries. The development and distribution of all public goods, the legal system included, is insufficient and, in effect, unfair. In addition comes the fact that the legal system is described by many as largely inefficient. In passing, Flavia Nabugere Munaaba of the PDAU mentioned that the reason why many prisoners never have their cases tried, is that their files simply disappear. The result is that they are being kept in prison for years, without charge or trial, in some cases without even knowing why they are there. To exemplify the inefficiency of the legal system further, it suffices to mention that 75 % of all prisoners in Uganda is pre-trial, suffering instead fellow inmates' mob justice or prison wards' lack of respect for the prison system's own code of

conduct, prohibiting torture or other inhuman or degrading treatment. Despite this code, various kinds of torture carried out by the police now seem to be on the increase.

The inefficiency of the entire legal system also results in severe overcrowding of the prisons, amounting to unacceptable, degrading and in some instances dangerous serving conditions. The seriousness of this problem varies regionally, again according to the centre-periphery inequality in distribution of resources, but affects the majority of Uganda's approximately 180 prisons and thus most of its 22 - 25.000 prisoners. In the smaller prisons, there are only 40-60 prisoners, but some of the approximately 50 bigger ones hold up to 2000, even if the capacity may only be about 500-600. Further away from the capital the standard of both the smaller and the larger prisons tend to be lesser, and the problems caused by overcrowding larger. These problems include unacceptable hygienic conditions, the spreading of diseases, among them tuberculosis, and insufficient protection of prisoners from dangerous fellow inmates.

Once in a while, often in the weeks leading up to a high-profile state visit, the police carries out large-scale 'clean-up' operations, arresting hundreds of people on the streets of Kampala, in attempts to improve the image of the city, ridding it of poverty and removing other 'untidy elements'. Since September 11<sup>th</sup> 2001, these operations have particularly targeted Muslims. The arrested end up in jail, and since there is no guarantee of having your case tried within a certain time limit, many of these people end up serving lengthy terms and adding to all the problems that come with the overcrowding of the prisons. Others are being kept at army facilities, often for months, without oversight by civilian authorities. The 360-day maximum pre-trial detention for treason offences, often the official charge in these cases, is frequently circumvented simply by re-arresting suspects immediately after their court ordered releases.

Even though such clean-up operations took place both in relation to former US President Bill Clinton's visit in May 1998 and again this summer, when the current US President George W. Bush stopped by for a day, the police does not seem to need any such reason for their clean-up operations. Arbitrary arrests can happen any time, anywhere, and to almost anyone. More often than not, though, the poor, the disabled and the nonconformist looking run a much higher risk of being victimised in this way, too. Furthermore, after the arrest, the tendency is for access to justice to be unequally distributed, along the same lines. The already disadvantaged tend to get their disadvantage reconfirmed and, in effect, increased, since having a prison term on your record, regardless of reason, puts anyone at a disadvantage.

Another problem causing inequalities in access to justice, said Mary Kusambiza, Executive Director of Uganda Women Lawyers' Association (FIDA), is the clash between on the one hand the sustained strength of traditional practices of law enforcement and conflict resolution, on the other the lasting weaknesses of Uganda's official legal system. Martha Nanjobe, Director of the LAP, also addressed this issue. The problems caused by the unresolved tension between these two competing standards can be traced well into the police, the courts and the prisons, but is even bigger outside of the entire legal system. Every year, thousands of issues of obvious legal interest never even reach the courts, but are settled instead elsewhere, and according to other, unofficial standards, often openly unequal and unfair to the parties involved. -Such settlements, said Mrs. Nanjobe, -are particularly common in care and custody disputes and in land and other property rights cases. More often than not, the already disadvantaged party, frequently being the women and / or the children involved, end up not seeing their legal rights respected and observed. Obvious compensation claims cases, for instance in relation to divorce, are very rarely brought before the courts. Once again, the result is that there is limited faith in the entire legal system's capacity to deal with such cases.

The inequality is made worse by hugely varying levels of education, traditional unevenness between different strata of the population and also between men and women as to the naturalness with which one enters public space or approaches public institutions. The narrowing of public space that has taken place over the last years is therefore particularly unwelcoming to the already disadvantaged parts of the population. Mr. Sewanyana, Executive Director of the FHRI, claimed that since the 2001 elections, Ugandan society has split into two camps, for and against the government, with the latter ever more often feeling forced to perform various kinds of self-censorship. Thus, for the human rights situation in general, the pre-election optimism has turned into its own opposite, a post-election pessimism. The increasing fear under which some of the human rights NGOs operate is thus first felt among their clients, and more strongly so among the already disadvantaged.

Further to such considerations, Mr. Sewanyana believe that human rights activists will soon find their working conditions and security reduced or even openly violated against. Already, some of the FHRI's requests to visit prisons have been turned down. In addition, the military is showing signs of growing independence, if not officially declared, then silently accepted and ever more efficiently enacted. According to Mr. Sewanyana, the increased activity, growing courage and ever more confident pro-activeness of many human rights NGOs are likely to result in one or more clamp-downs. In view of this, the human rights community is eagerly awaiting the new human rights bill, soon to be released by the government.

Meanwhile, despite the massive proliferation of human rights NGOs, many, if not all, continue to practice various degrees of self-censorship out of fear of government retaliation. One of the ways in which the government does this is by way of suspending organisations' initial or renewed registration, or requiring of organisations that they are both non-political and non-partisan. President Museveni has also repeatedly responded to reports of government violations by stating that human rights NGOs should rather concentrate on the abuses of the various rebel groups. The result of the government's threats and harassments is that most domestic human rights NGOs focus on non-controversial issues like prison reform and human rights education. In addition, after decades of far more heavy-handed suppression than what is experienced under President Museveni's rule, human rights organisations are still caught in the dilemma that since it was the current regime that brought whatever openness there is, criticism is often subdued. Protection remains a main issue and Eddie Mukasa, for one, of the LAC, believes that if the human rights NGOs' security were to be increased, their courage and confidence would also grow to a point where they would dare to raise more controversial issues. Under the current conditions, however, all human rights NGOs have to tread carefully and perform a strong degree of self-censorship. Generally speaking, the organisations find it hard to tell exactly where the limits to the government's tolerance are. The policy of most organisations is, thus, to stay on the safe side. -In addition to such political considerations, you don't bite the hand that feeds you, added Mukasa.

Towards international human rights groups, however, the government shows a very different attitude and willingness to cooperate. The experience so far is that such openness pays off. In return, President Museveni repeatedly identified as one of Africa's 'new leaders' and Uganda as its region's 'beacon of hope', continue to be only mildly criticised, especially by the US and the EU, for its human rights record. Most probably, this will be so at least for as long as the situation remains worse and the international community is more heavily involved both in Sudan and in the DR Congo. Also, since both these countries' economies are much larger than Uganda's, President Museveni's human rights conduct is likely to be left unscrutinised. In this respect, the policy outlined in President Clinton's 'Entebbe declaration' of March 1998, seen by many as an uncritical endorsement of Museveni's government, remains unchanged. As part of the US's effort to contain

Sudan, Uganda is a vital partner. For this reason, Uganda, like Ethiopia and Eritrea, receives large amounts of both military and civilian aid.

The relative weakness of Ugandan civil society is only making all these matters worse. Many violations of the law, including such obvious cases as corruption or forced confessions, the defence's lack of genuine interest in actually defending its client, unmotivated street beatings or the hugely controversial use of so-called 'safe-houses' where people are taken, tied up and blindfolded, for secret interrogation, often involving torture sessions so as to silence them for shorter or longer periods of time, all tend to go unnoticed. As unregistered arrests, the use of 'safe-houses' ought to be seen as unlawful abductions. Units within the state system are thus undermining the laws they are supposed to protect. Since there is no registration, there is every chance that these offences go unpunished. The likelihood of impunity serves to weaken the legal system further and, in effect, increase the inequality in access to justice. Again, such cases tend to affect the less privileged parts of the population more often than the privileged.

All in all, makeshift or in other ways unacceptable settlements of legal issues remain much too common. The fact that these 'solutions' frequently involve violence, and that this tendency includes the official legal system, is only making matters worse. While the courts 'only' suffer from inefficiency, the police and the prison system, according to many of Uganda's leading human rights NGOs, are currently losing credibility from the growing tendency among its employees to take the law into their own hands and subject suspects, charged and inmates to various kinds of inhuman or degrading treatment, including violent interrogations, beatings and torture. Human rights activists now identify the erosion of confidence in the justice system as a threat to the decades long effort to establish a society in which the rule of law is respected. *Beyond Workshops* states that "[m]any ordinary people across Uganda who come into contact with the criminal justice system have instead experienced violations of their rights" (p. 2). Much too often, though, such abuses go unnoticed. The majority of Ugandans' lack of knowledge of their own rights, often stemming from their illiteracy, sees to it that justice remains a scarce good, haphazardly distributed, but by and large reserved for the materially privileged and intellectually resourceful. As if to add insult to the underprivileged's injury, legal clerks are poorly paid and thus, unfortunately, likely to take bribes from whoever can pay them. Needless to say, for as long as this remains the case, yet another reason why access to justice remains unequal will also be maintained. The same goes for the illegitimate, yet widespread use of the option to bail oneself out of legal proceedings. For as long as justice, including the opportunity to run away from it, remains a matter of money, equality in access to justice will remain an illusion.

All across the country, but particularly in the northern regions, where the war effectively abandons any rule of law, the police, the army and other security organizations have walked free from a wide variety of human rights violations. These include torture, rape and other kinds of seriously abusive behaviour. It remains the rare exception to the rule that the offenders, even in cases where they are known, are being called to account for their crimes.

Finally, the HIV / Aids crisis has triggered a whole new set of legal issues, often of human rights interest, including numerous care and custody cases, questions of inheritance, land and property rights and also labour and private discrimination disputes. These cases represent a new challenge both to the traditional and the official legal system, and far too often, and regardless of where a 'solution' is being sought, the settlements reached are not acceptable.

#### **4. A culture of violence?**

Various kinds of violence also remain a massive problem in Uganda. Needless to say, the war in the north is the cause of the most severe human rights cases of this category. However, without receiving anywhere near as much attention as the atrocities caused by war or committed for instance by the police, domestic violence is also a huge problem. Like most other human rights problems, domestic violence is also unequally distributed among the population and tends to put women and children at the receiving end with husbands, fathers or other closely related men being the most frequent offenders. Because of the intimacy factor, the close relations between the offender and the victim of the offence, in most instances of domestic violence and other kinds of abuse, such cases are also vastly underrepresented in the courts. To exemplify, Mrs. Munaaba of the PDAU mentioned the dilemma of every abused daughter. –They know full well that they have little to gain, but instead potentially a lot to lose from taking their fathers to court. Most probably, all they will achieve is to be ostracised by their families, long before they get to the point of being helped by the legal system.

Mrs. Munaaba drew attention to the fact that the HIV / Aids crisis also seems to have caused an increase in abuse and domestic violence. When traditional family patterns break down, it is particularly the children who are made to suffer. From losing some or all the protection their most immediate families represent, they become far easier targets for potential abusers.

The lack of faith in non-violent problem-solving, the relative absence of a culture in which disagreement is seen as potentially productive, and the tradition, instead, far too frequently of resorting to violence whenever disagreement occurs, is described by Mr. Mukasa of the LAC as a long-term consequence of Ugandan history. –We grew up with extra judicial killings as part of our everyday life, said Mr. Mukasa. -We saw dead bodies in the gutters on our way to school. People disappeared in their thousands. Everyone knew someone who had been killed.

Ambassador Gjør quoted official statistics for establishing that more than half the Ugandan population lists violence as their prioritised way of settling disputes or resolving conflicts. For most people, turning to the legal system only comes further down the list. This is so not only because of the recent loss of confidence in the legal system, but also because of a tendency to deal with disputes in private, informally and unofficially, and in traditional ways. -A violent people, we are not, though, said Mr. Mukasa. –The problem can be traced back to particular and clearly identifiable historical circumstances, not somewhere in Ugandan custom, tradition or culture or, for that matter, in the nature of Ugandans. Instead, we are a friendly people. The cause of the violence is, thus, not so much that Ugandans are violent, but that they live under the reign of an intolerant regime, which, like its predecessors, often resorts to violence. The legacy from previous regimes is to execute political intolerance with violent means. Even today, therefore, the vast majority of human rights offences are committed by people and institutions within the state apparatus, including the police, the army and the ISOs, the Internal Security Organisations.

A culture of violence or not, violence remains widespread, much too random and frequently far too serious or even fatal. It strikes anywhere and everywhere, at any time, for any reason or no reason at all. More often than not, institutions within the state apparatus are the offenders. The accumulated effect of this exaggerated use of violence is that Ugandans in general, but anyone involved in potentially oppositional activities in particular, continue to live in fear. Furthermore, instead of serving as a guarantor against this state of affairs, the inefficiency and unreliability of the official legal system makes it an accomplice. Finally, for as long as the death penalty is yet to be abolished, the State of Uganda will continue to signal its acceptance of violence and thus, rather than working to rid itself of this problem, will serve to prolong such a culture. This remains the case even if very

few executions are actually carried out. No civilians were executed in 2002, but 24 new death sentences were passed. These brought the total number of convicted prisoners on death row to 354, which is nearly a hundred more than four years ago. The relative number of civilians among the death row inmates is also increasing.

In June of last year, 'Operation Wembley,' a new Joint Security Team was formed. Its official purpose was to fight violent crime in Kampala and surrounding towns. The team brings together the intelligence services, the police and the army. Under the mandate of this task force, both police officers and soldiers are allegedly authorized to shoot criminals on sight. Already, a dramatic increase in killings by security forces has resulted. Those arrested under 'Operation Wembley' are held without charge and screened to decide whether a civilian or military court should try them. By November of last year, around 200 of the then approximately 450 arrested were to face trials before military courts, made up of senior army officers, uneducated and inexperienced in exercising official law. As an example of 'Operation Wembley's' violent conduct, Amnesty International reports one case, in which soldiers raided Gulu Central prison in Northern Uganda to remove 21 prisoners they claimed were about to be 'rescued' by the LRA. One of the prisoners, opposition activist Peter Oloya, was killed in the prison grounds in a suspected extra judicial execution. The 20 surviving prisoners were taken to Gulu Barracks where they remained in incommunicado detention until mid-November, when they were moved to Kigo prison in Kampala.

Amnesty International also reports that the violence in the Karamoja region in the North-East, often related to cattle rustling, continues. The disarmament and arrest operation, following the unsuccessful appeal to surrender illegal weapons voluntarily, led to a number of reported killings by the army, and to looting and beatings of civilians in Moroto. Soldiers were reportedly given orders by the Army Chief of Staff to shoot dead any Karimojong warrior firing at them. The army has announced an inquiry into an incident on the 8<sup>th</sup> of March last year in which two people were killed and a pregnant woman miscarried in Kotido after reportedly being beaten and tortured by soldiers carrying out the disarmament operation. On the 4<sup>th</sup> of May, also of last year, 20 Karimojong and two soldiers were killed during clashes after the Karimojong pastoralists reportedly raided another community and stole their cattle.

## **5. Discrimination**

The problem of discrimination has already been mentioned, but needs to be dealt with in further detail. It interferes with all other human rights issues and remains a huge obstacle to the establishment of conditions in which the rule of law is respected, access to justice is equal and people can live in safety and peace, reassured that if anything happens to them, the legal system will protect them. As of today, none of these standards are being met. On the contrary, the majority of Ugandans have limited access to the legal system and live, thus, with equally limited expectations that this system can, or even wants, to be of any help. There is, thus, a deep distrust, rooted in recent history, but continually nourished by new cases of violations of human rights, including obvious miscarriages of justice within the legal system. Furthermore, the pattern in these cases is obvious, victimising practically without exception the already disadvantaged, and none the more so than the poorer parts of the country's population

The biggest obstacle to overcoming discrimination amounting to human rights violations is thus the poverty in which many Ugandans still live. Worldwide, poverty coincides with a lack of education, knowledge, contacts and other resources necessary to make a successful legal claim. Uganda is no

exception. Hence, being poor, in Uganda as elsewhere, also means being disadvantaged vis-à-vis the law. Statistically, the chances of having your problem dealt with by the legal system, let alone having a fair trial and, in the end, a just ruling, are far slimmer for the poor. Poverty is thus the prime cause of inequality to justice. In fact, for as long as people are imprisoned for not paying their minimum tax of approximately the equivalent to five USD, regardless of why this isn't done, poverty itself becomes a crime. Hence, nothing would improve the human rights situation more than reducing or, ideally, eliminating poverty.

Some of the human rights activists we met, among them Martha Nanjobe of the LAP addressed this issue by way of pointing out that even if civil and political rights, such as the right of all to stand for parliament or just vote are also important, the majority of Ugandans suffer instead from violations against their social and economic rights. These include such basic rights as the ones spelt out in Article 25 of the Universal Declaration of Human Rights; the right to a standard of living adequate for the health and well-being of oneself and one's family, including food, clothing, housing, medical care and social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond one's own control<sup>3</sup>.

Discrimination on the basis of sexual orientation also continues to stain Uganda's human rights record. Homosexuality is considered a crime in Uganda, and carries a penalty of life imprisonment. Almost three years ago, President Museveni stated that homosexuals could live in Uganda, but only for as long as they kept their sexual orientation secret. This attitude, however, is not consistent, not even within the President's own government. Less than a year ago, his Minister of Ethics and Integrity ordered police to arrest and prosecute homosexuals. Amnesty International reports that security agents continue to harass the lesbian, gay, bisexual and transgender community. Several members of this community have been arrested for no other apparent reason than their sexual orientation. The country's attitude towards alternative sexual orientations comes across also in President Museveni's claim in a speech to the Commonwealth Heads of Government Meeting in March last year that Uganda's relative success in its fight against Aids is due to the fact that there are no homosexuals in the country.

None of the human rights NGOs we met listed discrimination because of sexual orientation as one of Uganda's human rights problems. Instead, it is fair to say that the human rights sector contributes to the silencing of this issue. Not even once was this problem mentioned at all.

Instead, and for good reason, many of the human rights activists we met referred us to the large number of land rights issues contributing heavily to the seriousness of the total human rights situation in Uganda. According to Martha Nanjobe of the LAP, the new Land Act of 1998 did not cater sufficiently for the situation on the ground; the numerous ways in which the lay Ugandan runs into problems over his or her right to land. Both LAP and other human rights organisations, among them the Federation of Women Lawyers (FIDA) and the Public Defender Association of Uganda (PDA) reported that a large proportion of the approaches they receive relate exactly to land rights. Moreover, it is no coincidence that the NGOs dedicating themselves most explicitly and exclusively to women's issues are the ones who receive the majority of these approaches. At the receiving end of most land rights cases stand one or more women, with or without children. Women frequently experience that their husbands sell their matrimonial land, often including their homes. Since there

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<sup>3</sup> Unlike various human rights conventions, the Universal Declaration of Human Rights is not a legally binding document. However, upon joining as a member state of the United Nations, each country commits itself morally to observe the standards laid down in the United Nations' Charter. Uganda is a member of the United Nations. Hence, there is every reason to criticise the country's human rights record on these and other issues.

is also a variety of marriage customs and polygamy is still effectively practised, there is no guarantee that the one whose land is sold is also the one benefiting from the income of the sale. Regardless of initial ownership, a husband's decision to remarry often leaves his first wife homeless. Current regulation is gender insensitive, said Mrs. Kusumbiza of FIDA, and thus also discriminating against children. A Bill to amend this has been pending for more than 20 years.

The HIV / Aids crisis has caused a massive increase in land rights issues, with opportunism and greed leading to illegitimate conveyance of ownership, again more often than not at the expense of the true heirs to the land at stake. In the majority of cases these are the wife and children of the deceased. Instead, the brothers or other male relatives of the deceased grab the land, with or without reference to rural custom, according to which women are not entitled to ownership of any kind of property. To reduce the number of such illegitimate land grabs, often caused by confusion as to who the legitimate heir actually is, FIDA has identified the need, especially in rural areas, to improve birth registration practices.

Also due to the HIV / Aids crisis and the growing death tolls of parents still caring for their children, the same NGOs have seen a radical increase in custody and maintenance cases. Once again, traditional custom comes into conflict with official law, and with the orphaned children being the ones made to suffer somewhere in between the two incompatible standards. In the event of a parent's death, traditional custom suggests that a 'successor' steps in. This may well be the brother of a deceased father, or the sister of a deceased mother. If no such candidate is available, others may come forward. In far too many of these instances, the 'successors,' rather than caring for their inherited children, take advantage of and exploit them in various ways. This includes illegitimate take-overs of the children's inheritance.

Finally, the HIV / Aids crisis has also brought up a number of other human rights related issues. To exemplify how the epidemic raises new questions, many among the human rights NGOs we met mentioned that the Minister of Education recently declared that all teachers testing positive for HIV or Aids will be sacked. Although the prime message of this is that the authorities want to protect the country's children, the decision also confirms the stigma related to HIV and Aids; that being a sufferer in itself represents such a threat to others that, ideally, everyone carrying the virus should be kept in isolation.

## **6. The DR Congo situation**

Finally, Uganda's human rights record is also affected by its activities across the border in the DR Congo, where Ugandan troops have occupied parts of the country for almost five years, despite an agreement dating back to 1999 to pull out. In numbers of atrocities, the conflict in the DR Congo easily dwarfs any other conflict in the world since the Second World War. The estimates vary from three to six million dead and counting. Furthermore, preliminary or permanent, there is no resolution in sight. Instead, the conflict may easily spread again, as it has done so many times already. At various times, more than ten other countries in the region have been drawn into the fighting within the DR Congo. As for Uganda, the occupation began when Uganda and Rwanda, having helped Laurent Désiré Kabila to overthrow Mobutu Sese Seko in the spring of 1997, did not leave it at that. Instead, the two remained in the country, and, after fighting Angolan, Zimbabwean and Namibian troops closer to Kinshasa, consolidated their positions in the northern and eastern parts of the country respectively.

Since then, Uganda's occupation has followed the principle of divide and rule, setting different fractions of the DR Congo's once fairly united liberation movement up against each other. Thus, to protect civilians from the clashes between these fractions, Uganda's military presence is not only legitimised, but also valued, by the Ugandans, at a very high price. Hence, even if this operation costs Uganda between 20 and 30 million US dollars pr. year, the benefits easily outbalances the costs. The income, generated from large-scale levelling of the rain forests, threatening the habitats of indigenous peoples, gorillas and several other species alike and mining and dealing in gold and diamonds, is estimated at a minimum of 30 million dollars, a maximum of 150 million, per year. In 1999 and 2000, gold from the DR Congo, but mined by Ugandan companies, brought a per annum income of almost 40 million dollars. On top of this comes the money generated by the forestry and the diamond trade.

In the Ituri area, which is particularly rich in natural resources, Uganda's tactic to divide and rule has been even more blatant. There, the conflict potential between the Hemas and the Lendus, pastoral nomads and resident farmers respectively, has been utilised to the full. While both groups have received weapons and military training, and thus been enabled to fight openly now for two years, the Hemas have also been used to train a military deputy for President Museveni's half brother General Salim Saleh, who has been in charge of Uganda's operations in the area. The purpose of these precautions is to secure continued access to the resources in the area, in the event that Uganda would be forced to withdraw, in accordance with its own declaration from the 5<sup>th</sup> of May this year, stating that its entire military operations in the DR Congo has already ended. This way Uganda has made sure that the illegitimate exploitation of resources belonging to the people of the DR Congo can continue.

Bearing this background to the Ituri conflict in mind, it is misleading to suggest, as some have done, that it was Uganda's partial withdrawal from the region that led to the escalation of the conflict between the Hemas and the Lendus in recent months. Instead, this goes a long way to prove how successful Uganda's divide and rule-tactics have been, legitimising continued military presence, and thus also continued exploitation of the area's resources. In Uganda's place came a multi-national UN peace keeping contingency, but it is not part of this mission's mandate to prevent Uganda from continuing its draining of its wealthy neighbour's resources.

For as long as it has lasted, the international community has silently accepted Uganda's occupation of the DR Congo. The UN Security Council's criticism of Uganda's and Rwanda's operations in the DR Congo has yet to be followed by any kind of efficient action. Two reasons for this can be identified: First, that the rest of the world feels so bad about its lack of action during the genocide in Rwanda and Burundi in the spring of 1994 that Rwanda is still enjoying its immunity, second that, relatively speaking, since President Museveni came to power, Uganda has been so successful, both in its economic policies and in its fight against Aids, that whatever it does in other areas, no matter how bad it is, tend to go unmentioned. In addition, for as long as both countries remain so heavily sponsored by the US, the influence of whatever the Security Council says will also remain limited.

A few words need to be said about Norway's position in this conflict. With 52 % of the state budget covered by other countries' funds for foreign cooperation and development, Uganda is heavily dependent on international goodwill. For several years, Norway has been among the most generous donors, giving more than 260 million Norwegian kroner, the equivalent of almost 40 million US dollars, per year. None of this goes directly into covering the expenses of Uganda's occupation of parts of the DR Congo. However, as the political scientist Ingrid Samset recently argued in the Norwegian daily *Dagbladet*, such donations serve to ease the pressure on Uganda's own financial

resources and make it possible for Ugandan authorities to spend more freely, for instance on continuing the country's occupation of its neighbour.

So far, the Norwegian attitude has gone along with the international community's, led by the US and the EU, which has been, and still is, to wait and see. Seen from the Congolese side, however, the only thing Norway has done is to maintain its support of one of the occupants, still actively exploiting the DR Congo, with a total of more than one billion Norwegian kroner, or nearly 150 million US dollars. This attitude clearly contradicts official Norwegian development aid policy, which is to put ever stricter demands on the recipient, not the least in the areas of democracy, good governance, and human rights. There is little doubt that Uganda's occupation of parts of the DR Congo, comes into conflict with such ideals.

## **7. Conclusion**

While the human rights situation has clearly improved since the days of Idi Amin and also since the regime that followed; the second reign of President Milton Obote, there is little doubt that human rights are still being violated against at an alarming, and in some areas rapidly increasing, scale. From their various positions, all the human rights NGOs we met drew our attention to this development. They also emphasised that although human rights are being violated at all levels of Ugandan society, the majority of offences can be traced back to organisations and institutions that are part of Ugandan bureaucracy. Hence, as all serious reports on this issue document, the war in the north is not the only cause of human rights violations in which the government is at all involved. Instead, the Ugandan state is itself to blame for the vast majority of human rights offences, be it in the areas of access to justice, violence, discrimination or in relation to its operations in the DR Congo and Sudan.

Anyone visiting Uganda with the aim of learning about the human rights situation may well leave with the impression that although there are issues yet to be resolved, the situation is not that bad. Even representatives from the human rights NGOs may well present their case in that manner. There is, thus, a striking discrepancy between the low-key introductions to the human rights situation we received in our meetings with some of the human rights NGOs and the gross and glaringly obvious abuses one can read about in reports, for instance from Amnesty International, Human Rights Watch and Red Cross. One possible reason for this may be that relative to the human rights situation of previous regimes, the current state of affairs represents a vast improvement. Even so, human rights continue to be violated against at a large scale. The fact that it may have been even worse in past is no reason not to continue the efforts to reduce the still high numbers of human rights violations.

On the basis of the present human rights situation alone, we are, therefore, convinced that there is a pressing need to increase both the domestic efforts and the international pressure for human rights to be respected and observed. Despite the fact that many of the human rights NGOs work hard and in a very professional manner, our firm impression is that they could still do with all the help they can get; financial, material and in terms of qualified manpower.

We believe that the establishment of a human rights house in Kampala will clarify the division of labour and increase coordination and cooperation between the human rights NGOs. Through joining forces, a standardization of legal aid practices can also be initiated. If all this can be achieved, the current overlaps between the different organisations' activities will be reduced or, ideally, eliminated. The result of this will be that all kinds of resources; human, financial and material, will

be released and made available for whatever the member organisations of the house find best. What is almost certain is that by way of uniting their competence and capacity, the member organisations of a human rights house will be able to help more people more fully and efficiently than what is the case today, and for as long as the organisations remain separate. Today, in some cases, all the organisations can do is to pass clients on to other organisations, with no kind of coordinated follow-up measures in place. According to some of the NGO representatives we met, the clients themselves frequently end up feeling neglected. Far too often, they give up long before they have received the help they need and could so easily have had, had a well-organised human rights house been there.

Many of the human rights NGO representatives we met identified capacity building as one of the main needs of their own and most probably other organisations as well. Our impression is that this is a pertinent observation. According to the experience of already existing human rights houses, the most obvious benefit of sharing premises is exactly the permanent exchange of knowledge and experience gained simply from meeting on a daily basis. Rather sooner than later, and again with reference to the experience of the already existing human rights houses, this daily exchange turns into actual projects in which the resources of not only one, but many of the member organisations can be drawn upon. Needless to say, such concrete cooperation enhances the exchange of knowledge and experience even further.

To some extent, the proliferation of human rights NGOs during President Museveni's reign is due to his government's ban on all oppositional activity of a more obviously political kind. Throughout this period, instead of establishing political parties only to see them being shut down, there has been a permanent growth in the human rights NGO sector. Some of the new organisations have come as fresh initiatives, others as offshoots of already existing NGOs. After nearly twenty years of this development, the current situation is marked by a very high number of organisations, with a remarkably low degree of cooperation. Some of the human rights NGOs we met thought that a joint house might stop this trend and, if not instantly, then over time, contribute to the reunification of the human rights sector's resources. After all, the same representatives said, we all work towards the same goals. To reach those, one of our most pressing needs is to strengthen whatever institutions we have. Nothing could be more concrete to that effect than joining forces for the purpose of establishing an actual house.

Given the limited political space within which human rights NGOs work at the moment, we believe that co-locating will increase their security and thus enable them to raise more controversial issues than what has hitherto been the case. Today, the tendency for most is to focus on less controversial, but also, for most victims of human rights violations, less relevant areas, rather than for instance confronting the government with actual cases selected among the numerous offences committed by the army, the police and the various security organisations. Even if the majority of violations take place in the areas of social and economic rights, the tendency for most human rights NGOs is to concentrate on civil and political rights. To some extent, this is so because the latter area is considered 'safer,' but it is also the case that some donors seem to be more willing to contribute for instance to such 'classic' human rights issues as the abolition of the death penalty than they would be if asked to contribute to for instance campaigns to reduce police violence or protect women's inheritance rights, which, as a consequence of the HIV / Aids crisis, has become a big issue. For as long as human rights NGOs experience that their security is at risk, many such issues will remain no-go areas. As Deputy Head of Mission Eric Hilberink and First Secretary Francesco Mascini, both of the Netherlands Embassy, pointed out, the tendency so far has been for journalists to investigate their cases in further depth and also express themselves with more confidence and courage, sometimes also to greater effects, than the NGOs.

If this can be altered, so that the human rights NGO may grow both in courage, competence and confidence, the NGOs themselves believe that their increased efficiency will ease their continuous struggle to raise funding for their own existence. With improved coordination of the member organisations' activities, there is reason to believe also that the donors will see a change for the better in terms of value for money of their own donations. Further to this prospect, many of the human rights organisations we met saw the possibility of a human rights house to attract and be able to make use of much larger numbers of volunteers than what is the case in each of the organisations today. The inspirational atmosphere of a human rights house, many also thought, will be a huge incentive for law students, for instance, to come and work for free. The net result is thus even greater returns for whatever amount invested. All these savings will come on top of the reduced costs of sharing all overheads. With reference to already existing human rights houses, these savings alone amount to approximately 50 % of the member organisations' total spending prior to moving in together. Finally, with increased cooperation and the prospect of joint project funding, chances are that the NGOs' risk of being accused of fronting individual foreign interests will also be reduced.

## **II THE HUMAN RIGHTS NGOS**

In the course of our visit, we met with six different human rights NGOs, one institute conducting research in the area of human rights and one governmental body also working to maximize the respect for human rights in Uganda. In all these meetings, our aim was to learn as much as possible not only about the human rights situation in general, reported in the section above, but also about the particularities of each of the human rights organisations, the research institution and the governmental commission we met. We asked what their main areas of expertise are, how they work and which other organisations they might want to cooperate with. We also raised discussions about a possible human rights house in Uganda.

## 1. Foundation for Human Rights Initiative (FHRI)

According to its own material, “FHRI is an independent, non-governmental, non-partisan and not-for-profit human rights organisation” whose vision is “to build a strong, democratic and human rights culture as a foundation for peace, stability, democracy and sustainable development”. Furthermore, FHRI’s mission is “to enhance the knowledge, respect and observance of human rights, encourage exchange of information and experiences through training, education, research, advocacy, lobbying and networking”.

Like many other among the Ugandan human rights NGOs, FHRI concentrates its activities in the sectors of advocacy and human rights education. Under the former, five separate programmes have been developed. First, there is the research and advocacy programme, which aims at a systematic monitoring, research and documentation of human rights conditions and the publication of a country human rights report. Second, the conflict management and prevention programme promotes peace building and respect for the rights of internally displaced persons and other disadvantaged groups. Third, the access to justice programme aims at making effective use of the law to promote and protect human rights whether civil, political, economic, social and cultural rights. Fourth, the technical and advisory services programme promotes public understanding of human rights standards and obligations, treaty reporting, legal service delivery and accountability of human rights abuses. The fifth and last programme within the advocacy sector is the police and prison reform programme, which advocates for better police and prison conditions and greater efficiency and fairness in the country’s criminal justice system. FHRI’s preferred way of achieving this is through dialogue, policy analysis, lobbying and public education.

In the human rights education sector, three separate activities can be identified. First, there are the publications, whose common aim is to inform, sensitise and educate the public on internationally recognized human rights standards through the use of journals, newsletters, brochures, posters and reports. Among the publications are the quarterly *The Defender* and newsletters like *The Justice Update* and *The Prisons Update*. Second comes the human rights and democracy resource centre, which provides information and research support for democracy and human rights related topics. Third come the radio programme, a one-hour weekly talk-show, whose purpose is to promote dialogue and exchange of views on both policy issues and practice related to human rights. In addition to these two sectors, FHRI’s own leaflet states that through networking and collaboration, the organisation also works to promote information sharing, partnership building and development of expertise at national, regional and global levels for effective human rights advocacy. Finally, the efforts to develop and strengthen institutions include in-house courses, on-the-job training, internships, fellowships and specialised studies at the local, regional and international level.

Established in 1991, FHRI now has 18 full-time members of staff. At the moment, it also employs four volunteers. Late 2001, after six years of planning, fundraising and actual construction, FHRI’s own building, also called ‘the Human Rights House,’ was completed. In addition to providing offices for its own employees, the building houses the FHRI resource centre, conference facilities and surplus office space, the latter two open for others to rent.

Livingstone Sewanyana, Executive Director of the FHRI, emphasised that although many of the most likely candidates for membership in a future human rights house already own their own premises, this does not say that there isn’t a need for a joint house. The already existing houses can be rented out or sold, and the income generated can be the human rights NGOs’ own contribution

towards the establishment of a new, shared house. Also, as discussed in the conclusion of the previous section, there are other, more important reasons for establishing a human rights house than whatever can be saved or made in terms of money in the process. Among other things, Mr. Sewanyana saw that a joint house could increase the level of cooperation between the member organisations and thus work to improve services for clients. Before embarking on a process towards establishing such a house, though, he emphasised the importance of clarifying the concept within the Ugandan context, outline in detail what tasks to concentrate on and thus what the purpose of a Ugandan human rights house ought to be.

## **2. HURINET (Human Rights Network Uganda)**

HURINET's mission, according to its annual report for 2002, is "to strengthen the networking capacity of member organisations through capacity building, research and information sharing through collective advocacy at national, regional and international levels". The organisation's overall objectives are a) to encourage close collaboration and networking among human rights organisations in Uganda, b) to promote sharing of information and resources both human and material among human rights organisations in Uganda, c) to continually assess the collective impact of programs of human rights organisations on the Ugandan society, d) to build leadership, professional capacity, and organisational skills of human rights organisations in order to broaden their influence in attending to local and national human rights needs, e) to adopt strategies necessary for effective and coordinated human rights advocacy in the country, f) to develop policy guidelines for proper, transparent and accountable conduct of human rights organisations in Uganda, g) to establish and maintain a national alert mechanism to respond quickly to serious violations of human rights, including those of human rights defenders, and h) to provide a framework for regional collaboration and exchange of information and resources for the promotion and defence of human rights. Last year's annual report also lists 23 member organisations. This is a marked increase from 2001, when there were only 17, and national coordinator Martin O. Masiga was sure the growth will continue. His estimate was that by the end of 2003, HURINET will have approximately 30 members.

HURINET divides its activities into four different programmes. These are: 1) institutional support; 2) research, advocacy and networking; 3) skills and capacity building; and 4) the Human Rights Fund. In addition, HURINET has been working with partners in Kenya and Tanzania to set up an East African Human Rights Institute. A number of meetings to this effect have taken place and even though a trust deed has been drawn up, it has yet to be registered. The long-term goal of this regional initiative is to provide training and back up in human rights protection, enforcement and advancement. It is hoped that the Institute will be up and running by the end of 2003. The Institute will be wholly owned, operated and subscribed to by human rights NGOs in East Africa.

Under the research, advocacy and networking programme, HURINET has cooperated with other human rights NGOs and civil society organisations in addressing shortcomings of the Anti-Terrorism Bill, the Political Organisations Bill, the NGO Registration (Amendment) Bill, the Domestic Relations Bill and the Leadership Code Bill. HURINET also responded to the execution of two soldiers in the Karamoja region in the north-east. The two paid with their lives after a less than three hour long trial for allegedly having killed Father Declan O'Toole, an Irish Catholic priest, and his two companions. HURINET condemned not only the killing of the priest and his companions, but also the execution of the two alleged murderers by the UPDF under circumstances that fell short of the requirements of a fair hearing. In addition, HURINET contributed to the reactions against the government's closure of the independent daily newspaper *The Monitor* in

October 2002. HURINET issued an electronic press release, held a joint press conference with the FHRI and Uganda Law Society and published a press statement in *The Monitor* as soon as the paper was once again allowed to operate.

HURINET also continued to refer victims of arbitrary arrests, detention and torture to the Uganda Human Rights Commission (UHRC) and the African Center for the Treatment and Rehabilitation of the Victims of Torture (ACTV). In November 2002, HURINET's secretariat together with ACTV reacted to the increased complaints of institutionalised torture by exposing it through a press conference. Many of the cases referred to the activities of 'Operation Wembley'. Since the press conference, HURINET has assisted ACTV in securing funds for litigation to ensure justice for the complainants of some of the cases. Sensitisation is also one of HURINET's prioritised areas. In addition to the efforts to sensitise both civil society at large and all legislators to human rights issues, HURINET drew particular attention to the plight and the continued discrimination against refugees and women.

With financial support from SIDA, the Swedish government's agency for co-operation and development aid, HURINET also launched its Human Rights Fund Programme in 2002. After setting up a Fund Office and employing two people to run it, the fund was advertised. From the 238 applications, 14 were selected. Since the money was only disbursed at the end of the year, reports on how the fund portions have been spent have yet to reach the Fund Office.

As part of the skills and capacity building programme, a needs assessment was carried out among human rights NGOs which clearly concluded that one of the prime needs of many such organisations is for more physical space; for offices, consultations and other client-directed activities, conference facilities, files and archives etc. HURINET itself is no exception to this.

Given the fact that 85 % of Ugandans live in the rural areas, one of the most common concerns of human rights NGOs is that they don't serve this part of the population anywhere near as efficiently as they serve the remaining 15, living in Kampala and a handful of other cities. In fact, most NGOs don't have a single branch office. Mr. Masiga said that this is one of the problems HURINET is trying to address. Even if a potential future human rights house will be located in the capital, it ought also to organise itself so that the member organisations are enabled to reach out and serve the rural population a lot more than what is the case today. Now, for official bureaucracy as for all civil society organisations alike, the concentration of power in the capital is such that it amounts to a serious threat against the actual workings of Ugandan democracy. The experience of influence is clearly lesser in the rural areas. Mr. Masiga brought this observation into reflecting upon a potential human rights house and stated very clearly that it would be both unfair and unwise to let the better resourced NGOs determine the fate of the less well off. In every decision to be made, everyone involved should have an equal say and an equal vote. This is the only way, Mr. Masiga argued, that the added value of a shared house as he saw it – improved networking, sharing of information and joint projects - could be realised. According to Mr. Masiga, the situation today is that a number of human rights organisations are doing good work, despite being poorly resourced. Hence, as he saw it, a shared house is the obvious solution, if not to all, then to very many of the problems that most of the human rights NGOs struggle to overcome today. All member organisations of a future human rights house will most probably experience instant effects from co-locating, not the least in their wish to speed up their own capacity building, improving their general efficiency and services towards clients and making the most of their limited manpower.

### **3. Legal Aid Project**

Legal Aid Project's (LAP) Director is Martha Nanjobe. She is also secretary to the Board of Trustees, and briefed us on LAP's activities. Established in 1992, LAP focuses particularly on access to justice issues. To overcome the inequalities in this area, LAP offers free legal aid, both from its headquarters in Kampala and its regional branches in the north (Gulu), west (Fort Portal) and east (Jinja) of Uganda. All offices offer the full range of legal aid services. These include providing legal advice and information, legal representation, legal and human rights awareness, and assisting prisoners in need of legal aid. LAP's vision, according to the annual report for 2002, is a "Ugandan society where justice is accessible to all irrespective of their gender, age economic and social status and to make all people understand, promote, respect and participate in the protection of their rights". Its mission is to "contribute to the rule of law and good governance in order to achieve social development".

To accomplish this, LAP has identified six objectives: First, to provide quality free legal services to indigent Ugandan men, women and children including court representation, second, to offer free legal advice and representation to poor prisoners, third, to increase awareness of legal and human rights awareness amongst the populace, fourth, to fight against all forms of human rights abuses, fifth, to initiate research and law reform into legal issues and issues affecting needy and unprivileged men, women and children in Uganda, and sixth, to co-operate with all stakeholders whose aims are to bring about social and equitable justice.

In 2002, LAP availed legal advice to 1869 people. Most of these received their advice by way of showing up at LAP's clinics, but others, mostly because they lived too far away from the clinics to get there, had their advice through the telephone or via email. In addition to this, LAP advocates and volunteers provided legal information, assistance and court representation to 5389 poor Ugandans. The majority of cases were land related, but family, custody and child maintenance cases also rank high. In addition, crime cases relating to arrests, torture, illegitimate use of bail and the security agencies' practice of using the so-called 'safe houses' for violent interrogation are all on the increase. Since the unconstitutional, yet governmentally initiated 'Operation Wembley' was launched in June 2002, LAP has also had to provide legal aid to a number of victims to this operation.

LAP is funded by the Norwegian Bar Association and the Norwegian Agency for Development (NORAD). LAP points out that the Government of Uganda does not fund legal aid programmes. The priority of the Government is the constitutional responsibility to fund capital offences by way of State Briefs. Civil Society Organisations involved in providing legal aid are presently lobbying the Ugandan Government to fund legal aid programmes under the Justice, Law and Order Sector.

Together with the Legal Aid Clinic (LAC), LAP is responsible, through its Board of Trustees, to the Uganda Law Society. The Director reports to the Board and is in charge of LAP's three divisions; the training section, the legal practice section and the finance department. The former two are the ones designed to develop and run client-directed programmes. The training section is currently divided in four separate parts: the legal awareness programme, the human rights media awareness campaign, the prisons programme and the programme coordination. The legal practice section also separates into four different activities; legal information and advice, legal aid, court representation and land rights information, the latter a response to LAP's experience that the majority of their cases relate to land rights issues.

Mrs. Nanjobe was in no doubt that a potential future human rights house, albeit being located in Kampala would be of great help to LAP's and other human rights NGOs' efforts to increase their

general level of activity and improve their services in the rural areas. Through joining forces centrally, resources can be released and allocated to local and regional projects, programmes and fully operating permanent offices. Hence, the synergy effects, she thought, will be felt exactly where they are most needed; in the rural, and generally poorer and also in other ways less privileged areas of the country. There, the establishment of a human rights house will be felt as an increase in accessibility, both because the member organisations will be in a better position to reach out, but also because one will no longer have to travel from one organisation's office to another, be it in the capital or wherever else the member organisations are represented. An increase of human rights NGOs' presence, activity and accessibility in the rural areas would be a major improvement of the human rights situation at large, since this is where most land rights issues emerge, and where other gross violations of human rights, among them the ones caused by the war and the refugee crisis, most often take place. Mrs. Nanjobe particularly mentioned that the coalition already in place on legal aid issues most definitely would benefit from the establishment of a human rights house.

LAP's Director also thought that such a house would increase transparency between the member organisations and make it a lot clearer what each and everyone is actually doing. Strategies will improve and those NGOs who tend to make noise just to show their donors they are working will have to rethink their priorities. There will be issues of power-relations between the different organisations moving in together, but none so difficult that this problem can't be resolved. Instead, Mrs. Nanjobe believed that moving human rights NGOs under the same roof would allow them to learn from each other, and thus serve to improve everyone's general organisational, administrative and managerial skills. According to Mrs. Nanjobe, most human rights NGOs particularly need to improve their human and financial management skills. Even though specialised training in these areas is in demand, moving together enhances the chances of learning from each and thus takes the member organisations at least some of the way towards improving their human and financial management skills. Hence, a combination of house-sharing and specialised training would be ideal, Mrs. Nanjobe thought. Finally, given the fact that some of the most obvious partners in such a collective already own their own premises, Mrs. Nanjobe thought that some of the funds needed could be raised by way of selling the currently properties.

#### **4. Legal Aid Clinic**

The Law Development Centre of Uganda (LDC) is a multi-purpose training, research, scholarship, publication and law reform institution established by an Act of Parliament in 1970. One of its main functions is the delivery of practical skills training to graduates of recognised universities who seek admission to Advocates of Uganda. When first conceived, the parliament also mandated that one of the roles that LDC should perform is to assist in the delivery of legal aid to indigent persons who would otherwise not have access to lawyers or to the legal system. As such, the Legal Aid Clinic, LAC, was established in 1998 with financial assistance from USAID and the Ford Foundation. At present, LAC is still funded by the Ford Foundation, who has been joined by Save the Children (UK), the American Center and the American Bar Association, all sponsoring specific programmes. LAC is a public defender project, whose main aim is to improve the level of education of law faculty graduates by way of giving them a deeper and more meaningful understanding of the law, the legal profession and the lawyering process. In addition to this, LAC offers free legal aid. It is important to notice that although LAC is financially independent of the Ugandan Government, and works in ways very similar to NGOs, it is not one itself. Instead, initiated and with a mandate from a Parliamentary Act, it falls somewhere between an NGO and an extension of Government.

At present LAC operates in and around Kampala, but it is LAC's ambition to establish itself in other parts of Uganda, too. LAC dedicates significant amounts of its resources to teaching sensitise and in other ways enable law students and young lawyers to represent first and foremost petty criminals and juvenile offenders in court. It is important, said Legal Officer Eddie Mukasa, who received us at LAC's offices, to alert students to the social aspects of the law, especially since their compulsory training does not necessarily do this. Cases LAC may take include maintenance and petty crime, affray, and violence, but it also performs prison visits to pick up cases there. Reasons for imprisonment are still pretty randomly executed in Uganda, and LAC may for instance file cases requesting more humane serving conditions for mothers serving with their babies, or children who have been sent to jail for minor incidents of theft, unrest or affray. LAC also engages in maintenance cases related to polygamy or multiple marriage customs and land rights issues, of which many are forceful evictions following from the growing numbers of internally displaced in Uganda.

LAC's mission is to "enhance the professional training of postgraduate law students at the law development centre and promote the lawyer's role of service to the community through practical experience based on learning and legal representation of indigent persons". Albeit not exclusively, LAC concentrates on the rights of children. Its target groups are children in need of care and protection, juvenile offenders and petty criminals. Reflecting this priority, among its objectives are; to provide pro bono legal advise and representation to indigent petty criminals, juveniles and children caught up in the legal system or in need of care and protection; to implement the newly enacted children's statute by advocating for the provision of rehabilitative treatment and facilities for redeemable youth; to work with other child rights advocates and actors to protect infants and children neglected, abused and / or left homeless and improve the general situation of children's placement and follow-up, and; to create public awareness about the plight of petty and juvenile offenders and children in need of care and protection through publication of materials related to cases handled.

Mr. Mukasa said that out of the large numbers of cases with a clear human rights aspect, only a very few reach the Government's own Uganda Human Rights Commission (UHRC, see below). UHRC has done a lot of good work, said Mr. Mukasa. Through its engagement with particular cases, it has shown willingness to deal with controversial issues head on. Even so, there are obvious reasons to question its integrity. The President has to approve each and every appointment of a new commissioner. Furthermore, like most of the NGOs', UHRC's focus is biased towards the cities, despite the fact that most human rights abuses happen in the rural areas. Mr. Mukasa added that as an indication of the political climate within which Ugandan human rights NGOs work, there are no organisations dedicating themselves directly, let alone solely to the abolition of torture or the release of political prisoners.

Mr. Mukasa was of the opinion that many among the human rights NGOs may rather easily improve their efficiency. Assessing the human rights NGO sector as a whole, there is insufficient focus on the basic needs of ordinary Ugandans. Rather than concentrating on serving their clients, many human rights NGOs focus on looking after themselves, spending too much on good offices, but without doing enough from those. Hence, Mr. Mukasa thought that a lot more could be done on the grassroots level. Tighter networking and increased co-operation are the answers, Mr. Mukasa thought, to many of the problems currently suffered in the human rights NGO sector. Like LAP, LAC has also successfully integrated the work of lawyers and social workers. LAC's greatest source of manpower, though, is the 250 volunteers serving their obligatory nine months prior to receiving their certificates. Without those, LAC would be a rather invisible organisation, employing only three lawyers, four social workers and two support staff. Given such limitations, and also the

relative absence of co-operation even between very similar human rights organisations, Mr. Mukasa thought that a human rights house would no doubt improve these organisations' services, efficiency and overall performance and thus lift the struggle for human rights to a completely different level. A human rights house would also increase the member organisations' security, raise their courage to address more controversial issues and enhance the chances of receiving funding, not only for joint projects, but also for each and every organisation's individual activities, due to the documented increase in efficiency and success rate that may follow from joining forces. From such a development, a decrease in the self-censorship currently enacted to greater or lesser extents by all human rights NGOs may also follow. On the issue of security, Mr. Mukasa thought that a human rights house could also provide the much needed security for witnesses that the official legal system does not provide.

Finally, a house where many organisations work together may even serve to silence the accusations thrown at individual human rights NGOs from time to time, that they are only there to front foreign interests. The scope of activities of a whole house will be such that it would be hard to pinpoint particular interests to front, let alone countries having those.

## **5. The Public Defender Association of Uganda**

Project Coordinator Mrs. Flavia Nabugere Munaaba introduced us to the work of the Public Defender Association of Uganda (PDAU). This is an NGO whose mission is to promote human rights observance and the rule of law through the criminal justice system. PDAU carries out criminal defence work for needy persons charged with serious offences. Among its activities are legal advice and representation, advocacy, including dialogue, lobbying and public interest litigation, law reform and research into legal issues, and also various educational projects, such as sensitisation workshops and seminars open to the public, production of newsletters, brochures and pamphlets, and also radio and TV programmes.

Mrs. Munaaba said that PDAU's area of concentration is marginalized or neglected outright by other human rights NGOs. Most other human rights NGOs providing legal aid do so only in civil cases. Similarly, within the legal system, there is a permanent shortage of defence advocates in serious crime cases and also a tendency, even among those who claim to be acting on behalf of the defendants, to do so half-heartedly or biased towards prejudicial public opinion, sometimes bordering with blatant mob justice. Bribing is also a problem in this area, especially since legal clerks are relatively poorly paid. They often need the money.

Supported by DANIDA, the Danish Government's agency for international development aid, PDAU grew out of the observation that severe miscarriages continue to happen, long after Uganda's official transition to democracy and establishment of a legal system meant to look after everyone's interests in a fair, just and equal manner. This has yet to become the state of affairs. Something as basic as access to justice, for instance, is a constitutional right, but not anywhere near enough is done to secure that this becomes the reality of all Ugandans. PDAU would have liked to serve many more clients, but with only two staff advocates and varying numbers of volunteers, Mrs. Munaaba regretted the fact that PDAU is able to serve only a small amount of those who could do with its expertise, especially in the rural areas.

Describing what kinds of cases PDAU takes on, Mrs. Munaaba explained that in most of Uganda's prisons, there are prisoners who have served for three years, sometimes even longer, without even knowing what for, and with little hope of ever being informed, since their files, if ever they had any,

have been lost. Miscarriage of justice within the prison system is one of PDAU's prioritised areas. With the increasing death rates of parents still caring for their children, PDAU has experienced an increase in incestuous defilement cases, with widowed fathers as the most frequent offenders. PDAU is left with the dilemma of whether or not to take these cases to court, but more often than not, that decision is made in secret, long before PDAU or anyone else for that matter get to know about it. Fearing the consequences, and probably correctly assuming that they themselves will be the ones made to suffer, the victims of this kind of abuse hesitate or even refuse to bring their close relatives to justice. The same goes for the large amounts of domestic violence taking place in Uganda; the vast majority of these cases go unnoticed, according to the victims' wishes.

Mrs. Munaaba suggested that a potential future human rights house could even include some kind of a shelter for victims, witnesses and those that these care for or feel the need to protect. Other NGOs dealing more directly with cases of this kind, like the Uganda Women Lawyers' Association (FIDA, see below) or Hope After Rape do not provide this.

The overarching goal of a potential future human rights house, said Mrs. Munaaba, should be to increase the access to justice for the poor. This would imply, among other things, that as an alternative to the UHRC, an independent human rights house should also have an investigative unit. The UHRC is unlikely ever to move beyond the limits set by the legal system and would most probably have any wish for funding for projects that may come into conflict with the government rejected. Hence, a potential future human rights house's own investigative unit should be sufficiently resourceful to take on cases anywhere in the country.

To settle cases out of court, the house should include a mediation centre. This centre should have a surplus of staff, so that ambulant services would be part of what the house could offer. In line with what a number of human rights NGOs already do, the house should be a training ground for young lawyers, where sensitisation to the social aspects of justice would be brought to the forefront of the volunteers' awareness. A human rights house, said Mrs. Munaaba, would be a tremendous incentive for law and social work students and others to come and work for free. Today, there are many who cannot find anywhere to channel their wish to contribute to the betterment of their own society.

It is crucial, said Mrs. Munaaba, that a shared house attracts expertise in all relevant areas within the human rights sector. This expertise should also manifest itself in a library, open to the public, but collected around the needs of the staff and volunteers and primarily for them to use. Mrs. Munaaba also thought that a human rights house would be the perfect response to the donors' increased wish for joint projects, most explicitly expressed in the recent basket funding initiative of the so-called Donor Democracy and Good Governance (D2G2, see below) group. Finally, given the fact that many among the most central human rights NGOs are gathered under the Uganda Law Society, this association should lead the process towards the establishment of a human rights house.

## **6. Uganda Women Lawyers' Association**

Established by a group of female lawyers in 1974, Uganda Women Lawyers' Association (FIDA) grew out of the observation that there was – and still is – a marked inequality in access to justice between men and women. With the introduction of a more democratic regime from 1986, FIDA was revived. Since then, its first focus was on developing its legal aid clinic, but from 1992 onwards, with the introduction of a children's desk, FIDA has gradually turned towards a more child-centred approach. Today, FIDA's target areas are family law and domestic relations, including domestic violence, care, custody and maintenance cases, and land and property rights.

Among FIDA's partners for cooperation are Hope after Rape, African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) and Save the Children (Denmark).

FIDA's Executive Director, Mary Kusambiza informed us that her organisation serves in excess of one hundred clients a day, out of whom approximately 50 come to the main office in Kampala, and an average of 15 come to each of the four regional branches. In total, FIDA has a total of 35 members of staff, but these may also call upon the organisation's 255 member lawyers for assistance. Most often, this network is used to provide free legal aid, but it also does advocacy work at local and central leadership level to influence policy makers and enforce law reform. In this realm, leading up to the revision of the Constitution in 2005, FIDA lobbies for affirmative action to remain a prioritised area in the implementation of the Constitution, especially since the Government has sent signals to the opposite effect. In addition, FIDA wants to engage in election monitoring, especially since the experience is that election periods may lead to an increase in various kinds of abuse.

Outside the Constitution as well, many legal initiatives are gender insensitive, and thus also children and poverty insensitive, said Mrs. Kusambiza. In addition, in conflicts between official and traditional law, police and other law enforcers land on the 'wrong' side. Whatever the reason, the end result, is further discrimination of women and children.

Mrs. Kusambiza clearly saw the need for standardisation of legal aid procedures, and believed that the establishment of a joint house could take the human rights NGOs a long way towards this goal. This effort should also include the standardisation of the legal education provided by many human rights NGOs. This is popular among donors, and there is plenty of experience and expertise in this field, but little attention is currently paid to what is actually being taught.

### **III OTHER MEETINGS**

In addition to the above mentioned NGOs and the below potential donors, we also had three other meetings, two of which with immediate relevance to the NGOs' self-presentation:

#### **1. Centre for Basic Research**

At the Centre for Basic Research, its Director PhD Bazaara Nyangabyaki received us to discuss the human rights house concept and also give us an overview of the history and current situation of Uganda's human rights NGOs. Mr. Bazaara was critical of what he saw as many donors' exaggerated wish to maintain financial control over the projects towards which they donate money. Many such projects are organised as trusts into which each recipient, most often of fairly small grants, can throw their share and thus join a larger co-operative. This way, the donors never entirely give away their money. Should the co-operative collapse or for other reasons have to be discontinued, the donors reclaim their money. Hence, those who may have dedicated years of their lives to developing the trust, and succeeded in so far as it has survived and also provided an income for the ones engaged, created jobs for others and seen to it that a lot of people have been able to earn a living and care for their families, are left with nothing. The growth generated goes back to the donors, and the initial recipients have nothing to bring along and use, for instance to set up new businesses. This kind of conditional development aid, Mr. Bazaara said, does not help in solving the real problem, the poverty trap, in which many of the recipients will remain stuck.

In addition, CBR's Director added to our understanding of the current human rights NGOs' situation by way of providing us with a brief historical sketch. Over the last decade or more, he said, numerous new human rights NGOs have been established. Many of these, though, are rather

off-shoots or results of divisions of already existing NGOs. The high number of human rights NGOs is also a reflection of Uganda's political situation, in which other political parties than the President's own 'Movement' are forbidden. Hence, establishing an NGO is a way to get around this problem and create a platform from which some kind of participation in public life and political decision-making can be had anyway.

Given this still ongoing fragmentation, Mr. Bazaara saw the need for an initiative that could counteract the trend and strengthen, rather than further weaken, whatever there might be of unifying institutions within the human rights movement. A potential future human rights house, Mr. Bazaara thought, would serve exactly this purpose and could very well achieve its goal of lifting the visibility, not only of the participating human rights organisations, but more importantly, of the human rights movement as a whole. A 'best scenario' vision would see the member organisations in particular, but also the entire human rights movement, grow in courage and confidence, efficiency and competence, from joining forces and learning from and inspiring each other.

A month and a half after our visit, on the 8<sup>th</sup> of August, Mr. Bazaara died from a series of strokes. His colleagues describe his untimely death as a great loss to the CBR and to the academic world.

## **2. Uganda Human Rights Commission**

At the Uganda Human Rights Commission (UHRC) we met the Commission's chairperson Margaret Sekaggya. After enlightening us on the work of this governmentally initiated commission, Mrs. Sekaggya engaged in a discussion over what a human rights house could do and how the human rights NGOs would benefit from having such a house. First of all, she thought that all kinds of communication, including the one between the governmental UHRC on the one hand, all the human rights NGOs on the other, would benefit greatly from sharing and contributing jointly to localities, facilities and, in many cases, also clients. Already, the UHRC passes on cases, for instance to FIDA or LAC for them to provide legal advice and, if need be, take the cases to court. In addition, the human rights NGOs deciding to join a potential future human rights house will benefit from sharing all kinds of facilities, but especially those that can be used for joint projects and activities, such as conference rooms, a resource centre, preferably including a documentation centre and a book and video library, and last, but not least, a computer network designed to meet the organisations' needs. Mrs. Sekaggya also suggested that such a house should accommodate a theatre, possibly a cinema and a museum in which Ugandan history could be visualised from a human rights point of view. Generally speaking, given the fact that close to half Uganda's male population and more than half of its female are illiterate, priority should be given to ways of conveying the mission of a human rights house, which do not require any literacy skills. This should apply to the development of all kinds of teaching manuals and material, but also to the library, the museum and other among the divisions of the house meant to communicate its messages.

Mrs. Sekaggya firmly believed that through joining forces, the human rights NGOs committing themselves to the project of establishing a human rights house would also experience the added value of finding the fundraising easier, not only for joint projects, but also for each and every organisation's individual activities. The reason why this is so, she thought, is that the house project gives the donors increased assurance that what they invest in will actually be carried out according

to the organisation's initial intentions. By way of joining forces and coordinating their activities, the associated human rights NGOs will put an end to their hitherto overlapping activities. The increased intimacy within which they will work following from moving in under the same roof, also means increased transparency between the different organisations, and thus increased commitment to actually bringing to conclusion whatever they set out to do, with or without external funding.

Mrs. Sekaggya concluded by way of emphasising that UHRC would welcome an independent human rights house and that the work of her governmentally initiated commission would benefit from a strengthening of all the independent human rights NGO's work. Even though UHRC and all the other organisations we met work in the same sector, UHRC's mandate is very different than all the others'. UHRC may make recommendations in the areas of judicial delay, police sensitisation, prison management and the like. It can also award compensation, recommend criminal prosecution and pass offenders on to the courts. However, it is not part of UHRC's mandate to pursue cases through the court system. This, UHRC has to leave to others, for instance some of the human rights NGOs we met. For this reason, as for the more general benefits of making sure that human rights organisations formally independent of governmental control also enjoy sufficient freedom to do what they have set themselves up to do, Mrs. Sekaggya saw numerous added values within the Ugandan context of a human rights house established in line with the Human Right House Foundation's concept.

### **3. Sam Kajoma, Lawyer at the Norwegian Embassy**

At the Norwegian Embassy, we met with the Embassy's lawyer and legal adviser Sam Kajoma, whom we asked what model of ownership and also which way of establishing a new organisation he would recommend. Mr. Kajoma had very clear views on both issues.

First, regarding the ownership of a building, Mr. Kajoma informed us that organisations can only own leaseholds, which is a time-limited kind of ownership that applies to the building only, and not the land on which the building stands. However, these time-limits may be very long. Generally speaking, therefore, a leasehold is not a wasted investment. If you buy from the state, that would delimit the value at which you can sell. If you buy from a private citizen, they are only allowed to sell the leasehold, even if they own the freehold as well. However, the way to get around this, if at all this matters (which will depend on the conditions relating to the various properties available at the time of buying) is to buy the freehold in the name of the local partners and let them lease it to the organisation we establish and register.

Generally speaking, buying property is quick and easy in Kampala. It may take anything from one week to three months, but rarely longer than that. It is very important to make sure that all details regarding the property in consideration are correct, including who is the true owner, what debts and mortgages are attached to the property, what kinds of clauses there might be on the ownership and use of the building etc. One must carry out a thorough survey. For this to get done in a fully reliable manner, the selection of agency matters. Mr. Kajoma's recommendation was to use the international agency Knight Frank, which has recently established itself in the capital.

Already, many human rights NGOs face difficulties when trying to renew their registrations as NGOs. Given the fact that a new NGO Bill is soon to be implemented, most probably with further restrictions on NGOs' activities, among them that from the moment the new Bill takes force, it will qualify as a crime not to apply annually for re-registration of your NGO, it would be wise to register, Mr. Kajoma suggested, not as an NGO, but as a so-called 'company limited by guarantee'.

This equals a company without shares, and is a lot quicker to take through the bureaucracy all the way to registration. If need be, this registration can subsequently be transferred, and this way of reaching the goal of having our ownership body registered as an NGO will be quicker and easier than it will be to register directly as an NGO.

#### **IV OTHER POSSIBLE PARTNERS, AS SUGGESTED BY THE NGOS WE MET:**

In every meeting, and especially with the human rights NGOs, we asked which other NGOs they saw as good candidates for partnership in a potential future human rights house. This is the list we ended up with:

National organisations:

Always Be Tolerant (Peace-building)  
ANPPCAN (African Network for the Prevention and Protection against Child Abuse and Neglect)  
ISIS WICCE (Women's International Cross-Cultural Exchange)  
ACFODE (Action for Development)  
NUDIPU (National Union for the Disabled People of Uganda)  
UCRNN (Uganda Child Rights NGO Network)  
East African Human Rights Institute (Kampala initiated, but not solely a national NGO)  
UJCC (Uganda Joint Christian Council),  
Refugee Law Project  
Hope after Rape  
Uganda Land Alliance  
Platform for Labour Action(name not confirmed)  
DENIVA (Development Network of Indigenous Voluntary Organisations)  
African Centre for Torture Victims  
Human Rights Focus (Gulu)  
Uganda Child Rights Network / Initiative  
Uganda Debt Network  
Centre for Basic Research  
Uganda Gender Resource Center was also mentioned, but this organisation is not independent of government and thus not an NGO, according to one of our informants.  
Greenwatch

## V POTENTIAL DONORS

### 1. Norway

Ambassador Tore Gjøs briefed us on Norway's relations with Uganda and Norway's experiences, priorities and activities in the country. Gjøs also informed us on the Norwegian Ministry of Foreign Affairs' policies towards East Africa in general and Uganda in particular.

According to Tormod C. Endresen, Assistant Director General of the Norwegian Foreign Office's Human Rights Section, the Africa desk consists of 13 full time members of staff, out of whom three work full time on Sudan. To this, Ambassador Gjøs added that for Uganda, Rwanda and Burundi altogether, only one person is supposed to work half time.

Ambassador Gjøs pointed out that 52 % of Uganda's national budget is covered by international donor money. Uganda has 13 bilateral partners and receives donor funding from ten countries. England and USAID are the two biggest donors, with England easily the most modern thinking of the two. Denmark is number three, the Netherlands four, Ireland five, and Norway and Sweden in a shared sixth place. Below these, UNDP and others follow. As for the Norwegian and Swedish contribution, the long-term vision, Gjøs informed us, is to unite and reach a far more cost-efficient division and distribution of both funding and labour. Already, Sweden has been given the licence to administer and spend Norwegian money in the health sector, while Norway does the same with Swedish donor funds in the governance sector. Norway has so far given priority to supporting the Uganda Human Rights Commission (UHRC), UNICEF's programme for registering births and deaths and the Ministry of Health's provision of health services for persons with disabilities. The biggest Norwegian NGOs are Redd Barna (Save the Children), Norsk Folkehjelp (Norwegian People's Aid) and Flyktningerådet (The Norwegian Refugee Council), the latter two concentrating their efforts in the Gulu area, where the need for education and distribution of food among the refugees and internally displaced is urgent.

Among the donor nations, two camps can be identified. On the one hand, Sweden, Denmark, Ireland, Germany, England, Norway and Austria tend to think alike. On the other, Italy, France and

Belgium also seem to understand each other particularly well, albeit not primarily on issues of development and cooperation. France, for instance, has approximately a hundred people working at its embassy. Even so, it is not among the bigger actors on the development or human rights sector.

From July to December 2003, the Norwegian Embassy takes over the chair of the so-called D2G2 (the Donor Democracy and Good Governance) group. In addition to the EU commission, the group consist of 13 countries, out of which nine are EU members. The purpose of the D2G2 is to exchange information, coordinate policies towards the government and join forces, not the least through the establishment of a so-called basket funding programme, so as to cooperate better, all for the benefit of the recipients of donor funding and thus also for everyone these recipients are trying to help. At the time of our visit, Norway had yet to add its contribution to the basket. Gjøs recommended that HRH presents the Ugandan human rights house project to the D2G2. Subsequently, Norway can invite the other donors of the group to provide basket funding for the project. For this to happen, Gjøs needs a document clarifying the HRH concept and presenting the arguments in favour, in his own words; 'the added value,' as compared to supporting the human rights NGOs individually. HRH will file a formal request to include a meeting with the human rights NGOs we have met in the programme for the Norwegian Parliament's Foreign Affairs Committee's visit in October. HRH will also arrange a briefing for the committee prior to their visit to Uganda. In the process of planning our next visit, Gjøs invited HRH to draw upon the Embassy's resources.

## **2. Sweden**

At the Swedish Embassy, we met with Senior Advisor on Social Affairs, First Secretary Mrs. Ros-Mari Bålöw. She told us that Sweden has given priority to supporting the governmentally initiated Uganda Human Rights Commission (UHRC), and has allocated significant funding for the construction of a new building to be raised on the same site where the UHRC is currently holding its offices in older, insufficient premises. Sweden has also been among the main donors for the Foundation for Human Rights Initiative (FHRI), one of Uganda's main human rights NGOs. Finally, Sweden has initiated and donated money for the establishment and running of the so-called Uganda Human Rights Fund, administered by HURINET.

Mrs. Bålöw expected Sweden to be positive and willing to support a potential establishment of a human rights house according to the HRH's ideals, accommodating all associated organisations on equal terms. Through its involvement in other building projects, Sweden has used local architects and other contractors, all of whom the Embassy would be happy to share.

As for the human rights situation itself and the ways with which the donors relate to it, Mrs. Bålöw saw it as a main problem that most of the support, financial and otherwise, is being spent or directed towards Kampala and its immediate outskirts. It is particularly the northern and eastern areas that have ended up suffering from of this long-standing tendency. Centralisation and the various kinds of inequality that follow must also be seen as one of the causes of the conflict in the north between the LRA and elements of the military forces. In an attempt to amend this bias, Mrs. Bålöw was of the opinion that the human rights NGOs should focus more strongly on civil and political rights. This will include further networking in the rural areas and thus particularly benefit the currently disadvantaged areas. In the longer term, the entire civil society could gain strength from such an effort. Moreover, any and all attempts to strengthen civil society inherently carry as well the much needed added value of contributing to the general levels of education and enlightenment.

Much is hanging on the outcome of the 2006 elections which to a large extent will decide the possibilities of further development in Uganda, not the least within the human rights sector. Mrs. Bålów expects that significant amounts of both governmental and NGO resources – and thus donor money as well - will be drawn into the efforts to secure that the elections will proceed peacefully, remain open throughout and that the result will be respected by all.

Mrs. Bålów saw hope and potential in her own assessment that there is a genuine will for development in Uganda. On that ground, and to enhance sustained cooperation between the human rights NGOs showing an interest in the establishment of a HRH initiated human rights house, we see the possibility for a joint project leading up to the elections in 2006, preferably drawing upon the resources of other members of the HRH network. One option is to send a representative from the human rights house in Sarajevo, experienced in election monitoring and the establishment of national networks. Media monitoring in relation to the election campaign would also be a relevant effort, well adjusted to the conclusions of the Netherlands Embassy's *Beyond Workshops* report, suggesting that an expansion of the political sphere and network building for that purpose are among Ugandan civil society's most pressing needs.

### **3. Denmark**

At the DANIDA offices, we met Programme Advisor Frans Mikael Jansen and Programme Coordinator Kennedy Tumutegyereize, both of the Human Rights and Democratisation Programme. Mr. Jansen and Mr. Tumutegyereize remarked that even if many of the most professional human rights NGOs live and work in the same part of Kampala, some of them even on the same streets, cooperation is very limited. The two recommended therefore that the HRH should focus on strengthening the network between the NGOs who decide to join the process of establishing a human rights house. This would probably be most easily achieved through initiating one or more joint projects. When the time comes to resolve the ownership question of the human rights house, Mr. Jansen and Mr. Tumutegyereize believed it would be best if only a limited number of NGOs will be registered as owners.

Like Mrs. Bålów of the Swedish Embassy, the DANIDA representatives also considered joint projects the best way to proceed, not the least to test the capacity and willingness to cooperate. Various kinds of monitoring projects would be useful for most organisations. So would activities that would enhance the organisations' advocacy skills. Many of the organisations seem to be in need of both knowledge and experience in these fields, not the least concerning the methods. In addition to the need for this very basic kind of training, international contacts and inspiration would most probably also have a beneficial impact.

To enhance the credibility of the NGOs, both domestically and abroad, for instance towards the donors upon which most of them rely, practically all of them need to decentralise and become stronger and more visible in the western, northern and eastern regions, that is to say almost anywhere at some distance from Kampala. Within the framework of HRH's possible initiative, this could be done either by way of stimulating increased decentralisation among the associated NGOs or even more pro-actively by way of establishing, in addition to the main house in Kampala, satellite human rights houses around the country.

Prior to whatever the HRH decides to do next, Mr. Jansen and Mr. Tumutegyereize strongly recommended that we familiarize ourselves with the contents of the Netherlands' report *Beyond Workshops*, containing a careful analysis of the strengths and weaknesses of the human rights sector in Uganda. The report identifies the continued use of torture, the need for capacity building within the NGOs and various efforts to open the political space as areas recommended for priority. Three

NGOs have been taken it upon themselves to coordinate the activities in each of these areas. These are; FHRI (torture), Human Rights Focus (based in Gulu in the north, capacity building) and HURINET (opening of the political space). Mr. Jansen and Mr. Tumutegyereize also suggested that we meet Mr. Barney Afako, the Advocate and Justice and Conflict Consultant who actually wrote the *Beyond Workshops* report.

DANIDA's biggest partner and recipient of funding is the UHRC, whose offices around the country already serve as a kind of human rights houses, albeit under the government's control. The offices in Gulu of another among DANIDA's partners, the HR Focus, also serve as a human rights house. Finally, the Masters programme in human rights at the Makerere University, the Uganda Women's Network and approximately ten other human rights and / or education organisations, projects and initiatives also receive support from DANIDA.

## 4. The Netherlands

At the Netherlands' Embassy, we met with the Deputy Head of Mission and Head of Development Cooperation Eric Hilberink and with First Secretary and Advisor for the Legal Sector Francesco Mascini. Compared to its likeminded donors, the Netherlands' engagement is relatively limited on human rights issues, said Mr. Hilberink and Mr. Mascini. It is the Netherlands' intention, though, to follow up their own report *Beyond Workshops* with concrete initiatives and project funding for the UHRC, the Uganda Human Rights Fund and the re-opening and running of a rehabilitation centre for victims of torture. In addition, the Netherlands intends to continue its practice of raising issues of concern, such as unacceptable prison conditions, police violence and torture, with Ugandan authorities.

Mr. Hilberink and Mr. Mascini's general assessment of human rights NGOs in Uganda is that even if human rights NGOs have gradually become more outspoken, they are not yet anywhere near as critical or provocative as they ought to be. Instead, Ugandan journalists tend to investigate their cases in further depth and also express themselves with more confidence and courage, sometimes also to greater effect, than the NGOs. In addition, the NGOs tend to focus on capacity building and other kinds of self-educational or skills enhancing projects, often at the expense of much needed research, monitoring, case based campaigning and extrovert consciousness raising activities on the issues they have set themselves up to deal with. The communication between the human rights NGOs and the UHRC is also limited. Finally, and generally speaking, there is room for improvement in the areas of documentation and reporting, both on the NGO's own activities and on the issues with which they engage.

Mr. Hilberink and Mr. Mascini identified access to justice and the need for legal aid as the two main areas in need of improvement. Mr. Hilberink and Mr. Mascini's advice was to identify the main human rights issues and then pick and choose the most credible and effective organisations for association with a future human rights house accordingly.

## 5. Others

HRH also met Máirtín O’Fainín, Chargé d’Affaires for Ireland and Randolph Harris, who is Conflict Advisor for the United States Agency for International Development (USAID).

Mr. O’Fainín, speaking on behalf of one of the biggest donors, not the least in plain budget support (80 % of Irish donor money goes directly to the Ugandan government), emphasised that seen from a business / financial point of view, Uganda has been the most successful country south of the Sahara in recent years. Also politically, the country is showing positive signs. Mr. O’Fainín described Uganda as a fairly transparent society, open to criticism and moving towards multiparty democracy. At the same time, Uganda shows all the weaknesses of one party regimes, with extreme degrees of corruption, widespread nepotism, a much too sovereign president and an all too loyal staff surrounding him. Current debates on whether or not to change the constitution so as to allow for President Museveni to be re-elected for a third term also indicate that Uganda run the risk of undermining its own democracy and drift in the same direction, politically, as for instance Zambia, Malawi or even Zimbabwe, where similar debates have been in the least destructive, in Zimbabwe’s case plainly catastrophic.

Whatever the outcome of the so-called third term debate, it will be important for the international community to stay with Uganda and show a long term interest in making sure the country’s positive development, in all sectors, not only the financial, continues. The donor countries in particular ought to play a watchdog function. All kinds of monitoring will be crucial. Given the Ugandan engagement internationally, not the least in the war in the DR Congo, one should not forget to monitor as well Uganda’s external human rights record.

As for the human rights sector, Mr. O’Fainín emphasised that the UHRC already does good monitoring work in naming and shaming the violators of human rights in Uganda. As an example, he mentioned that the UHRC has addressed the persistent problem of the use of so-called safe houses, where people are being taken, tied up and blindfolded, for violent interrogation, allegedly carried out by small intelligence units associated with the police. So far, the Ugandan government has ignored the requests, both from the country’s own human rights NGOs and from other countries, Ireland among them, to rid itself of this problem.

Despite Ireland’s priority to budget support, the Irish Embassy has carried out its own visits to prisons and, among other things, undertaken medical investigations of torture victims there.

Mr. Harris clarified that human rights is not among USAID’s prime engagement areas. This is taken care of by the US Embassy, where Mr. Gregory Shaw, head of the political section, is the right person to talk to. Having said this, Mr. Harris drew attention to the tremendous proliferation of human rights NGOs in Uganda and left no doubt that in his opinion, many of them are to be rendered briefcase NGOs, set up more to create jobs and generate income for its staff than genuinely to deal with the issues these NGOs according to their own reports and for instance in application for funding claim to be dealing with. Mr. Harris pointed out that the majority of human rights violations in Uganda is carried out by non-state actors, and with LRA as by far the worst and most frequent abuser. Seen from a human rights point of view, the situation in Uganda was incredibly serious throughout the struggle for independence and all until 1986, when President Museveni came to power and Uganda’s political history began afresh, this time as something far more like a modern bureaucratic state. Compared to the pre-86 period, there has been a vast improvement, but violations of human rights continue and there is no doubt that this will remain the case also for the foreseeable future.

Mr. Harris drew particular attention to three organisations, one called the African Centre for Torture Victims (ACTV), the other the Civil Society Organisation for Peace (CSOP) and the third the Refugee Law Project (RLP). ACTV, formerly sponsored by DANIDA, now by the Netherlands Embassy, is lead by Dr. Nsamba. Mr. Harris strongly recommended that we get in touch with him and the ACTV on our next visit. The same, he said, goes for the CSOP, which has its headquarters in Kampala, but concentrates most of its activities in the north. In addition to meeting them, we should read its document on the consequences of the custom summed up in the title of a paper published by CSOP called *Cycles of Revenge*. The paper exemplifies well the conflict in Uganda, as in many other African countries, between on the one hand official law, as executed by the courts, on the other cultural or traditional law, as followed and executed by the majority of Ugandans. The contact person for CSOP is Stella Ayodong. The third human rights NGO mentioned was the Refugee Law Project. This is a well qualified and effective NGO based at the University of Makerere in Kampala, but active in and around Gulu where the majority of refugees and internally displaced are.

## VI CONCLUSION

The most important conclusion from HRH's research trip is that there is a clear need for a human rights house in Uganda. This finding refers both to the human rights situation itself, and to the resources, level of cooperation and general working conditions of the human rights NGOs. Presenting our concept, we were met with immediate understanding, great enthusiasm and a number of additional ideas and visions for what a Ugandan Human Rights House ought to include and also on how it ought to work. This interest had less to do with the fact that the member organisations of a potential future Human Rights House would get their own premises – many of them have that already – than the expectation, shared by everyone we met, that a joint house would enhance the human rights NGOs' performance and thus improve their services towards their clients. There is little doubt that such a house would represent a vast improvement of the current situation, most of all for the clients, but also for the organisations themselves, and thus for the Ugandan human rights situation at large.

Several very serious issues of concern mark this situation. First of all, the war in the northern regions, now spreading both west, south and east, is causing a wide array of human rights violations, including abductions, rapes, deliberate spreading of HIV and Aids and of course large numbers of casualties. Northern Uganda is also suffering a rapidly growing refugee crisis, to which the region's own war is a major contributor.

Inequalities in access to justice are the second largest human rights problem in Uganda. More often than not, this inequality is related to poverty, frequently in combination with other kinds of discrimination, such as against women, children, uneducated / illiterate or other minority and underprivileged groups. There is a massive demand for legal aid, advocacy and information about human rights, Ugandan law, and the functions of the legal system.

More generally speaking, the vulnerability of Ugandan democracy, the weakness of its civil society and the need to inform and empower the people on what a human rights based civil-political culture ought to be, should also become an area of high priority for the human rights NGOs. This would include increased efforts in sensitising policy makers, lawyers, law enforcers, social workers and others to the social and political aspects of the law and the human rights related questions permanently in need of being considered.

Among the most common problems brought to the human rights NGOs are land rights-related conflicts, domestic violence, abuse of women's and children's rights, legal consequences of the HIV / Aids crisis and various combinations of all of those. In addition, the human rights NGOs work to reduce the arbitrariness in executing Ugandan law, improve serving conditions in the prisons, eliminate the use of the so-called 'safe-houses,' abolish the death penalty and rid the country of the use of torture and other extra-judicial interrogation methods. There is also a need to improve coordination, standardisation and monitoring of all state institutions, but particularly those engaged in the implementation and maintenance of law and order.

In the course of our conversations with the Norwegian Ambassador to Uganda, Mr. Tore Gjøs, it became clear that Norway is chairing the so-called D2G2 (Donor Democracy and Good Governance) Group from July and until the end of 2003. Mr. Gjøs said that if he receives more material, particularly on the anticipated 'added value' of a Human Rights House, he is willing to present the project to the D2G2 Group for its members to consider it for so-called basket funding, that is, joint funding taken from all the members' contributions.

During our stay, we established that there are no legal obstacles, neither to buying an already existing house nor to acquiring a plot and building one ourselves. Furthermore, by registering as a 'company limited by guarantee' rather than an NGO, the restrictions applying to the latter can be avoided. Compared to other Human Rights Houses, both established and emerging, the price estimates we received were also within what can realistically be fundraised.

Finally, we see three main clusters of obstacles to establishing a Ugandan human rights house. First among these is the human rights situation itself and the unpredictable development of the political situation. In addition to the growing threat that the war in the northern regions may spread to include so much of the country that any sense of a state of law will be abandoned, there is also a chance that the build-up to the presidential elections in 2006 will destabilise the country to a point where working conditions for the human rights NGOs will not allow them to engage in a process towards establishing a joint house. The risks for the Human Rights House Foundation of engaging in such a process will be equally high. Second, corruption is so widespread in Uganda that rather sooner than later, any kind of investment, not the least entrepreneurial, is bound to be faced with this problem. If the HRH Foundation decides to go ahead with the establishment of a Ugandan Human Rights House, the advice we had was to engage someone very professional and a 100 % trustworthy to be in charge throughout and onsite in Kampala. There is no way the Secretariat in Oslo can keep the same kind of control. Third, before the HRH Foundation decides to embark on the process towards establishing a Ugandan Human Rights House, the interested human rights NGOs will need to prove their sustained willingness and capacity to cooperate. To this effect, the NGOs we met instantly agreed in our final meeting with them to embark on a joint project. The most recent news we have is that this project will get off the ground before the end of September.

Maria Dahle and Niels Jacob Harbitz agree that at this stage, a decision as to whether or not to initiate a process with the goal of establishing a Human Rights House in Uganda is premature. Instead, our plan of progress is to visit Kampala again in the second half of October to hold more meetings, both with the NGOs that we have already met, and with representatives of other NGOs and also other experts on the human rights situation. Our intention is to make a decision on the basis of the findings of this second visit and then, if the conclusion is that this is a viable project, embark on the pre-project phase from the beginning of 2004.

## **VII REFERENCES:**

In addition to all the conversations we had, this report also draws upon material published by the various human rights NGOs that we met. To fill in with further detail, the websites of Amnesty International and Human Rights Watch have also been consulted. Finally, the report *Beyond Workshops. Challenges and Strategies in Human Rights Interventions in Uganda*, commissioned by the Netherlands Embassy, Kampala, May 2003 has been of great use.

**Appendix 3**  
**Feasibility Study from Minsk 2002**

PROJECT  
«Human Rights House in Minsk»

**Materials of investigation stage**  
(SUMMARY REPORT)

Minsk  
2002

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# 1

## Introduction

In the Soviet Union, working with human rights was prohibited. The first human rights organization – the Moscow Helsinki Group – was established on May 12, 1976. Later, other human rights organizations were established in Moscow, Armenia, Lithuania, and Ukraine. Human rights defenders were under constant threat of repression, and thus started forming non-formal unions. They determined working methods and techniques, and acquired skills in right defending activity.

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In Belarus, there were no organizations defending human rights and basic freedoms until the collapse of the Soviet Union. The Belarusian civil society then started focusing on the problems of observance and defense of human rights and freedoms. The activities of the human rights organizations (especially of the regional ones) was of a limited territorial nature on the first stage. The human rights defending movement was shaped and developed most actively in the capital of Belarus – the city of Minsk, and later spread to other regions.

## 2

### **The need to establish the “Human Rights House in Minsk”**

The main problems of the right defending activity in Belarus are as follows:

- Coordination of the joint activity of right defending organizations;
- Availability to the citizens;
- Being recognized both on the national and international levels;
- Security of the right defending organizations and their members;
- Interaction with the international right defending community.

Absence of office-space is a serious problem for most of Belarusian non-governmental right defending organizations.

On the one hand, in the absence of such space an organization may not be officially registered. On the other hand, absolute majority of administrative buildings of the city is the property of the Administration of the President. First, it makes NGOs materially dependant on this power structure, and second, forces NGOs to pay high monopoly rent.

Many organizations can not afford to rent space in the administrative buildings and are located in the dwelling houses, which is a breach of legislation of RB.

Thus, most of the right defending organizations are dispersed in the city (which population is about 2 million people), it creates additional difficulties for the citizens who wish to apply for assistance. Moreover, this dispersion (decentralization) makes certain smaller organizations invisible for most of the citizens.

In addition, establishing of the “Human Rights House” in Minsk will enable human rights organisations to solve the problem of participants’ security which may arise in connection with getting and retaining a legal address, as well as will decrease the risk of robbery of offices and thefts of office equipment. (Before the Presidential elections in 2001, offices of

several non-state newspapers and non-governmental organizations were exposed to regular robberies).

Thus, establishment of the Human Rights House in Minsk will enable the following:

- To strengthen co-operation and joint actions (e.g. in rendering legal assistance to the victims of violation of human rights, in implementation of educational programs in the right defending field, etc.)
- To carry out right defending activity of a higher level, which can not be achieved effectively by free-running (autonomous) organizations by their own strength;
- To make right defending organizations more available to the citizens;
- To make right defending activity more recognizable both within the country and on the international level;
- To solve the problem of legal address for the organizations who will participate in the project and newly established right defending organizations;
- To reduce (unreasonable) costs through joint maintenance of premises of the Human Rights House in Minsk , and thus allow the NGOs to use saved funds directly for right defending activity;
- To increase security of the organizations who will participate in the Project, the right defenders themselves, and right defending activity as a whole.

### 3

## **Participating Organizations Interaction and co-ordination**

A number of meetings, discussions, consultations and agreement resulted in the formation of a circle of co-founders of the “Human Rights House in Minsk” Association to be established.

The leaders of the named organizations executed respective letters of intention and signed the “Temporary Agreement” on co-operative activity aimed at establishing the Association. The founders group is formed by:

1. Republican non-governmental organization “Belarusian Association of Journalists”
2. Non-governmental organization ““Vesna” Right Defending Center”
3. Republican non-governmental organization “Law initiative”
4. Republican non-governmental organization “Belarusian PEN-Center”
5. Non-governmental organization “The F. Skaryna Partnership for the Belarusian Language”
6. Non-governmental organization “Lev Sapega Foundation”
7. Minsk city non-governmental organization “Supolnast Center”

The leaders of the named organizations-founders agreed on the following main principles of interaction and cooperation for the creation of the Association and establishment of the Human Rights House in Minsk:

- mutual exchange of information related to this issue;
- discussion of all questions related to the establishment of the Association, its activities, organizational and technical planning of the Human Rights House in Minsk and its functioning as a united center under joint maintenance;
- the creation of a temporary commission for planning and co-ordination of the activity, as well as for preparation of draft documents;
- making collective decisions on main issues through consensus;
- joint participation in material support of the investigation stage.

All activity will be coordinated by the “Belarusian Association of Journalists”; preparatory work will be done by the temporary commission for activity of which a representative of the non-governmental organization “Law Initiative” will be responsible.

## 4

### **Principles of creation of the Association.**

#### **Conditions of participation and admission of new members**

The leaders of the organizations which participate in the project, and the members of the temporary commission agreed on the following main principles of the creation of the Association and the establishment of the Human Rights House in Minsk:

- voluntary participation;
- readiness to cooperation and interaction;
- mutual respect between the partners;
- collective approach;
- non-interference into inner affairs of organizations/Association members;
- openness.

The conditions of participation in the establishment of the Association and admission of new members are the following:

1. status of a juridical person (legal entity);
2. representation of the right defending activity and activity aimed at making and development of non-governmental organizations in the Bylaws of the organization;
3. practical work in the field of encouraging and defense of human rights and freedoms during recent 3 years;
4. an organization must have a reputation of an open organization which is ready to interact and cooperate with other organizations, and be able to solve and settle possible conflicts;
5. an organization must be considered an authority and have an unblemished reputation.

## 5

### **The political conditions for human rights activities in Belarus**

The Constitution declares the Republic of Belarus a democratic social law-abiding state.

Partition of powers into legislative, executive, and judicial branches is declared.

It is declared that the rights and freedoms of human beings, and the guarantee of their realization, are the supreme value of the society and the state. Further, the diversity of political institutions, ideologies, and opinions is declared.

However, we see that a number of norms, which have been stated by the Constitution and which correspond to the international standards, are violated and not implemented.

The power has practically fallen into the hands of one person – the President of the Republic. Independence of judicial system has been eliminated. The legislative branch of power has been turned into a decorative body unable to make independent decisions. Human rights and freedoms are groundlessly restricted. Structures for the introduction of a unified “State” ideology have been formed in all public enterprises, organizations, and establishments. Political and civic freedoms are restricted and suppressed.

Since 1991, non-governmental organizations (NGO) have been established in the territory of Belarus. Thousands of civil initiatives have been registered in the bodies of justice and acted as the earliest non-governmental organizations. The first right defending organizations emerged.

From the date of coming into force of the Law of the Republic of Belarus “On Non-Governmental Organizations”, the development of a civil society was intensified.

Since 1995, the state power has sought to decrease the influence of non-governmental organizations. Thus, changes of the legal basis of the Republic were made, which resulted in the decrease of the number of NGOs. Propaganda in the mass media (which is under governmental control) lead to a decrease in initiatives of the citizens aimed at the establishment of new organizations.

Governmental control authorities carry out endless check-ups of the activity of organizations and create difficult conditions for their functioning. Since 1995 the government has stopped financing the programs, in the subject-matter of which NGOs, inter alia, were engaged.

The power system is aimed at both dissolution of non-governmental organizations which assert democratic principles in their activity, and destruction of non-governmental organizations as structures of a civil society. By decision of the court a number of local-lore, cultural, social regional non-governmental organizations were dissolved.

In 1999, the President sanctioned a re-registration of non-governmental organizations which resulted in the destruction of thousands of NGOs.

Under such conditions, a phenomenon emerged known as activity of non-registered organizations. Today, non-registered organizations make up one of the largest groups of NGOs in Belarus. Measures of legal prosecution are applied to the activists of such organizations.

At the same time, during the recent 9 months (from July 2001 till March 2001) not a single NGO was registered. From January 1999, the registration principle of legalization of NGOs was replaced by resolving principle. Recording bodies arbitrarily turn down applications for the registration of newly established organizations. Appeal to judicial bodies in most cases do not lead to registration of an NGO. This is connected with the fact that judicial bodies depend on the bodies of the executive power.

The authoritarian political regime in this country fiercely resist the formation of a civil society.

The dissolution of NGOs has become a common practice. The bodies of the Ministry of Justice initiate the procedure of NGO's dissolution. Grounds (reasons) for liquidation are, as a rule, of a formal nature: an organization may be dissolved because its letterhead was incorrectly used, or the abbreviated name of the organization was used, or paper work was incorrect. As a result, Union of Belarusian students, International Youths Informational Center, Brest regional association for support of civil initiatives "Vezha", etc. were dissolved.

Under such conditions, the development and strengthening of human rights work is of a special importance. But the government expresses that it is not interested in the development on right defending movement, and strives for counteraction of this.

Not a single non-governmental organization of right defending nature (from the five ones created by the citizens) has been registered during the recent two years. Existing human rights NGOs has frequently been exposed to pressure by the government in the form of warnings and threat of dissolution. Offices of the right defending organizations were exposed to robbery in the result of which materials for right-defending work were stolen.

To better resist such government pressure, existing human rights organizations carry out joint actions and work to establish international cooperation as a reliable factor of solidarity and support. More specifically, Belarusian human rights organizations now work to establish a Human Rights House in Minsk to strengthen the capacity, coordination and security of the human rights defenders, to increase visibility and accessibility, and to become a part of an international network of human rights organizations: The Human Rights House Network.

## Legal frames of establishing and functioning of the Association

### I. Legal basis for establishment of a joint organization

*The following normative and legal acts regulate the establishment and activity of non-governmental organizations:*

1. The Constitution of the Republic of Belarus
2. The Law «On Non-Governmental Organizations»
3. The Civil Code
4. The Decree of the President of the Republic of Belarus of January 26, 1999, No.2 «On Some Measures on Regulating Activity of Political Parties, Trade Unions, Other Non-Governmental Organizations»
5. The Decree of the President of the Republic of Belarus of March 12, 2001, No.8 «On Some Measures on Improvement of Procedure of Receiving and Use of Foreign Gratuitous Aid»
6. «Rules of legalization and consideration of documents submitted for state registration of political parties, trade unions, other non-governmental organizations, as well rules of consideration and state registration of their organizational structures» approved by Resolution of the Ministry of Justice of the Republic of Belarus, of December 01, 2000, No.22.
7. The Instruction «On Procedure of registration, receiving and use of foreign gratuitous aid» approved by the Director of the Department on Humanitarian Activity under the President of the Republic of Belarus, April 12, 2001, No. 44 од.
8. The Provision «On procedure of issue of special permissions (licenses) for rendering aid to the citizens in their self-education in the form of People's Universities, Schools, Lecture centers, National and cultural (other) center, Training courses» approved by resolution of the Minsk city executive committee, of September 7, 2001, No.1197.
9. The Decree of the Cabinet of Ministers of the Republic of Belarus «Issues of political parties and other non-governmental organizations in the Republic of Belarus» on February 03, 1995, No.76.
10. The Decree of the Council of Ministers of the Republic of Belarus «On some issues of consideration and state registration of organizational structures of political parties, trade unions, and other non-governmental organizations» of June 15, 1999, No. 903.

11. The Instruction «On organization of control over usage of foreign gratuitous aid in the form of funds» approved by Resolution of the Board of the National Bank of the Republic of Belarus, June 27, 2001, No. 149.

## *II. Legally secured organizational and legal forms of non-governmental organizations*

**Juridical Person – organization which has in its property, or under its economic jurisdiction, or in its day-to-day management isolated property, bears independent responsibility for their own liabilities, may in its own name purchase and execute property and personal non-property rights, fulfil obligations, be a plaintiff and defendant in the court. A juridical person must have its own balance or estimate (budget).**

**Non-governmental organization (NGO) – voluntary union of the citizens.**

An NGO is a juridical person.

An NGO is a non-profit organization.

An NGO may be liquidated by decision of:

- a) their supreme bodies
- b) the court

**Foundation – a non-profit organization without membership, established by **the citizens and/or juridical persons** on the basis of voluntary material contribution.**

A Foundation is a juridical person.

A decision on liquidation of the Foundation may be made only by the court on request of the persons concerned in the following event:

- a) the Foundation's property is not enough for achieving its goals, and it is impossible to receive necessary property;
- b) the goals of the Foundation can not be achieved, and necessary changes of the foundation goals may not be made;
- c) refusal of the Foundation of its goals stipulated by its Articles of Association;
- d) other cases provided for by the legislation.

In the event of liquidation of the Foundation, the property that remain after satisfaction of the creditors' demands will be directed for the goals defined in the Articles of Association of such Foundation.

**Association (Union) – voluntary uniting of **non-governmental organizations (non-governmental associations).****

An Association (union) of non-profit organizations is a non-profit organization.

An Association (union) is a juridical person.. Members of the association (union) retain their independence and rights of a juridical person.

The constituent document of the association (union) are the Memorandum of Association signed by its members, and the Articles of Association approved by them.

The Association (union) is registered in accordance with the procedures prescribed by law.

The Association (union) does not bear responsibility for the liabilities of its members. Members of the Association (union) bear subsidized responsibility for its liabilities, - in the extent and order stipulated by the constituent documents of the association (union).

A member of the association (union) has the right to be rendered its services free of charge. A member of the association (union) has the right on his own accord leave the association (union) after the end of its financial year. By concern of the members of the association (union) a new member may be included into it.

Liquidation of the association (union) will be carried out by decision of:

- a) its founders;
- b) the court;
- c) other bodies, determined by the legislative acts.

Order of liquidation of the association (union) may be made by a governmental body or local authorities and self-government-bodies, to which the right to make such an order has been granted by the legislation.

Order (procedure) of disposal of property remaining after liquidation of the association (union) will be provided for by the constituent documents of such association (union).

**CONCLUSION:** the most acceptable organizational and judicial form of the association to be established is an **international association** (union).

### **III. Grounds for emerging and procedure of exercising of the property right and other proprietary interests**

The Constitution of the Republic of Belarus and the Civil Code guarantee the right of property and assistance in its acquisition.

According to Article 217 of the Civil Code **proprietary interests** are the following :

- 1) property right;
- 2) right of economic administration and right of efficient management;
- 3) right of lifelong heritable of ownership of lands;
- 4) right of perennial usage of lands;
- 5) servitude.

The Constitution secured two forms of property in Belarus: the **state** property (includes the Republican and communal) and **private** property (all that does not belong to the state

property). Property of non-governmental organizations and their associations (unions) belongs to the private property.

The Civil Code defines the following grounds for acquisition of the property right (we mention only the main ones): acquisition of the property right for a newly-made thing; remaking; conversion of things available to all into one's property; acquisition of the property right for ownerless things, find; treasure; remoteness of acquisition; acquisition of the right for wilful construction; nationalisation, privatisation, acquisition of rights for property of a juridical person should it be re-organized and liquidated; conversion of recovery against owner's liability; requisition; forfeiture; redemption of immovable property in connection with seizure of land; redemption of ownerless property; cessation of the property right of a person in relation to property which may not belong to him; acquisition of the property right under the contract; acquisition of the property right by succession.

Special attention should be paid to the fact that according to Article 214 of the Civil Code, citizens and juridical persons may owe any property excluding certain kinds of property which may not belong to them in accordance with the law (thus, there is a Law on the objects which may be the property of the State only). As for juridical persons, the Law may establish limited quantity of property which may be owed by them (today there is no such law).

The grounds for cessation of the property right in the Republic of Belarus (Article 236 of the Civil Code) are the following: conversion of recovery against owner's liability; alienation of property which may not belong to a person; alienation of immovable property in connection to seizure of land; redemption of ownerless cultural values; requisition; forfeiture; seizure of land for governmental or public needs; transfer of state ownership and privatisation; nationalisation.

Recently the most odious decrees of the President of the Republic of Belarus have been cancelled which allowed extrajudicial forfeiture of property. At the same time, there exists a lot of extrajudicial powers of governmental control bodies, the consequences of which are equivalent to restriction and even cessation of the property right: sequestration; suspension of operations on accounts; indisputable charge-off of funds; suspension of activity of the subjects; deprivation of licenses, etc. In principle, all actions of this kind may be appealed

against in the court, but unfortunately the judicial system of Belarus strongly depends on the executive power and makes decision, as a rule, in favour of the State.

It seems reasonable, that the most acceptable form of organization of the Human Rights House in Minsk is existence of the Association's premises (office space) on the basis of the property right, in spite of the fact that this right is insufficiently defended. One should take into account, that this will be the Association itself, and not its members, which will be the owner of the property, and its members which will leave the Association will not be entitled to have pretensions of the property; and the Articles of the Association will determine the procedure of its utilization should the Association be liquidated (e.g. transfer to similar or other organizations for carrying out charitable, social, and other activity).

It is preferable to acquire the right of property for the premises through the purchase contract. But for all that, one should take into account that according to the legislation of Belarus, immovable property and transactions with it are subject to the state registration. At the same time, problems may arise in connection with search of a suitable building in Minsk.

The option of new construction seems less reasonable taking into account the existence of strong bureaucratic obstacles (allocation of a new site, design, licenses, participation in the development of the city's infrastructure, etc.)

The option of renting seems less preferable for the following reasons: Most of the suitable buildings in Minsk are under jurisdiction of the Administrative Department of the President which, being a monopolist, dictates high rent rates, and often changes the terms of agreements. In addition, on political consideration, it may refuse to grant premises on rent for the named purposes. Very few buildings are private property; and these owners will hardly make the building available for the named purposes on account of their own security.

As the owner of the building, the Association must pay a real estate tax (1% of the building value) and a land-tax (its rates are subject to constant indexing, but they are relatively low as compared to other countries and compared to a real estate tax). The land will be used, most probable, by the right of constant usage. Its seizure will in principle be possible only for the State or public needs, but the government will hardly begin doing it taking into account necessity of payment of damages to the owner.

## **The stability of the Association and the security of the participants**

Modern Belarusian legislation provides for the possibility of forced liquidation of a non-governmental organization. Decision on forced liquidation is made by the court. Court examination of the question of liquidation of NGOs is initiated by a recording body.

The wordings of the legislation according to which NGOs may be forcedly liquidated are indefinite and vague. It leads to the situation when in practice the recording bodies initiate procedures of liquidation of NGOs on -- from a legal perspective -- absolutely groundless reasons.

Should several organizations which have founded the “Human Rights House in Minsk” Association be liquidated by similar ungrounded reasons, the risk appears that the whole Association may be forcedly liquidated.

To exclude such a risk, it is reasonable to provide in the Articles of Association for a strictly fixed number of Association members (e.g. eight). Should any organization/Association member be forcedly liquidated, the remaining members will admit a new member organization. Consequently, the numerical strength of the Association will remain unchanged and the Association may not be liquidated by the reason of absence of functioning juridical persons (legal entities) in its structure.

Carrying out cooperative programs, including international, will bring the right defending activity to a qualitatively new level. By locating the right defending organizations in a united center, their cooperation and interaction will make both the Human Rights House and the organizations themselves more visible and recognizable. Such reputation as well as international cooperation will increase security of both organizations and the defenders of human rights.

## 8

### **Possibilities of fore-project financing**

Negotiations with a number of potential sponsors demonstrated that the idea to unite several right defending organizations into an association and their location under the same roof, is approved. The problem of rendering financial backing on the stage of making is regarded favourably. Final decisions on rendering support will largely depend on the form and content of specific appeals to various donors. A preliminary agreement to consider such a proposal have been given by the representatives of the Program of the Netherlands Embassy MATRA, the Canadian Embassy in Moscow, the informational service of the USA Embassy, and the Helsinki Human Rights Foundation. We will continue searching for donors.

## 9 Conclusions

1. The most acceptable organizational and legal form of the association to be established is an **Association** with has a status of an **International** one.
2. The draft name of the association to be established is The International Association “Human Rights House in Minsk”.
3. It is preferable to acquire Association’s title for a building (premises space) through a **purchase contract**.
4. It is reasonable to hold the **constituent assembly** of the International Association “Human Rights House in Minsk” in **April 2003**.

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# Appendices

## **Appendix 1**

### **Founder-organizations and fields of their activity**

	<b>Organization</b>	<b>Field of activity</b>
1	Republican non-governmental organization "Belarusian Association of Journalists"	Freedom of thoughts; right to free expression of one's opinion; freedom to retrieve, obtain, and distribute information; right to freedom and personal immunity; juridical defense of journalists
2	Non-governmental organization "Right Defending Center "Vesna""	Right to just and public proceedings; prohibition of torture, and cruel and inhuman or disgracing treatment or punishment; right to freedom and personal immunity; judicial defense of rights and freedoms of the citizens
3	Republican non-governmental organization "Law Initiative"	Right to life; right to free association; right to just and public proceedings; right of property; right to marry and establish a family; rights of the woman and the child
4	Republican non-governmental organization "Belarusian PEN-Center"	Freedom of speech; right to participate in cultural life; right to use the results of creative authors' activity; freedom of creativity; linguistic rights
5	Non-governmental organization «The F. Skaryna Partnership for the Belarusian Language»	Right to education; rights of the child; prohibition of discrimination; special rights of ethnic, religious, and linguistic minorities; linguistic rights
6	City non-governmental organization "Supolnast Centre"	Prohibition of forced labour; right to liberty of conscience and religion; right to free expression of one's opinion
7	Non-governmental organization "The Lev Sapega Foundation"	Public rights, including the right of access to governmental service; right to elect and be elected; right to free travel and choice of residence

## Appendix 2

### **Temporary Agreement of the Founders of the Association of Non-Governmental Organizations “Human Rights House in Minsk”**

We, the founders of the “ Human Rights House in Minsk” Association, making this decision on establishing the Association (hereinafter named “the Project”), on the stage of preparation of the Project, agree on the following.

1. All preparatory work aimed at implementation of the Project of establishment and activity of the “Human Rights House in Minsk” is built on the principles of openness, voluntariness, and collective leadership.
2. In the course of preparation of the Project, all activity is carried out on the following two levels:
  - meeting of the leaders of the founding organizations;
  - create a temporary commission composed of the representatives of the founding organizations.
3. Decisions of the meeting of the leaders are made by means of discussions, and within the tasks of this Project shall be binding for all subjects of the Project.
4. Within the tasks of this Project the leaders of the organizations allocate their responsibilities among themselves.
5. Should any leader be unable to fulfill his/her activity within the Project, he on his/her own delegates his/her powers to any member of his/her organization.
6. The leaders of the organizations nominate one person from each organization to be included into the temporary commission.
7. Any founding organization in the person of its leader may wish to recall its member from the temporary commission and replace him/her by another organization member.
8. The temporary commission provides for direct fulfillment of all conditions of the Project, prepares necessary documentation, and is in correspondence with the representatives of the interested Parties.
9. The temporary commission gathers for its meetings weekly, and makes decision on priority of the issues to be discussed and prepared, as well as on work distribution.
10. The leaders of the organizations control the course of preparation of the Project, and for this purpose may invite members of the temporary commission to be present at their meetings.
11. On the stage of preparation of the Project hardware is to be provided by all organization leaders jointly and severally.
12. Up to the day of preparation of documents necessary for registration of the “Human Rights House in Minsk” Association each founding organization by its own will may quit the list of participants. Should any organization quit the list of founders on voluntary basis, the remaining founding organizations will make decision to accept a new member. Any organization which has quitted on voluntary basis is not entitled to seek repayment paid as a share for the implementation of this Project.

13. Distribution of all material resources is carried out publicly and jointly. Control of usage of material resources is vested on the leaders of the founding organizations. The founding organization bear subsidiary responsibility for purpose usage of the material resources.
14. This Agreement is an internal document.
15. This Agreement is temporary and comes into force from the day of signing of the Memorandum of Association of the Association of non-governmental Association “Human Rights House in Minsk”.

In the name of the founder-organizations:

\_\_\_\_\_ Zh.Litvina  
(Republican non-governmental  
organization  
“Belarusian Association of Journalists”)

\_\_\_\_\_ A. Beliatsky  
(Non-governmental organization  
“Vesna” Right Defending Center)

\_\_\_\_\_ V. Fadeyev  
(Republican non-governmental organization  
«Law Initiative»)

\_\_\_\_\_ O. Trusov  
(Non-governmental organization  
“Partnership for Belarusian Language”)

\_\_\_\_\_ S. Matskevich  
(Non-governmental organization  
“Supolnast Center”)

\_\_\_\_\_ A. Zhuchkov  
(Non-governmental organization  
“The Lev Sapega Foundation”)

\_\_\_\_\_ V. Orlov  
(Republican non-governmental organization  
“Belarusian PEN-Center”)

### Appendix 3

Draft

Draft

## MEMORANDUM OF ASSOCIATION

On establishment of the International Association of non-governmental organizations  
“Human Rights House in Minsk”

“ \_\_\_\_\_ ” \_\_\_\_\_ 2002

Minsk

We, the undersigned, hereinafter named as “the Founders”, made up this Memorandum on the following.

1. The Founders establish a voluntary non-profit union of non-governmental organizations – International Association of non-governmental organizations the “Human Rights House in Minsk” (hereinafter “Association”), functioning on the following principles:
  - voluntary participation;
  - equal representation;
  - non-interference of both the founders and the Association in general in the internal affairs of the organizations-members of the Association;
  - cooperation on the issues which are of mutual interest.

The Association will unite non-governmental organizations involved in defense of certain human rights and basic freedoms.

The Association is established in accordance with the Civil Code of the Republic of Belarus, Decree of the President of the Republic of Belarus No. 2 of January 26, 1999 “On some measures on regulating the activity of political parties, trade unions, other non-governmental organizations”, and the Law of the Republic of Belarus “On non-governmental organizations”.

2. The founders determine the following order of their joint activity aimed at the establishment of the Association:
  - formation on voluntary basis of the temporary commission for investigation of the legislation basis and preparation draft Articles of Association;
  - consideration and analysis by the founders’ leading bodies of the draft Article of Association, preparation of additions and remarks on it;
  - consideration and entering into the draft Articles of Association of additions and remarks submitted by the founders;
  - collection of notarized copies of Bylaws and registration certificates of the founders;
  - conduct of a Constituent Assembly;
  - submission of documents to a registering body for registration.
3. The founders of the Association are at the same time its members, and exercise all rights and bear all responsibilities established for the members by the legislation of the Republic of Belarus and the Articles of Association.

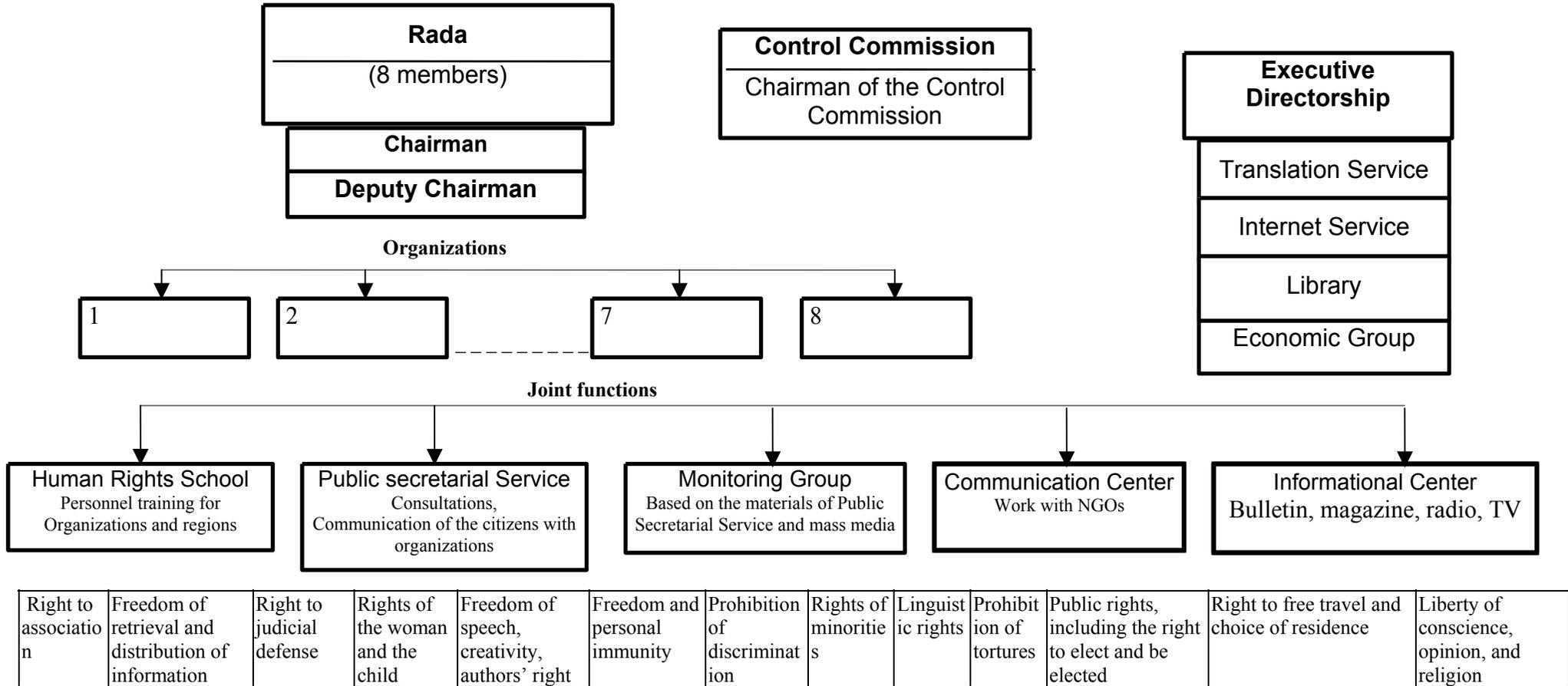
4. The Association is a non-profit organization, i.e. is a juridical person (legal entity) which does not have profit for its object, and does not distribute the received profit among the members of the Association. The Association obtains the rights of a juridical person (legal entity) from the date of its state registration.
5. The property of the Association will be formed from voluntary contributions; target financing from the organizations and citizens (foreign including); other investments; receipts from lectures, educational and other events; assignments from income derived from publishing activity; property received as gifts or acquired by another way provided for by the governing legislation; other sources not prohibited by the governing legislation.
6. The members of the Association exercise the rights and bear responsibilities provided for by its Articles of Association, and act within the Association in correspondence with its Articles of Association.
7. Management of the Association will be vested on its Rada which includes 8 persons and is formed from the representatives of member-organizations of the Association.
8. The Association does not account for liabilities of its members. The members of the Association bear subsidiary responsibility as related to liabilities in equal shares, in accordance with the Civil Code of the Republic of Belarus.
9. Any founder-organization may by its free will drop out of the founders, not earlier than within a week before the date of the constituent assembly. Procedure of dropping out after the constituent assembly of the Association will be defined by its Articles of the Association.  
Should any of the founder-organizations drop out of the founders by its free will, the remaining founder-organizations make decision on admission of a new founder-organization from the number of claimants.  
An organization which has dropped out of the founders by its free will is not entitled for reimbursement of its costs which it has spent as a share holding for the implementation of this project.
10. This Memorandum has been signed for an indefinite time.
11. The activity of the Association may be terminated solely on the grounds provided for by the Civil Code of the Republic of Belarus.
12. All disputes arising from this Memorandum will be settled by the court in accordance with the legislation of the Republic of Belarus.
13. Changes or additions may be entered to this Memorandum by consent of all the founders of the Association.

The founders of the Association

- 
- Zh.Litvina  
(Republican non-governmental organization  
“Belarusian Association of Journalists”)
- 
- A. Beliatsky  
(Non-governmental organization  
“Vesna” Right Defending Center)
- 
- V. Fadeyev  
(Republican non-governmental organization  
«Law Initiative»)
- 
- O. Trusov  
(Non-governmental organization  
“Partnership for Belarusian Language”)
- 
- S. Matskevich  
(“Supolnast Center”)
- 
- A. Zhuchkov  
(Non-governmental organization  
“The Lev Sapega Foundation”)
- 
- V. Orlov  
(Republican non-governmental organization  
“Belarusian PEN-Center”)

**Structural and functional scheme  
of the International Association of non-governmental organizations**

«Human Rights House in Minsk»



## **Appendix 5**

### **APPLICATION**

for fore-project financing of the program of establishing of association of non-governmental organization “The Human Rights House in Minsk”

#### **Names of the organizations which resort to assistance**

##### **Program participants**

Belarusian participants:

Belarusian Association of Journalists, “Vesna” Right Defending Center, Republican non-governmental organization “Law Initiative”, Belarusian PEN-Center, Republican non-governmental organization “Partnership for Belarusian Language”, “Supolnast” Center, Republican non-governmental organization “The L.Sapega Foundation” (all in Minsk, Republic of Belarus)

Foreign participant:

Human Rights House Foundation (Oslo, Norway)

##### **The challenge**

Human rights work is a relatively new phenomenon in Belarus. The first human rights organizations in Belarus emerged after the collapse of the Soviet Union. These organizations are located in different parts of Minsk, which makes coordination difficult. What is more, NGOs lack resources and are continually harassed by the government. Now some of these organizations want to join forces to improve the capacity, cooperation and accessibility, to share resources and experiences, and improve the security of human rights defenders.

##### **Goal of the program**

The conduct of a complex of measures aimed at the establishment of the Association of human rights organizations in Minsk, and placement of such organizations in a common center: The Human Rights House in Minsk.

##### **Stages of the program implementation**

1. Research of possibility to establish the Human Rights House in Minsk and drawing up final report.
2. Discussion of the idea and concept of the Human Rights House with all interested parties.
3. Creation of the temporary commission for planning and coordination of the preparatory stage.
4. Drawing up draft agreements and constituent documents of the joint organization.

5. Discussion of the draft agreement and constituent documents with all interested Parties.
6. Conduct of the Constituent Assembly of the joint organization.
7. Drawing up a project for establishment the Human Rights House and submission of application for financing.

## Program description

Activity for implementation of the program will be carried out according to the “Guide for establishment of the Human Rights House”.

During the period of preparation and creation of the joint organization execution of all stages of the program will be based on the principles of openness, voluntariness, and joint leadership.

At preparation and conduct of all stages of the program activity will be carried out on two levels:

- meeting of the leaders of organizations – nominees to the founders of the joint organization;
- meetings of the temporary commission composed of the representatives of such organizations.

1. Meeting of the leaders of organizations – nominees to founders of the joint organization:

- a) carries out separate and joints discussion of the idea and concept of the Human Rights House;
- b) creates the temporary commission for planning and preparation of establishment of the joint organization;
- c) considers and approves the final document of the investigation stage;
- d) considers draft documents prepared by the temporary commission and approves them;
- e) conducts the Constituent Assembly of the joint organization.

Meetings of the leaders of the organizations will be held as required, but not less than monthly.

Leaders of the organizations will sign the letters of intention, temporary agreement, final report of the investigation stage, constituent documents of the joint organization, approve application for financing of the project.

2. Temporary commission:

- a) develop issues of the investigation stage;
- b) prepare final report;
- c) prepare draft documents to be considered at the meetings of the leaders;
- d) takes organizational measures with the purpose of:
  - joint discussion of the idea and concept of the Human Rights House;

- Constituent Assembly;
- Discussion of the project of establishment of the Human Rights House by the members of the joint organization.

Meetings of the temporary commission will be held weekly.

Representatives of the Human Rights House Foundation will do the following:

- Appraise submitted projects and final versions of the documents (paragraphs 1c; 1d; 2a; 2b; 2c);
- Directly participate in the joint discussion of the idea and concept of the Human Rights House (paragraph 1a) and in the Constituent Meeting of the joint organization (paragraph 1e).

### Schedule of the project implementation

In 2001/2002, Belarusian human rights NGOs discussed the idea and concept of establishing a Human Rights House in Minsk, with the Human Rights House Foundation in Norway as a partner.

<b>No</b>	<b>Name of the stage</b>	<b>Beginning of work</b>	<b>End of work</b>
	Creation of the temporary commission	2002, January	2002, April
	Carrying out investigation stage	2002, January	2002, May
	Preparation of draft documents of the Association	2002, April	2002, May
	Discussion of draft documents of the joint organization, their adjustment	2002, May	2002, July
	Joint discussions of the idea and concepts of the Human Rights House	2002, June	
	Preparation of draft version of the project of establishing the Human Rights House	2002, July	2002, September
	Preparation of conduct of the Constituent Assembly of the joint organization	2003, January	2003, May
	Conduct of the Constituent Assembly of the joint organization	2003, April	
	Drawing up constituent documents	2003, February	2003, March
	Discussion of the project of establishing the Human Rights House by the members of the joint organization	2003, January	2003, April
	Registration of the joint organization	2003, April	2002, June

## **Results of the program execution**

Establishment of the association of non-governmental human rights organizations as a necessary prerequisite for the establishment of the Human Rights House in Minsk.

<b>Project budget =</b>	<b>18 030 usd</b>
<b>Requested sum</b>	<b>15 350 usd</b>
<b>Contribution of Belarusian participants</b>	<b>2'680 usd</b>

<b>Item if expenses</b>	<b>Requested sum</b>	<b>Contribution of Belarusian participants</b>	<b>Total</b>
<b>I. Notary services:</b>			
Attesting of the Bylaws copies for Belarusian founding organizations Translation and attesting of the Bylaws copy for the foreign participant (Apostile)	--	350 usd	350 usd
Attesting copies of registration certificates the Belarusian participants Translation and attesting registration certificate for the foreign participant (Apostile))	350 usd	--	350 usd
	--	30 usd	30 usd
	100 usd	--	100 usd
<i>Total for Section II:</i>	<b>450 usd</b>	<b>380 usd</b>	<b>830 usd</b>
<b>II. Taxes, fees, other mandatory payments</b>			
Advertising announcement in the Belarusian newspapers	100 usd	--	100 usd
State fee for the state registration	500 usd	--	500 usd
Payment for opening settlement and currency bank accounts	150 usd	--	150 usd
<i>Total for Section III:</i>	<b>750 usd</b>	<b>--</b>	<b>750 usd</b>
<b>III. Conduct of Constituent Assembly</b>			
Travel rent	150 usd	--	150 usd
Space rent	100 usd	--	100 usd
Travel expenses for foreign participants (2)	2'000 usd *	--	2'000 usd *
Accommodation (hotel) for foreign participants (2 x 5 days)	1300 usd *	--	360 usd *
Feeding	1 070 usd *	--	200 usd *
Taxi, meetings, miscellaneous	230 usd	--	--
Translation/interpretation services	300 usd	--	120 usd
Coordinator	100 usd	--	100 usd
Visa, 2 x 100 usd	200 usd *	--	100 usd *
<i>Total for Section IV:</i>	<b>5 450 usd</b>	<b>--</b>	<b>3'130 usd</b>
<b>IV. Other direct expenses</b>			
Paper	50 usd	50 usd	100 usd
Copying the materials	50 usd	50 usd	100 usd
Communication services (50 x 8 months)	200 usd	200 usd	400 usd
Rent for office (8 months x 50)	400 usd	--	400 usd
<i>Total for Section V:</i>	<b>700 usd</b>	<b>300 usd</b>	<b>1'000 usd</b>
<b>V. Administration costs</b>			
Payments to a coordinator (8 months x 300)	1'200 usd	--	1'200 usd
Payment for lawyer's expert analysis (8 months x [300 + 150])	2'400 usd	1'200 usd	3'600 usd
Payment for lawyer for building (2 months x 300)	600 usd	--	600 usd
Payment for architect-superintendent (2 months x 500)	1'000 usd	--	1'000 usd
Payment for contractor/designer/adviser (8 months x 150)	1'200 usd	--	1'200 usd
Payment for translation of the documents (8 months x [100 + 50])	800 usd	400 usd	1'200 usd
Payment for accountant (8 months x [100 + 50])	800 usd	400 usd	1'200 usd
<b>Total for Section VI:</b>	<b>8'000 usd</b>	<b>2'000 usd</b>	<b>10'000 usd</b>
<b>Total for the Budget:</b>	<b>15'350 usd</b>	<b>2'680 usd</b>	<b>18'030 usd</b>

TOTAL EXPENDITURES: **18'030 usd**

\* - Funds (4 570 USD) will be at disposal of a foreign participant (Human Right Houses Foundation)

# Appendix 4

## Letter of Intent

Letter of intent

This letter confirms the interest of

.....  
(NGO name in domestic language(s))

.....  
(NGO name in English)

.....  
(address)

.....  
(telephone number) (fax number)

.....  
(e-mail address)

represented by

.....  
(name of representative)

to establish a Human Rights House in [CITY].

The establishment of a Human Rights House will be carried out in co-operation with the Human Rights House Foundation and according to the principles of the enclosed document.

We accept that the project will require considerable resources and attention from our organisations, and we are ready to commit such resources. In the next phase we will undertake any effort in the production of plans, statutes, applications for legal registration and applications for funding needed to bring the process forward.

We are well aware of, and accept, the fact that the following organisations aims at forming a Human Rights House together:

[Names of NGOs in alphabetical order]

We accept them all as equal partners in the project.

.....  
(signature)

.....  
(date) (place)

## **Appendix 5**

### **Human Rights House Statutes**

These statutes are meant as an illustration only, based mainly on the experiences from the Houses in Oslo and Sarajevo.

#### **Statutes of the Human Rights House of [City]**

Adopted on [date] and amended on [dates].

##### **1. Name**

The name of the association is Human Rights House of [City].  
The association was founded in a meeting on [date].

##### **2. Purpose**

The purpose of the association is to promote human rights, to stimulate civil society and co-operation and co-ordination between non-governmental, non-profit human rights organisations in [country]. The association may also help establish and organise new Human Rights NGOs.

To realise this purpose the association shall administer joint services for the member NGOs, and contribute to the creation of a common professional environment for these member organisations and run the [physical house, address] as agreed with the owner of [physical house, address].

The association is not superior in command to the member organisations and it may not speak on behalf of the member NGOs nor limit their activities.

##### **3. Members**

The members are:  
[List of members]

##### **4. Membership**

Only non-governmental, non-profit organisations working to further human rights as defined in the United Nations Covenant on Economic, Social and Cultural Rights, The United Nations Covenant on Civil and Political Rights and the European Convention on Human Rights and Fundamental Freedoms, may be members.

Political parties may not be members of the association. Organisations that have registered lists or candidates for past, present or future elections are considered political parties. Businesses and other entrepreneurs may not be members of the association. NGOs may gain or lose membership through amendments to this statute. Decision of acceptance of new members requires consensus in the General Assembly.

**Appendix 6**  
**Project Proposal from Kenya 2002**



# **PROPOSAL FOR ESTABLISHING A HUMAN RIGHTS HOUSE IN NAIROBI**

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May 2002

# Stiftelsen Menneskerettighetshuset

Human Rights House Foundation (HRH)

Org.nr: 976 055 365

Urtegata 50, 0187 Oslo, Norway, Tel: (+47) 23 30 11 00, Fax: (+47) 23 30 11 01

Web: www.humanrightshouse.org, E-mail: mail@humanrightshouse.org



8 May 2002

**To:**

Embassy of Norway, att: Mr. Kjell Harald Dalen  
Embassy of Sweden, att: Mr. Pär Karlsson  
Embassy of Denmark, att: Ms. Marie Louise Wandel  
Embassy of the Netherlands, att: Marjo Crompvoets  
Embassy of Canada, att: Mr. Stephen Randall  
Ford Foundation, att: Mr. Joseph Gitari

## REVISION OF THE INVESTMENT BUDGET

**A new donor roundtable meeting was held in February 2002 to discuss the proposal for the establishment of the Human Rights House in Nairobi. Based on feedback from this meeting, we have revised the proposal and reduced the investment budget with 8 per cent.**

The proposal presented to the donors in October 2001 was made based on detailed information from donors, architects, lawyers, experts, the Human Rights House Foundation (HRH) in Norway, and the seven Kenyan human rights organisations involved. Requests and recommendations from donors are also integrated. We are grateful for the assistance from Mr Charles Kahura, an Architect who has provided a detailed project brief and has assisted on a voluntary basis. In addition, two other well-reputed independent Architects - Mr George Kagiri in Nairobi and Mr Finn Kleiva in Oslo - have analysed the proposal free of charge.

**The conclusion from the revision is that the project is viable. The investment budget is based on moderate costs and should not be reduced substantially. We have now managed to reduce the total budget down to 1,284 million USD (from 1,395 million USD). A further reduction would not be sustainable as it would not allow the Human Rights House to function in accordance with the intentions that also have been expressed by the donors.**

The revision of the investment budget was coordinated by the Human Rights House (HRH) in Norway. Since 1989, HRH have established Human Rights Houses in Oslo, Moscow, Warsaw, Sarajevo, Tirana, and Bergen. The method is described in a detailed manual, and has received

### Human Rights House Network

The Norwegian  
Human Rights House

The Moscow  
Research Center  
for Human Rights

The Polish Helsinki  
Foundation for  
Human Rights

The Human Rights  
House of Sarajevo

The Human Rights  
House of Egil  
Rafto, Bergen

### Network Secretariat

The Human Rights  
House Foundation

strong interest and recognition worldwide both from donors, NGO's and other relevant actors. To minimize risks (corruption etc.) and secure a high degree of professionalism, HRH cooperates with well-reputed local actors on all levels (human rights organisations, lawyers, architects and other professionals), and use solid reporting systems. HRH will also follow up the Human Rights House in Kenya in its first two years of operation to build capacity, transfer information and secure continuity and sound management.

Revision of the budget has been initiated upon request from some of the donors. Largely due to this revision, the costs of project coordination in Oslo have somewhat increased, despite the fact that other coordination costs (like consultancies from Norwegian Architect) have been reduced or cut altogether. However, project coordination costs are still moderate, and we have managed to reduce the total budget.

Costs related to project coordination in Kenya have been slightly reduced, mainly as a result of reductions in construction costs. A modest compensation for meeting- and coordination costs in 2001 and 2002 has been included.

To cut construction costs, we have – among other things - decided to reduce the size of the Human Rights House with 300 square meters (16%), partly by reducing the size of the Resource Center. This implies a 12% cut in construction costs.

**From September 2001 to April 2002, the total investment budget has been reduced with more than 107 000 USD (8,4 million Kenyan Shillings). The investment costs might end up being even lower during the construction period (see part I below). However, as a coordinator, we stress that the budget must kept at this level (1,28 mill USD) in order for the project to be implemented. Further, it will not be possible to reduce the gross floor area of the building with more than 300 square meters if functional space is to be provided for the activities specified in the brief.**

Please see our recommendations specified below.

*Exchange rate 24 April 2002: 1 USD = 78,4 Ksh. 1 Ksh = 0.01267 USD.*

*Exchange rate 13 September 2001=1 USD = 78.9 Ksh. 1 Ksh = 0.01276 USD*

## **I) How the costs may be further reduced during construction**

As mentioned above, the existing investment budget has been reduced with 8 per cent, and the space with 300 m<sup>2</sup>. However, the costs might be end up being even lower during construction: The total investment costs might end up being well under one million USD or around 75 million Ksh (see part I i-v), which equals up to 25-30 per cent reduction. The investment costs could also be reduced with a similar amount if a house was bought that didn't need to be refurbished (see part II b).

### **i) Plot:**

For purchase of plot, we have budgeted with 20 million Ksh (255 thousand USD).

We have viewed a number of plots outside the city centre, near Ngong Rd, Westlands, etc. The price of a ½ acre plot in this area varies between 12 to 20 million Ksh (153-255 thousand USD). If a plot under 20 million Ksh is bought, other costs (property tax, lawyer's fee) will be reduced accordingly.

However, we recommend that the initial budget of 20 million Ksh (255 thousand USD) remains unchanged, since this gives more flexibility and a buffer against fluctuating market prices. One of the most interesting plots is the one next to the former US Embassy (in the city centre) that was bombed in 1998, because of the central location (next to the Matatu station and the train station) and the strong symbolic value. It is now available for around 20 million Ksh (255 000 USD). Before the site was bombed, the price of the plot was around 30-35 million Ksh. This is the only plot in the city centre that we are considering, since plots in the city centre are relatively costly.

## **ii) Construction costs**

The construction figures (office building, external works, office partitioning, etc.) are based on very competitive construction rates and moderate finishes. We have reduced these with between 12 and 15%, due to a 300 m<sup>2</sup> reduction of the space.

## **iii) Various costs**

Various costs of construction, plot, and furniture/equipment are estimated to 15%. These may prove to be much lower. However, we recommend that it remains unchanged, since this gives more flexibility, security and a buffer against fluctuating prices.

## **iv) Consultancy fees for building agency**

This is estimated to 15%, which is market price, but we will try to negotiate it down to 10%.

## **v) VAT**

Non-profit organisations may seek exemption from paying VAT. If obtained, we will save up to 88 000 USD (6, 85 mill Ksh). The procedure for obtaining exemption from payment of VAT is a long one, as exemption must be sought from the Minister of Finance for each particular transaction in respect of which VAT is to be paid. It is not possible to get a blanket exemption.

# **II) Other options considered**

## **a) Renting instead of buying**

To rent a building or part of a building may seem to be the fastest and cheapest solution to meet the space requirements. However, this is not recommendable, mainly because it will not be a permanent solution. One of the advantages with the Human Rights House is that the overheads of the NGO's will be reduced considerably. Today, the organisations spend a large amount of their resources on overheads, resources that could otherwise be used for important human rights works. Further, such a short-term solution would not secure continuity and independence. Worldwide, human rights

organisations are vulnerable to changes in the political landscape. By renting, they might have to depend more on the “mood” of the sitting regime. The tenants may be pushed out, contracts may be altered. Also, the organisations are more vulnerable to changes in the National Economy and market prices by renting accommodation.

What is more, to find an existing building or part of an existing building that may easily be converted to accommodate the proposed fit out may not be easy. Conference facilities require “off standard” ceiling heights and ventilation capacities which is usually beyond the standard in common buildings. To provide such facilities will usually require costly conversion works that the tenant will have to pay for himself and which may be difficult to recover from the owner in case the organisations decide to move or to close down the activities.

The cost of these conversion and fit out works will accordingly have to be added to the basic rent of the space. In spite of lower capital investment compared to the buying of or construction of a new building, the overall cost of the option may easily turn out to be very expensive and will probably require a long-term contract to be financially viable.

#### **b) Buying a house**

In Nairobi, the cost of buying a plot and building a house is approximately the same as buying a property and refurbishing it.

To buy and convert an existing building has been considered thoroughly. However, it has so far been difficult to find a suitable building.

Accordingly it is likely that, like mentioned above for rented space, an existing building will need considerable conversion and renovation works to suit the requirements.

To convert an existing building implies possibilities for encountering unforeseen problems during public approval of the plans and during the actual renovation and fit out.

To avoid excessive unforeseen expenditures it is paramount that the condition of the building and the requirements of the authorities are thoroughly investigated before any contract is signed. Based on experience, the consultant has concluded that under normal circumstances the cost of converting and renovating an existing building will be the same as to construct a new.

Unless an existing building is found with a very favourable location and layout, little savings accordingly seem to be achieved by buying and converting an existing building compared to constructing a new. However, buying a property is still an alternative.

#### **c) Cheaper plot**

To find ½ acre plots cheaper than 12 million Ksh (153 000 USD), one would have to establish the Human Rights House out of town, which would make it less accessible to the public. This is not recommendable. It is important to be near town because of the clientele, provision of facilities for other human rights defenders, potential income generating activities, etc. Today, many NGO's are located in the Ngong Rd area.

#### **d) Smaller plot**

Building the Human Rights House on a plot smaller than ½ acre is virtually impossible outside the city centre, since the coverage requirements are 80% and there would be no space for parking.

#### **e) Smaller house**

In order to cut construction costs, the Human Rights House has been reduced with 300 square meters. The cut is partly in the size of the Resource Center (library and publishing room), and partly in the size of the work stations and some of the other facilities.

To meet the emergency requirements regarding width and number of corridors and stairs, the need for support rooms such as archives and stores, toilets, server and pabx rooms etc., it under normal circumstances becomes impossible to reduce the gross floor area per work station. Today it is a bit on the low side, and most of the occupants will share offices. One option is however to have only open office landscapes and no private offices. By locating more of the work stations in open office landscapes, it might be possible to reduce work stations further. This would reduce the number of square metres and the need for partitioning walls, and may simplify and thereby reduce the costs for electrical and ventilation installations in the building. Interviews and conversations with clients and visitors must then take place in enclosed interview cubicles. However, we recommend that some private offices are kept.

The Human Rights House contains facilities like a library/resource centre, seminar room, and a conference room that will be used not only by the seven NGO's themselves.

There is a great need for a Resource Center that provides reliable quality information on human rights. This will be used not only by the occupants of the Human Rights House, but also by students, external organisations and other interested in Human Rights.

Further, there is a great need for inexpensive conference rooms. The conference room will also be used by external NGO's for a small fee (around 1/3 of market price). This will benefit the civil society as a whole and will also enable the seven organisations at the Human Rights House to generate an income. This is something that the donors have requested on several occasions. Today, organisations rent conference rooms externally (at hotels etc.) at high costs.

The conclusion is that if functional space is to be provided for the activities specified in the brief, it will not be possible to reduce the gross floor area of the building with more than 300 square meters.

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## **7 APPENDICES**

- 1) Investment budget in Ksh
- 2) Description of ownership and management entity (by Lawyer)
- 3) Memorandum of Understanding (by the seven Kenyan NGOs)
- 4) Legal opinion (by Lawyer)
- 5) Project outline brief (by Architect)
- 6) Information about the seven Kenyan NGOs
- 7) Information about the Human Rights House Foundation in Norway
- 8) Revision note from Mr George Kagiri, Architect
- 9) Revision note from Mr Finn Kleiva, Architect

# May 2002: **PROPOSAL FOR ESTABLISHING A HUMAN RIGHTS HOUSE IN NAIROBI**

## **1 SUMMARY**

Seven Kenyan non-governmental human rights organisations have initiated the establishment of a Human Rights House in Nairobi, in co-operation with the Human Rights House Foundation in Norway. The institution will serve as a focal point of human rights activities in Kenya. The purpose is to enhance the security and boost the organisational and financial capacity of the participating Human Rights groups, while at the same time making the services they offer more accessible to the public. In addition to promoting cooperation on a local and national level, the House will be part of an international network of Human Rights Houses. Further, by establishing a Human Rights House in such an important country geopolitically, efforts to promote peace and stability in the region will be strengthened.

The following organisations are participants in the project:

- Kenya Human Rights Commission (KHRC)
- Center for Law and Research International (CLARION)
- Release Political Prisoners (RPP)
- Federation of Women Lawyers (FIDA)
- Coalition on Violence Against Women (COVAW)
- Child Rights Advisory and Legal Center (CRADLE)
- People Against Torture (PAT)

We plan to construct or refurbish a house of approximately 1500 square metres in central Nairobi, which will host the participating organisations and also provide facilities that can be used by other human rights groups in Kenya.

The total investment is 1,28 million USD (100 million Ksh, please see issue 6.7 - investment budget). The participating organisations will move their entire secretariats to the Human Rights House, but will remain as independent organisations. By moving in, the organisations will pay less than half (annually) of what they do today (please see issue 6.5 - cost benefit analysis). In addition, external human rights organisations will benefit (both materially and immaterially) from using conference and seminar rooms at the House for their meetings.

The Human Rights House in Kenya will be a new institution managed by the organisations themselves. The House will have an independent ownership whereby shareholders will be the formal owners. If the project is to be terminated and the property sold, the money will be transferred back to the donors through the Human Rights House Foundation in Norway. Hence the organisations will not own the house, but will be responsible for the management and maintenance.

Human Rights Houses are presently found in Oslo, Moscow, Warsaw, Sarajevo, Bergen, and Tirana. In our experience, this form of co-operation enhances the work of the participating organisations, and creates a stimulating environment, both for the organisations themselves and for visitors, clients and other users. Human Rights Houses have become important meeting places for organisations working for human rights on the national and international levels.

## **2 HUMAN RIGHTS IN KENYA**

### **2.1 Human Rights Violations**

Kenya's human rights record is stained by repression and lack of accountability. In theory, Kenya is a democratic country in which fundamental freedoms are enjoyed, and the Bill of Rights in the Constitution includes all fundamental rights and freedoms. In practice, however, there have been numerous violations of human rights by the government. Many government critics have been harassed and intimidated, and political prisoners have been subjected to sustained police torture. It is common knowledge that the police routinely beat criminal suspects while peaceful protests are violently broken up, and some suspects are shot dead with impunity by the police.

Other rights have been restricted by laws, which violate Kenya's treaty obligations. Such laws include the Preservation of Public Security Act, which allows detention without trial and restrictions on freedom of movement; Public Order Act, which restricts enjoyment of freedom of association by requiring public meetings to be licensed; Defamation Act and sections of the Penal Code, which are used to arbitrarily restrict the freedom of expression; the Societies Act, which restricts the freedom of association and inhibits organisations from gaining registration; and the Administration Police Act, which gives chiefs and sub-chiefs control over a section of the police force.

To the cynics, not much has changed. To the optimists, there are a few gains that have been made. The latter appears to be the more balanced view. There is no doubt that significant steps have been made towards respect for human rights in Kenya. Where the political climate was previously extremely hostile and closed to human rights enjoyment, the emergence of multiparty politics and the proliferation of human rights groups has opened space to improved awareness of rights and a growing culture of defence against violations of rights hitherto unknown in Kenya. Repression still exists, but in subtler forms than before. Though the police, for example, still operate without restraint and in blatant disregard of human rights, incidences of abuse have been reduced; detention without trial is now a remote possibility. However, the path to real democracy has yet to be truly charted.

### **2.2 Human Rights Organisations**

Hope appears to be in the countervailing force of civil society to stave off attempts to go back on the hard-won gains. Since the early 1990s, civil society (especially organisations in the Legal and Human Rights Network, where about 21 organisations meet regularly) has waged a spirited battle against the State on matters of human rights and good governance. Operating in a hostile environment, the sector has persistently stood up to the government, with increasing success.

Advocacy for respect of human rights in Kenya's independent history before liberalisation started in 1990/91. It was spearheaded by some churches and civil society organisations like the National Council of Churches of Kenya (NCCCK), Kenya Episcopal Conference (Justice & Peace Commission), Law Society of Kenya, Federation of Women Lawyers (FIDA- Kenya), Kituo Cha Sheria (Legal Aid Centre) and International Commission of Jurists [Kenya Chapter] (ICJ). A host of other organisations have joined the struggle, including Kenya Human Rights Commission (KHRC), Center for Law and Research International (CLARION), Release Political Prisoners (RPP), Citizen's Coalition for Constitutional Change (4Cs), Institute for Education in Democracy (IED), Civic Resource and Information Center (CRIC), Kangemi Women Empowerment Center (KWEC), Legal Resources Foundation (LRF), League of Kenya Women Voters, Public Law Institute (PLI), Coalition on Violence Against Women (COVAW), Child Rights Advisory and Legal Center (CRADLE), People Against Torture (PAT) and Education Center for Women in Democracy (ECWD), among several others.

The organisations have undergone a period of rapid development and activity more so when it comes to law and policy reform. Now it is time these organisations receive support to consolidate their activities, enhance their efficiency and develop institutional channels for interaction with the

government and with citizens for whom they exist to serve. The establishment of the Human Rights House initiative would make this possible.

### **2.3 Promoting Regional Peace and Stability**

The Human Rights House in Kenya will be the first in Africa. It is widely recognized that Kenya has a very important geopolitical and strategical position: It shares borders with Somalia, Ethiopia, Sudan, Uganda and Tanzania. Situated in a region of conflict and war, Kenya has managed to maintain relative peace and stability since independence was declared in 1963. By establishing a Human Rights House in Kenya as the first in Africa, a peaceful development based on respect for human rights will be supported. Further, Kenya's efforts to act as a stabilizing element in the region will be strengthened. The intention is to follow up with establishments of Human Rights Houses in other African countries, hence creating a stronger and more visible human rights network to promote peace and human dignity in this troubled region.

## **3 THE HUMAN RIGHTS HOUSE OF NAIROBI**

The Human Rights House will only be able to accommodate a limited number of organisations. However, the House will serve not only the organisations that become members, but the Kenya human rights movement as a whole. It will have facilities such as a documentation centre, an auditorium and meeting rooms that can be used also by external organisations. Furthermore, we plan that the House will act as a secretariat of the Kenyan Human Rights Network.

### **3.1 Activities**

The Human Rights House of Nairobi will host human rights organisations with the following focus of activities:

- Monitoring and advocacy of human rights
- Free legal aid to people of all ethnicities in human rights related cases
- Assistance to torture survivors
- Human rights research
- Civic education and public awareness
- Women's rights
- Rights of the child

To sum up, the organisations at the Human Rights House in Kenya will provide help in individual cases of human rights abuse, while at the same time deal with human rights at the systemic level. Experience from other Human Rights Houses the past 13 years has shown that such collaboration generates important synergy effects. For organisations involved in research, monitoring and advocacy, proximity to organisations that handle individual cases may lead to better access to documentation on human rights violations. At the same time, organisations that treat individual cases often have an interest in generating publicity for their cases but lack the necessary expertise and resources in public relations work.

The clients of the organisations will also benefit. Several of the Kenyan human rights organisations which will join the House, offer help and assistance to people who have been subjected to violence, harassment and other forms of human rights abuse. Some of the clients, like torture survivors, need a range of rehabilitation services, such as legal aid, psychosocial training and medical care. Today, people who require help are therefore compelled to move between various organisations in search of help and assistance, often at great personal cost and strain. By gathering a range of services at one location, these services will become more accessible to the public.

## **3.2 How the Human Rights House will support the human rights movement in Kenya**

Besides the hostile environment in which human rights organisations operate in Kenya, there is a dire scarcity of resources. The most crippling factor has been the lack of core support to enable smooth operations. The result has been that there is no development of capacity, and the human rights agenda is controlled by forces other than the organisations themselves. There is also the need for more co-operation and co-ordination among human rights organisations, the need for complementary and focused activities and a culture of voluntarism.

### **3.2.1 Increased efficiency in the use of resources**

The Human Rights House will provide a core administrative structure for the participating organisations, accessible to the members and their collaborators. It would involve the sharing of resources (library, conference room etc.) and facilitate their utilisation in an efficient and cost-effective manner. Working in a community is therefore expected to foster better communication and co-ordination. An amalgam of common and shared premises, services, and space, it will therefore contribute to institutional development while at the same time allowing the different organisations to retain separate mandates and identity.

### **3.2.2 Core support**

Unavailability of long-term core support and fluctuating budgets have been the bane of civil society activities in Kenya for a long time. Of the recurrent overheads organisations have to meet, rent is by far the most serious concern. Should space be available to organisations, it will reduce their overheads with more than a half, making them less dependent on conditionalities from their benefactors. This economic benefit is important in view of stringent donor conditionalities and fluctuating funding commitments.

### **3.2.3 Real networking**

With the sharing of common resources and the communal nature of the Human Rights House, greater co-operation and collaboration is expected among the participating organisations. In addition, as the secretariat of the Kenyan Human Rights Network, the House will stimulate co-operation also among NGOs that are not members. This co-operation and collaboration will make it possible to have a situation where organisations even jointly design and implement projects – a healthy *modus operandi* that has so far been elusive in the competition for scarce resources.

### **3.2.4 Security**

With many human rights organisations gathered in one place, one might think that they become more vulnerable and exposed. However, from our 13 years of experience with already established Human Rights Houses, feedback from human rights defenders worldwide suggests that the opposite is the case. By sharing a house, the organisations will be able to have a common security system with guards, alarms and other safeguards. Even today, the organisations spend much of their resources on security, and the cost could be greatly reduced in a common location. Guards will be selected carefully by the NGOs, and their background will be checked.

Another factor is the increased visibility and publicity connected with staying in a Human Rights House and forming part of an international network. There will be need, however, to guard against sabotage, infiltration, self-preservation and other ills that have made similar endeavours in the past to flounder.

### **3.2.5 Accessibility**

With a group of human rights organisations co-located in a central location in Nairobi, accessibility will improve. This will benefit the users of the organisations, their clients, researchers and others who take an interest in human rights.

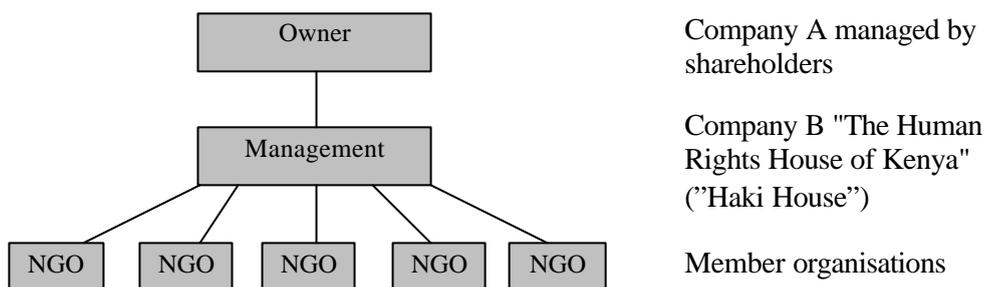
### 3.2.6 International Network

The Human Rights House will become the first African member of the Human Rights House Network, which is a forum of co-operation between the established Houses. Being part of an international network may have many advantages, such as enhanced visibility and co-operation.

## 4 HOW THE HOUSE WILL BE ORGANISED

The Human Rights House of Kenya (also referred to as “the Haki House”) will be a new democratic and independent institution, promoting respect for human rights. The seven Kenyan Human Rights NGOs will be members and equal partners. It must be possible for existing members to withdraw and for other human rights NGOs to become new members. The members will have no claims to the value of the property. All this will be ensured and regulated through mode of organisation (division of ownership and management entity, see appendix 2), formal contracts and statutes. If the involved parties fail to comply with their commitments and the project is to be terminated, legal arrangements will ensure that the value of the property will be transferred back to the donors (see appendix 4). The Foundation coordinates the entire project, including the building process, until the participants move in to the House.

*Figure 4.1: Model of organisation*



Two companies will be established: One company (Company A) will be incorporated to hold title to the property on which the House will stand. Another company (Company B) will be incorporated to deal with the management of the House.

Company A and Company B will both be private companies. The liability of the members of the company will be limited to the amount unpaid on the shares held by the members.

The Memorandum and Articles of Association of each of the companies will clearly state that any income from the House will be used solely towards the promotion of the objects of companies as set out in their respective Memorandum and Articles of Association. No part of it should be distributed to any members of the companies.

Both companies would have to comply with the provisions of the Companies Act (Cap 486 of the Laws of Kenya). These include filing of annual returns, which would disclose among other things, the names of the members and directors holding of annual general meetings, keep of books of account, and appointment of auditors.

## **4.1 Ownership (Company A)**

The shareholders and directors of Company A will be the formal owners of the Human Rights House in Kenya, and let it be used by Human Rights organisations. Company A will be separate from the organisation that manages the Human Rights House and have its own board and statutes. Organised as a non-profit company with shareholders, taxation will be kept to a minimum, state interference is minimised, and registration procedures eased.

### **4.1.1 Nomination and appointment of shareholders**

Nomination of shareholders has been done by the Interim Board (please see issue 4.2) and approved by all participants. The Interim Board agreed that shareholders should not be in the decision making structure with any of the seven Interim Board members. They should be available and sympathetic to the Human Rights cause, and persons of high integrity. Further, they should not be working in a funding agency, hold political office in government or be overtly political. Nor should one profession, ethnicity or gender dominate it.

The Interim Board has recommended five shareholders:

- Charity Kavutha - a consultant in Gender and Development with Masters training in Demography from the London School of Economics and Political Science. She has skills in development, management, monitoring and evaluation of programs. She has been responsible for huge development resources, which she has managed without reproach.
- Kathurima M'inoti - an advocate of the High Court of Kenya and a partner with a law firm in Nairobi. Has served as member of boards such as the International Commission of Jurists (ICJ) - Kenya Chapter, and the Torture Litigation Fund.
- Morara Reseni Ombati - currently the Programs Coordinator of the National Convention Executive Council, which is the executive organ of the National Convention Assembly. He is also presently a member of various councils including the East African Youth Council, the East African Youth League, the Citizens Coalition for Constitutional Change (4Cs) and a founding member and member of the Board of the Youth Agenda.
- Jael Mbogo - a social scientist and currently working as a Program Officer with the Education Center for Women in Democracy.
- Dr John Wasonga - a general practitioner and currently Research Coordinator of Healthpartners, an organisation of Kenyan doctors and laypersons working in health related aspects of human rights promotive and preventive health.

In addition, the Human Rights House Foundation will be a shareholder.

### **4.1.2 Drafting of statutes and registration**

In addition to ownership, the main function of the shareholders in Company A is to oversee that the Human Rights House is run and managed to the benefit of the human rights movement in Kenya. However, the responsibilities of the Company A will be as limited as possible. It will not interfere in the day-to-day management of the House, but in the case of abuse of the premises for undesirable purposes the Company A will have the right to intervene.

An external lawyer (please see issue 4.5) will draft the statutes of the Company A. All participants must approve the draft. It must ensure that the Human Rights House becomes an independent institution not controlled by any of the user organisations. These statutes will specify what will happen to the property in the extreme case that the project must be terminated and the house has to be sold. The value will then be transferred back to the donors that funded the project. A fundamental principle is that the participating organisations shall have no claims to the value of the property and hence a

theoretical interest in the failure of the project. To ensure that the ownership company does not sell or mortgage or deal with the property in any way, except as determined by the Human Rights House Foundation in Norway, a caveat or restriction will be registered against the title to the property by the Human Rights House Foundation in Norway, claiming a mortgagee's right to the property. This will be supported by a document to show that the Foundation has given a loan to the ownership company.

The shareholders should sign a Declaration of Trust to the effect that they hold the shares in trust for their respective constituencies, and also sign a blank share transfer form to facilitate the transfer of shares should the members need to change.

## **4.2 Management (Company B)**

A management entity, Company B, will be set up where each member organisation of the House is a partner. A manager (please see issue 4.3) who reports to Company B will run the joint secretariat. The main purpose of Company B is to administer the House and provide services for the organisations that are members of the Human Rights House. This will include setting up a budget for running costs and maintenance, charging rent from each of the member organisations, maintaining joint facilities like a reception, conference rooms and common technical installations, and keeping the premises in order. Its statutes will state which NGOs are members and regulate the co-operation between them. Hence, Company B is fundamental to the project. Once it is registered, it will be able to take on legal and economic obligations.

The establishment of a Human Rights House is a long-term commitment. The Human Rights House Foundation in Norway will play an active role the first two years of operation in terms of assisting and cooperating with the House in order to ensure continuity, co-ordination and transparency.

The relationship between the two companies shall be regulated by a contract. Company A (owner) shall not charge rent from the Company B (management entity). However, Company B, and hence the human rights organisations that occupy the Human Rights House, must cover all costs of maintenance, electricity, water, sewage and administration. Company B shall reimburse any costs incurred by Company A, such as property tax.

### **4.2.1 Appointment of Interim Board**

During Autumn 2000, an Interim Board was established, consisting of representatives from each of the seven NGOs. The Interim Board has played a leading role in the planning and co-ordination of the project. The representatives of the Interim Board take part on behalf of their organisations and not in a personal capacity, and keep their boards and members informed about the progress.

One of the main purposes of the Interim Board is to set up Company B that is to run the Human Rights House. Once Company B has been formally established and legally registered, its governing body takes over the functions of the Interim Board. The members of the Interim Board are as follows:

- Hilda Mawanda, COVAW (coordinator of Interim Board)
- Anthony Mugo, FIDA
- Lawrence Mute, CLARION
- Tirop Kitur, RPP
- James Nduko, KHRC
- Violet Anyanzwa, CRADLE
- Beatrice Kamau, PAT

### **4.2.2 Legal category**

Ideally, the management entity should be registered as a human rights NGO. However, the legal status of the management entity must be suited to domestic laws and regulations. In Kenya, the registration of a new NGO is very time consuming, and NGOs may be de-registered if their activities are

politically controversial. Therefore, the simplest solution is to organise the management entity as a non-profit company (Company B) in which the participating organisations, or their representatives, are shareholders. This is a solution, which will keep taxation at a minimum, minimize state interference and control, and ease registration procedures.

#### **4.2.3 The member organisations**

The scope, method and conceptualisation of human rights work will continue to be decided by the member organisations individually. Company B will not interfere in the affairs of the members. In other words, the organisations will go on with their projects and activities like they do today, but in a new location. The Human Rights House will thus not be a new structure established in addition to already existing human rights organisations, but rather a reorganisation of the way in which the organisations operate. We are convinced that Kenyan human rights organisations form a unique expertise that should be supported. However, the organisations should be free to make their own priorities according to their assessment. The purpose of the Human Rights House is to enable local human rights organisations to pursue their own priorities more efficiently.

#### **4.3 Appointment of a Manager**

The project requires the employment of a Manager, Coordinator, or Executive Director. This person will play a vital part in coordinating activities internally and representing/promoting the House externally. This requires high professional, organisational and personal skills. In order to avoid problems with impartiality, the Interim Board, together with the Human Rights House Foundation, will employ a person who is not member of any of the participating NGOs. The manager will also report to the Human Rights House Foundation in Norway.

Further, the Foundation wants to secure funding for this position for two years (2003-2004) to ensure continuity in the implementation process. After 2004, the organisations will have to evaluate whether the position should be kept at this level (and then include the extra costs in the joint budget for 2005) or reduce/change it to a position involving more secretarial (and less executive) functions.

Running costs for Company B are included in the joint budget for year 2003 (i.e. the cost benefit analysis, please see issue 6).

The process of finding a candidate has started. A final decision regarding employment will be made once the funding of the project is secured.

#### **4.4 Needs assessment**

The Human Rights House will be designed to meet the needs of the participating organisations. Together with Mr. Charles Kahura, an architect at Space Form Studio in Nairobi, we have worked out in detail how many offices each participant needs and what joint facilities should be included in the House (please see appendix 5). This is balanced against how much the participants are able to contribute to the joint costs of electricity, water, etc. The needs assessment forms the basis of the work of the architect and constructors.

#### **4.5 Legal arrangements**

Our lawyer reviews all legal arrangements, such as statutes and contracts. In order to avoid problems of impartiality and conflict of interest, we are using an external lawyer – Ms. Christine Agimba at Hamilton Harrison & Mathews in Nairobi - who does not hold any formal positions in any of the participating organisations. The Human Rights House Foundation has engaged the lawyer after consultation with the participating organisations. What is more, a highly recognized Norwegian business law firm based in Oslo will provide free legal counselling to the Foundation.

## **4.6 Before moving in: Producing the necessary legal documents**

### **4.6.1 Memorandum of Understanding between the participants**

Many Kenyan human rights organisations are not registered as NGOs but obtain legal cover as projects of other NGOs. This includes some of the organisations that are members of the Human Rights House. Legally, these organisations cannot be shareholders in Company B that is to run the house. In order to secure the position of these project-organisations and to ensure that they participate on equal terms, a Memorandum of Understanding between all participants has been drawn up. This states the principles and terms of co-operation (please see appendix no. 3).

### **4.6.2 Contract between the two companies (owner and manager)**

The relationship between Company A (owner) and B (management entity) will be regulated by a contract. The contract will ensure that the management entity is not liable to pay rent, while at the same time it is responsible for covering all the costs of running the House. The contract will also ensure that the Company B, and not the Company A, decides if new human rights organisations shall be invited to become members, and which organisations should be granted membership.

### **4.6.3 Contracts between each of the participants and Company B**

Before moving into the Human Rights House, each participant will sign a contract with the Company B. The contract will specify which offices the organisation is entitled to and how much it will contribute to the monthly costs.

## **4.7 Termination**

The support from the donors to the establishment of a Human Rights House in Kenya may be viewed as a long-term loan without interest. We establish an ownership model that ensures that the Human Rights House Foundation can terminate the Human Rights House in Kenya if necessary (please see appendix 4). Through the Human Rights House Foundation in Norway, the money is then transferred back to the donors according to percentage of financial contribution to the entire project.

## **5 CONSTRUCTING THE HOUSE**

The Human Rights House in Kenya will be a landmark, a new institution exposing and enhancing the civil society's effort to promote human rights, democracy and good governance in Kenya. Today, the seven human rights NGOs involved rent offices in separate locations. The proposed project is an office block of about 1565 square metres accommodating seven human rights organisations with separate secretariats but sharing certain common facilities that they otherwise would not afford individually, such as a library and conference rooms. The Kenyan NGO community as a whole will use these. Today, NGOs have to rent conference rooms externally and at high costs.

The House must both enhance the work of the participating organisations while at the same time be economic and cost saving. It will be located in Central Nairobi to make it accessible to human rights defenders and clients. The House will accommodate around 60 people working within it, receiving approximately 100 walk in, walk out clients on a daily basis. We have inspected several available properties as well as plots at Ngong Road that suit our premises.

The most permanent and secure solution is to either buy a house and refurbish it, or to buy a plot and build a new house. Based on discussions with an architect, these two solutions will be about equally costly. In both cases it will be possible to design the house according to the needs and wishes of the participants, and at moderate costs. Furthermore, both solutions make it possible to expand in the future, if needed.

An architect, Mr. Charles Kahura, has made the appropriate brief analysis and mapped out the stringent parameters to be considered in the evaluation of spatial requirements and design requirements as detailed in the project outline brief (please see attachment no.5).

### 5.1 Responsibilities

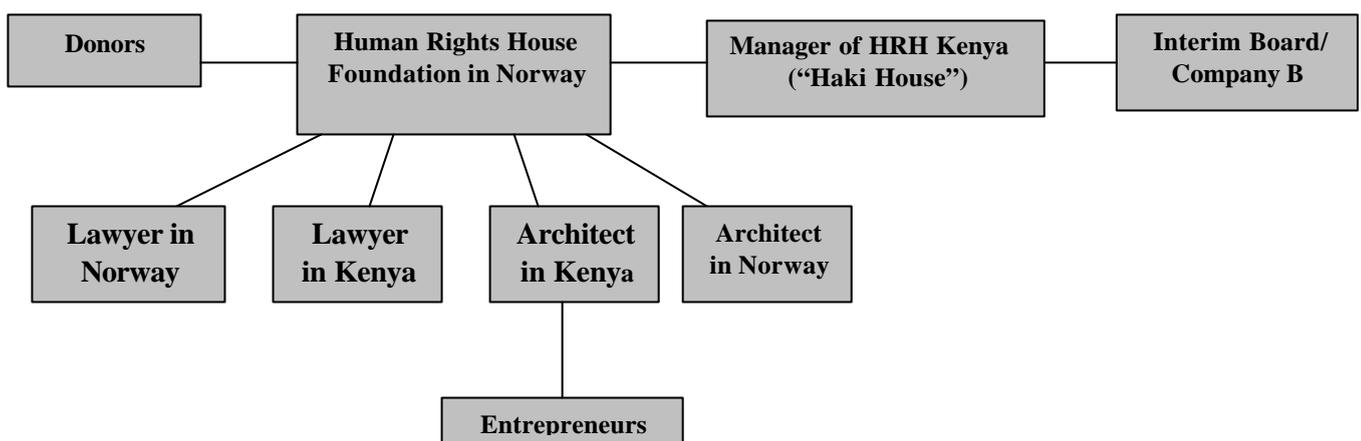
Once the funding is secured, the Human Rights House Foundation in Norway, which co-ordinates the building and/or refurbishing process, will invite 3-4 architect agencies to a tendering. The agency of Mr. Kahura will be among these. The Foundation will decide which architect is to be employed. Good references and solidity will be emphasized. A Norwegian architect, Mr. Finn Kleiva, is cooperating with the Human Rights House Foundation as a consultant on a voluntary basis. Mr. Kleiva has worked in Nairobi previously, and has also worked in other countries in Africa for about ten years. He has generously offered to assist in the evaluation of firms in the tendering, help analyse construction reports, etc. The Foundation will go to Nairobi (approximately four times) to follow up the construction process. Further, since the Foundation is not based in Kenya, the manager/co-ordinator/executive director of the House will also assist the Foundation.

The chosen architect agency will be in charge of the design of the physical structure based on the needs of the participants, and of the building and/or refurbishing process as a whole. Contractors will report to the architect. The architect chosen will be responsible for following up on the progress on a day-to-day basis and for keeping the Human Rights House Foundation in Norway informed.

### 5.2 Payment

The cost of the total investment is 1,284 million USD (100,7 million Kenyan Shillings). The building and/or refurbishing process and payment related to construction will be regulated by standard professional contract adjusted to meet our requirements. The Human Rights House Foundation in Norway will inspect the construction and receive the necessary reports and documentation on the building and/or refurbishing process after each defined construction phase is completed. The Human Rights House Foundation in Norway will co-ordinate the necessary legal and financial arrangements to minimize risks (financial, time frame etc.) in the building process. Payment will be transferred by the Human Rights House Foundation after each phase is completed, and will not be made in advance.

*Figure 5.1: The construction process*



### **5.3 Time schedule**

The time frame is obviously difficult to estimate, and depends on a number of factors. However, we hope the donors involved are ready to discuss the proposal in Nairobi before Summer 2002 with the Kenyan Interim Board. We plan to start building/refurbishing after the Kenyan Presidential elections in late 2002, and expect the building and/or refurbishing process to take approximately 8-12 months. We hope the members can move in by late 2003 or early 2004. The Human Rights House Foundation in Norway will follow up the House closely, particularly during the first two years of operation. After that, the Human Rights House in Kenya will be part of the Human Rights House Network.

### **5.4 Moving in**

When all works are finished, the participants will move their secretariats into the Human Rights House. Initially, each organisation will be given office space as specified in the contract with the Company B. At this time the two companies must be registered, and the Company A must be the registered owner of the House. Also, the legal documents mentioned above must have been finalised and approved by the participants.

## **6 FINANCIAL MATTERS**

We have included two budgets in the proposal: One investment budget, and one cost benefit analysis. In addition, the seven organisations have their own internal budgets.

### **6.1 The investment budget**

The investment budget is the budget for the seven NGOs establishment of a Human Rights House, where the Norwegian Human Rights House Foundation is the co-ordinator. It involves the period of September 2001 to December 2005. It covers project co-ordination in Kenya and Norway (year 2001-2005), and construction and refurbishment of the House (year 2003). Please note that part of the salary for the co-ordinator/manager at the Human Rights House in Kenya is covered here. The total investment is estimated to 1,28 million USD (100 million Kenyan Shillings).

### **6.2 The cost benefit analysis**

The cost benefit analysis is the joint budget for the organisations (Company B), which manage and maintain the House. It demonstrates the financial costs and benefits for the organisations by moving into the House. Today, the annual costs of the seven organisations are 11,5 million Ksh (146 300 USD). Compared to their costs today, by moving into the House the organisations will save 5.9 million Ksh (75 200 USD) in 2004, 5,9 million Ksh in 2005, and 7,2 million Ksh (90 770 USD) in 2006. The figures include savings from not having to pay rent in the new House. This means the organisations will have their costs reduced with 51% in 2004 and 2005, and 62% in 2006.

The organisations will not pay rent, so this will be a saving, but they will pay running costs such as electricity, water etc. for the whole building. There will be some additional costs related to the joint secretariat, but by sharing personnel (receptionist, office assistants, guards etc.), the organisations will also save costs.

The organisations will share facilities such as a conference room. Today, the organisations have to rent this externally at high costs. External organisations will be able to rent the new conference room at a cost that is only about one-third of market price. Apart from allowing the seven organisations to make an income, this way the NGO community as a whole will benefit. The latter is one of many immaterial benefits obtained by establishing the House. For victims of human rights violations, one of the benefits (not included in the cost benefit budget) will be that they no longer need to spend time and resources travelling between the different organisations to be properly addressed.

### **6.3 Sources of funding**

The seven Kenyan human rights organisations will seek to solicit support primarily from donors in the "like-minded donor group". These donors already support the NGOs that will become formal members of the Human Rights House. The following donors have expressed an interest in the project since its inception:

- Norway
- Denmark
- Sweden
- Netherlands
- Canada
- Ford Foundation

### **6.4 Financial and narrative report**

The Human Rights House Foundation in Norway will receive the money from the donors on behalf of the seven Kenyan NGOs. The Foundation is responsible for the investment budget. Accountant and auditor is based in Oslo, Norway. The Foundation is responsible for the control, follow-up, and reporting of the investment budget. Any prospective surplus from the investment will be transferred to the donors according to percentage of financial contribution to the project.

Company B (management unit), represented by their co-ordinator/manager at the House, is responsible for the joint budget (see cost benefit analysis).

HUMAN RIGHTS HOUSE IN KENYA  
COST BENEFIT ANALYSIS OF THE SEVEN INTERIM BOARD MEMBERS

	ITEMS	COVAW (K)	PAT	CRADLE	CLARION	RPP	KHRC	FIDA	TOTAL FOR IB MONTHLY	ANNUAL FOR IB	HRH MONTHLY 2004-2005	HRH ANNUAL 2004-2005	BENEFIT (DIFFERENCE ) 2004-2005	HRH ANNUAL 2006	BENEFIT (DIFFERENCE 2006
1	<b>INCOME</b>														
2	Hire of seminar rooms by external organisations											200 000	200 000		200 000
3	<b>TOTAL INCOME</b>											<b>200 000</b>	<b>200 000</b>		<b>200 000</b>
4	<b>COSTS</b>														
5	<b>RENT</b>	30 000	50 000	25 000	65 000	41 000	99 250	80 000	390 250	4 683 000	-	-	4 683 000		4 683 000
6	<b>SECRETARIAT</b>														
7	<b>Personnel</b>														
8	Co-ordinator	-	-	-	-	-	-	-	-	-	100 000	1 200 000	(1 200 000)		
9	Admin/Secretary	-	-	-	-	-	-	-	-	-	30 000	360 000	(360 000)	360 000	(360 000)
10	Receptionists	20 000	20 000	20 000	20 000	20 000	20 000	20 000	140 000	1 680 000	80 000	960 000	720 000	960 000	720 000
11	Office assistants/cleaners	15 000	15 000	15 000	15 000	15 000	15 000	15 000	105 000	1 260 000	15 000	180 000	1 080 000	180 000	1 080 000
	<b>Office Costs</b>														
12	Office Supplies	-	-	-	-	-	-	-	-	-	5 000	60 000	(60 000)	60 000	(60 000)
13	Telephone/office communication	-	-	-	-	-	-	-	-	-	15 000	180 000	(180 000)	180 000	(180 000)
14	Photocopying, Postage and Delivery	-	-	-	-	-	-	-	-	-	5 000	60 000	(60 000)	60 000	(60 000)
16	Newspapers & Magazines	-	-	-	-	-	-	-	-	-	10 000	120 000	(120 000)	120 000	(120 000)
17	<b>SUB TOTAL</b>	<b>65 000</b>	<b>85 000</b>	<b>60 000</b>	<b>100 000</b>	<b>76 000</b>	<b>134 250</b>	<b>115 000</b>	<b>635 250</b>	<b>7 623 000</b>	<b>260 000</b>	<b>3 120 000</b>	<b>4 503 000</b>	<b>1 920 000</b>	<b>5 703 000</b>
18	<b>UTILITIES, TAXES AND PUBLIC FEES</b>														
19	Electricity	5 000	3 000	1 500	5 000	-	6 000	16 000	36 500	438 000	60 000	720 000	(282 000)	720 000	(282 000)
20	Water	700	1 000	400	1 000	-	2 000	1 300	6 400	76 800	10 000	120 000	(43 200)	120 000	(43 200)
21	Garbage	200	-	-	500	-	-	600	1 300	15 600	1 000	12 000	3 600	12 000	3 600
22	Rates (property tax)	-	-	-	-	425	-	-	425	5 100	-	100 000	(94 900)	100 000	(94 900)
23	Other e.g Sanitations	1 000	500	1 000	650	2 000	2 000	1 400	8 550	102 600	4 000	48 000	54 600	48 000	54 600
24	Security system	5 500	-	-	5 500	8 000	9 000	-	28 000	336 000	-	-	336 000	30 000	306 000
25	<b>SUB TOTAL</b>	<b>12 400</b>	<b>4 500</b>	<b>2 900</b>	<b>12 650</b>	<b>10 425</b>	<b>19 000</b>	<b>19 300</b>	<b>81 175</b>	<b>974 100</b>	<b>75 000</b>	<b>1 000 000</b>	<b>(25 900)</b>	<b>1 030 000</b>	<b>(55 900)</b>
26	<b>EXTERNAL SERVICES</b>														
27	Repairs	-	-	-	-	-	-	-	-	-	15 000	180 000	(180 000)	180 000	(180 000)
28	Gardener	-	-	-	-	-	22 000	-	22 000	264 000	-	-	264 000	-	264 000
29	Auditors	-	-	-	-	-	-	-	-	-	-	100 000	(100 000)	100 000	(100 000)
30	Guards	-	10 000	-	41 000	10 000	33 000	34 500	128 500	1 542 000	80 000	960 000	582 000	960 000	582 000
31	<b>SUB TOTAL</b>	<b>-</b>	<b>10 000</b>	<b>-</b>	<b>41 000</b>	<b>10 000</b>	<b>55 000</b>	<b>34 500</b>	<b>150 500</b>	<b>1 806 000</b>	<b>95 000</b>	<b>1 240 000</b>	<b>566 000</b>	<b>1 240 000</b>	<b>566 000</b>
32	<b>EXTERNAL SEMINARS</b>														
33	Hire of seminar rooms	5 000	3 750	8 333	6 667	3 750	6 250	16 667	50 417	605 000	-	-	605 000	-	605 000
34	Meals	-	-	-	16 667	-	28 000	-	44 667	536 000	-	-	536 000	-	536 000
35	<b>SUB TOTAL</b>	<b>5 000</b>	<b>3 750</b>	<b>8 333</b>	<b>23 333</b>	<b>3 750</b>	<b>34 250</b>	<b>16 667</b>	<b>95 083</b>	<b>1 141 000</b>	<b>-</b>	<b>-</b>	<b>1 141 000</b>	<b>-</b>	<b>1 141 000</b>
36	<b>FINANCIAL COSTS</b>														
37	Bank Charges	-	-	-	-	-	-	-	-	-	2 000	24 000	(24 000)	24 000	(24 000)
38	<b>SUB TOTAL</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2 000</b>	<b>24 000</b>	<b>(24 000)</b>	<b>24 000</b>	<b>(24 000)</b>
39	<b>OTHER</b>														
40	Insurance on building	-	-	-	-	-	-	-	-	-	12 500	150 000	(150 000)	150 000	(150 000)
41	Various costs (5% of total)	-	-	-	-	-	-	-	-	-	276 700	2 767 000	(2 767 000)	2 767 000	(2 767 000)
42	<b>SUB TOTAL</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>12 500</b>	<b>426 700</b>	<b>(426 700)</b>	<b>368 200</b>	<b>(368 200)</b>
43	<b>GRAND TOTAL COSTS</b>	<b>82 400</b>	<b>103 250</b>	<b>71 233</b>	<b>176 983</b>	<b>100 175</b>	<b>242 500</b>	<b>185 467</b>	<b>962 008</b>	<b>11 544 100</b>	<b>444 500</b>	<b>5 810 700</b>	<b>5 733 400</b>	<b>4 582 200</b>	<b>6 961 900</b>
44	<b>RESULT</b>	<b>82 400</b>	<b>103 250</b>	<b>71 233</b>	<b>176 983</b>	<b>100 175</b>	<b>242 500</b>	<b>185 467</b>	<b>962 008</b>	<b>11 544 100</b>	<b>444 500</b>	<b>5 610 700</b>	<b>5 933 400</b>	<b>4 382 200</b>	<b>7 161 900</b>
45	<b>ANNUAL BENEFIT</b>												<b>5 933 400</b>		<b>7 161 900</b>

## **6.6: Notes to the cost benefit analysis - April 2002**

The annual benefit for the seven NGOs of moving into the new house will be 5.9 million Ksh (75 200 USD) in 2003 and the same for 2004, and 7,2 million Ksh (90 770 USD) in 2005. This amounts to a 51 % reduction of costs in 2003 and 2004, and 62% reduction in 2005, rent included. Naturally, the benefit from not having to pay rent is the largest.

Reduction of all costs but rent will amount to 18% in 2003 and 2004, and 36% in 2005.

Below, please find explanations of the budget lines. The figures in the cost benefit analysis (the joint budget of the seven NGOs) are in Kenyan Shillings (Ksh).

Figures are uncertain and will be adjusted after six months.

Exchange rate used (13 September 2001): **1 USD = 78.9 Kenyan Shillings**

### **INCOME**

**1-3)** The House will include a conference hall fitting 300 persons, with modern facilities. Today, Kenyan organisations have to rent this externally. The market price is 15.000 Ksh. In the new House, Company B (management entity of the Human Rights House in Kenya, consisting of the seven organisations and secretariat) will let this out to external organisations for 5000 Ksh, which is 1/3 of market price. This way, the NGO community in Kenya, including organisations in the Human Rights Network (consisting of 21 NGOs meeting regularly), will benefit, and it will provide Company B with an income. It is envisaged that there will be 40 such meetings by external users annually, which gives an annual financial benefit of Kshs 200,000 (2535 USD) annually. In addition to this, the Human Rights House in Kenya will provide free meeting spaces for human rights organisations that may not be in a position to pay hire for meeting space in commercial places. This is a non-financial benefit for the human rights fraternity.

### **4) COSTS**

**5)** Rent – this includes the rent that is paid by each organisation in 2001. In the new House, there will be no rent.

**6-17)** Secretariat - The House will have a joint secretariat which will involve an additional cost compare to the budgets the seven organisations have today.

Personnel and office costs:

- Co-ordinator – this will be the person who co-ordinates the joint activities of the house and will be ex officio member of the Management Board. The salary to be paid is Kshs 100,000 per month. Part of the salary appears in the investment budget (please see page 16).
- Administrative secretary – is to assist the Co-ordinator in the daily running of the House, especially in financial aspects.
- Receptionist – today, each of the seven organisations have their own receptionist. These are also secretaries. In the new House, there will be four receptionists, so this will be a saving. The receptionists will ensure that the visitors to the House

are properly referred to appropriate organisations and that general enquiries are addressed appropriately.

- Office assistants/cleaners – today, the seven organisations each have their own office assistant/cleaner. In the new House, there will be only one office assistant/cleaner, so this will be a saving. This person will also replace the gardener.
- Office supplies – this includes the day to day costs of running the office
- Telephone / office communication – this includes the cost of telephone, email and fax for the joint secretariat
- Photocopying, postage and delivery – this includes cost for the joint secretariat correspondence.
- Newspapers and magazines – these are for the reception area and the Human Rights House office. Organisations will still purchase their own newspapers since they have different uses for them.

**18-25) Utilities, taxes and public fees:** Moving into the new House will involve additional costs on some areas and benefits on other.

- Electricity – there is no cost item for the NGO RPP since this is included in the rent
- Water – there is no cost item for the NGO RPP today since this is included in their rent
- Garbage – some organisations do not pay for garbage collection today
- Rates for the property – Kshs 100,000 is to be paid as rates by the Human Rights House
- Others eg sanitation
- Security – this includes charge for alarm systems – some organisations do not have access to security/alarm system today. The costs of the security system for the Human Rights House in Kenya appears in the investment budget. Maintenance/service on the security system will appear in the joint budget from 2004 onwards.

**26-31) External services**

- Repairs - each organisation will repair the spaces it provides. Structural repairs will be taken care of by the House
- Gardener – the office assistant/cleaner will see to the maintenance of the compound, so this will be a saving.
- Auditors – this will be the cost of the audit of Company Bs account.
- Guards – the total cost is Kshs 80,000 per month – this will include two day guards and two night guards at a cost of Kshs 20,000 each per month. This service will be sourced from security firms.

**32-35) External seminars**

- Today, the seven NGOs hire commercial halls in Nairobi for seminars and conferences. Commercial halls in Nairobi charge around 15.000 Ksh per day. The

new House will provide free use of a similar hall. Therefore, the organisations have no costs in 2003 onwards.

- Meals: When some of the organisations (KHRC and CLARION) have external conferences and seminars, they have their meals at hotels. These hotels charge Ksh 1000 per meal per person on average. In comparison, the rate for outside catering of meals is usually 300 Ksh per person per day (including lunch and two teas), i.e. less than 1/3 of the price. In the new House, organisations will use this outside catering. Hence, CLARION and KHRC will benefit from reducing their costs from 1000 per person to 300 per person – a benefit of 700 Ksh per meal per person. This benefit difference is reflected in the cost benefit analysis. The costs of meals by each organisation in relation to conferences and seminars are included in the internal budgets of each organisation.

**36-38) Financial costs**

- Bank charges – this is for the bank account that will be held by Company B.

**39-42) Other**

- Insurance – this is a standard insurance of the property and joint equipment against fire and burglary.
- Various costs – 5% of total HRH annual costs (budget lines 17 + 25 + 31 + 35 + 38 + 40).

6.7:

INVESTMENT BUDGET  
The Human Rights House in Nairobi  
(Figures in USD)

	ITEMS	2001 -2002 (Sept.-Dec.)	2003 (Build./ renov.)	2004 (1st Year)	2005 (2nd Year)	TOTAL (2001- 2005)
<b>1 PROJECT CO-ORDINATION IN KENYA</b>						
2	<b>Lawyer's fee</b>	5 703	6 521	0	0	12 224
3	<b>Building agency</b> (15% to Architect, Quantity Surveyor, Mechanical and Electrical Engineers, Civil and Structural Engineer)	0	74 198	0	0	74 198
4	<b>Secretariat</b>					
5	Salary for Executive Director	0	6 922	12 480	12 480	31 882
6	Running office costs, Secretariat	7 500	4 500	4 000	4 000	20 000
7	Office equipment (PC, printer, fax, phone, photocopier etc.)	0	0	4 290	0	4 290
8	Internship at HRH Network	0	0	3 300	0	3 300
9	<b>Various costs (10%)</b>	1 320	9 214	2 407	1 648	14 589
10	<b>SUB TOTAL USD</b>	<b>14 523</b>	<b>101 355</b>	<b>26 477</b>	<b>18 128</b>	<b>160 483</b>
<b>11 CONSTRUCTION (budget lines 12 to 26)</b>						
12	<b>Plot</b>	0	255 103	0	0	255 103
13	<b>Property tax</b>	0	26 083	0	0	26 083
14	<b>Construction (budget lines 15 to 19, equals 494 659 USD)</b>					
15	office building incl. services	0	264 804	0	0	264 804
16	External works (parking, fence, guard house etc.)	0	57 034	0	0	57 034
17	Preliminaries and contingencies (5% of budget line 15 and 16)	0	16 092	0	0	16 092
18	Office partitioning	0	81 273	0	0	81 273
19	VAT (18% of budget lines 15 to 18)	0	75 457	0	0	75 457
20	<b>Furniture and equipment</b>					
21	kitchenettes	0	3 000	0	0	3 000
22	office chairs, desks, conference tables, filing cabinets etc.	0	38 023	0	0	38 023
23	technical equipment to conference room (microphone, loud speaker etc)	0	2 155	0	0	2 155
24	Joint telephone system	0	12 000	0	0	12 000
25	Security/alarm system	0	7 400	0	0	7 400
26	<b>Various costs (15%)</b>	0	125 764	0	0	125 764
27	<b>SUB TOTAL USD</b>	<b>0</b>	<b>964 187</b>	<b>0</b>	<b>0</b>	<b>964 187</b>
<b>PROJECT CO-ORDINATION IN NORWAY</b>						
28	<b>PROJECT CO-ORDINATION IN NORWAY</b>					
29	<b>Office costs</b>					
30	Salary, personnel, office expenses	33 300	33 300	14 800	7 400	88 800
31	Consultancies	1 000	3 080	0	0	4 080
32	Travel	16 500	16 500	9 900	6 600	49 500
33	Accounting and audit	1 584	5 281	1 584	1 584	10 033
34	<b>Various costs (5%)</b>	2 619	2 908	1 314	779	7 621
35	<b>SUB TOTAL USD</b>	<b>55 003</b>	<b>61 069</b>	<b>27 598</b>	<b>16 363</b>	<b>160 034</b>
36	<b>TOTAL USD</b>	<b>69 527</b>	<b>1 126 611</b>	<b>54 075</b>	<b>34 491</b>	<b>1 284 704</b>

Exchange rate 1 USD

78,4 Ksh

## 6.8: Notes to the Investment Budget

The total investments are budgeted to 1,28 million USD, or 100 million Kenyan Shillings. Below, please see explanations to the budget lines. The figures in the investment budget are USD (investment budget is in Kenyan Shillings as appendix).

Exchange rate used (24 April 2002): **1 USD = 78.4 Ksh.**

The budget notes are divided into 3 parts:

- I) Explanations of budget line 2-10 (project co-ordination in Kenya)
- II) Explanations of budget line 12-27 (construction etc)
- III) Explanations of budget line 29-35 (project co-ordination in Oslo)

### **PART I: PROJECT CO-ORDINATION IN KENYA**

2) **LAWYER'S FEE:** Consists of work in pre-project and building/refurbishment phase:

-Lawyer's fee in pre-project includes work with contracts, legal recommendations etc. (statutes, Memorandum of Understanding, legal opinion, recommendation on model of organisation and ownership, co-operation with interim board and the Human Rights House Foundation in Norway etc).

-Lawyer's fee in the building/refurbishment phase includes work related to purchase of property, contracts, registration etc. This is 1 % (1,5% is common) of purchase value. Purchase value is estimated to 652 080 USD (51,2 million Kenyan Shillings)

**3-7) BUILDING AGENCY:** These are consultancy fees. It is set 15 per cent of construction, but this is negotiable (down to approximately 10%). Construction is estimated to 494 659 USD (38,8 million Ksh). The consultancy fees are guided by the various legislatures governing the particular professions (Architects and Quantity Surveyors Act and Engineers Registration Board). The recommended fees are as follows:

- Architect: approx. 6% of cost of project
- Quantity Surveyor: approx. 3% of cost of project
- Mechanical and Electrical Engineers: approx. 3% of cost of project
- Civil and Structural Engineer approx. 3% of cost of project

TOTAL 15 %

### **4-8) SECRETARIAT**

Salary to the Executive Director of the Human Rights House is covered in the joint budget (the cost benefit analysis) of the seven organisations up to 15 200 USD annually (1.2 million Ksh.) The rest of the costs for the co-ordinator the first two years of operation are covered in this investment budget.

HRH wants to secure funding for this position for two years (2004-2005) and for about ¼ of 2003 (during construction) to ensure continuity in the implementation

process. After 2005, the organisations will have to evaluate whether the position should be kept at this level (and then include the extra costs in the joint budget for 2006). The total annual salary (2004-2005) of the Executive Director is budgeted to 27 792 USD (2,18 million Ksh) annually (i.e. 15 312 USD + 12 480 USD).

Costs to the secretariat includes:

- Six months coordination in 2003 (during construction)
- part of the salary for Executive Director in Kenya 2004-2005 (the two first years of operation)
- running office costs for the Secretariat
- office equipment (PC, fax, printer, phone etc)
- internship: 1 trip to another Human Rights House (Oslo or Sarajevo) by the Executive Director in Kenya, in order to ensure transfer of knowledge and information from the Human Rights House Network.

**9) VARIOUS COSTS:** This is 10% of the above mentioned costs (lawyers fee, building agency and secretariat)

**10) PROJECT COORDINATION IN KENYA:** The sum of the above mentioned costs (lawyers fee, building agency, co-ordinator and various costs).

## **PART II: PLOT AND CONSTRUCTION**

**12) PLOT:** The cost of ½ acre plot in Central Nairobi (Ngong Road area) is based on the estimate in the Project Outline Brief (see appendix 5) provided by our Architect, Mr. Charles Kahura. This estimate has been confirmed by the Human Rights House Foundation who has surveyed a number of plots in Central Nairobi since March 2000, and found that the price varies between 153-253 000 USD (12-20 million Ksh).

**13) PROPERTY TAX:** According to Kenyan legal standards, this is 4% of purchase value (i.e. 4% of 652 080 USD). If plot is bought (not building), then legal fees are lower.

### **14-19) CONSTRUCTION:**

Based on Mr. Kahuras estimate of costs of building a house of 1865 m<sup>2</sup> (see appendix 5), and reduced to 1665 m<sup>2</sup>, which results in a 5% reduction of construction costs. It is mainly the size of the resource center that will be reduced. The sum of construction costs and cost of plot (total 749 762 USD or 58,8 million Ksh, VAT included) is equivalent to the costs of buying a house and refurbishing it. Of course, the less refurbishment that is necessary, the lower the costs of project coordination will be.

**20-25) FURNITURE AND EQUIPMENT (VAT included):** This includes:

- furniture to the offices (chairs, desks, conference tables, filing cabinets), furniture to communal areas and conference room (including 300 chairs), and to the resource centre (shelving, catalogue cabinets, reading desks, worktop areas, office desks, chairs). The organisations are expected to bring parts of this with them from their previous offices. The co-ordinator at the House will be responsible for registering what furniture etc the organisations bring with them into the House.
- 3 kitchenettes with fridges etc.
- technical equipment to the conference room (microphones, loud speaker, amplifier).
- telephone central: Panasonic system. Includes installation, transport, training charges etc and equipment (incl. 60 KX-TS10 Standard Telephones with data ports, unit price 3009 ksh/38 USD incl. VAT + 1 more advanced telephone for the reception).
- This is the security/alarm system only. In addition, the cost of having two guards (24/7) is included in the joint budget (cost benefit analysis), and costs of fences, guard hut etc. are reflected in budget line 16 (under *external work*).

**26) VARIOUS COSTS:** This is 15% of the above mentioned costs: plot, construction, property tax, furniture and equipment.

### **PART III: PROJECT CO-ORDINATION IN NORWAY**

**28-35) OFFICE COSTS:** Includes the following:

- Office expenses and salary to personnel at HRH. HRH will spend 9 months work of project coordination in relation to the Human Rights House in Kenya from September 2001 to December 2002, 9 months work in 2003 (building phase), 4 months in 2004 (follow-up), and 2 months in 2005 (follow-up).
- To ensure quality and proper reporting, it is important to have professional advisors. In the planning period, Mr. Finn Kleiva, a highly recognized Architect with experience from Nairobi, has generously offered his advice on a voluntary basis. He will assist during the construction period against a small fee.
- If funding from donors is secured in 2002, travel expenses for HRH (Oslo-Nairobi-Oslo) in the years 2001-2005 will be as follows:  
.From September 2001 to December 2002, 5 journeys are included, 5 in 2003, 3 in 2004, and 2 in 2005. It is estimated that each trip will cost about 3300 USD.
- Costs of accountance and audit in Oslo from September 2001 to December 2005.
- 5 per cent various costs of project co-ordination in Oslo is added

Appendix 1:  
Investment budget May 2002 in Kenyan Shillings

	ITEMS	2001 - 2002 (Sept.-Dec.)	2003 Construction	2004 (1st Year)	2005 (2nd Year)	TOTAL (2001-2004)
<b>PROJECT CO-ORDINATION IN</b>						
<b>1 KENYA</b>						
2	<b>Lawyer's fee</b>	447 115	511 246	0	0	958 362
3	<b>Building agency</b> (15% to Architect, Quantity Surveyor, Mechan. and Electr. Engineers, Civil and Structural Engineer)	0	5 817 123	0	0	5 817 123
4	<b>Secretariat</b>					
5	Salary for Executive Director	0	542 685	978 432	978 432	2 499 549
6	Running office costs, Secretariat	588 000	352 800	313 600	313 600	1 568 000
7	Office equipment (PC, printer, fax, phone, photocopier etc.)	0	0	336 336	0	336 336
8	Internship at HRH Network	0	0	258 720	0	258 720
9	<b>Various costs (10%)</b>	103 512	722 385	188 709	129 203	1 143 809
10	<b>SUB TOTAL Ksh</b>	<b>1 138 627</b>	<b>7 946 240</b>	<b>2 075 797</b>	<b>1 421 235</b>	<b>12 581 899</b>
<b>11 CONSTRUCTION (budget lines 12 to 26)</b>						
12	<b>Plot</b>	0	20 000 075	0	0	20 000 075
13	<b>Property tax</b>	0	2 044 907	0	0	2 044 907
14	<b>Construction (budget lines 15 to 19, equals 38 781 299 KSH)</b>					
15	office building incl. services	0	20 760 634	0	0	20 760 634
16	External works (parking, fence, guard house etc.)	0	4 471 466	0	0	4 471 466
17	Preliminaries and contingencies (5% of budget line 15 and 16)	0	1 261 605	0	0	1 261 605
18	Office partitioning	0	6 371 803	0	0	6 371 803
19	VAT (18% of budget lines 15 to 18)	0	5 915 791	0	0	5 915 791
20	<b>Furniture and equipment</b>					
21	kitchenettes	0	235 200	0	0	235 200
22	office chairs, desks, conference tables, filing cabinets etc.	0	2 981 003	0	0	2 981 003
23	technical equipment to conference room (microphone, loud speaker etc)	0	168 952	0	0	168 952
24	Joint telephone system	0	940 800	0	0	940 800
25	Security/alarm system	0	580 160	0	0	580 160
26	<b>Various costs (15%)</b>	0	9 859 859	0	0	9 859 859
27	<b>SUB TOTAL Ksh</b>	<b>0</b>	<b>75 592 256</b>	<b>0</b>	<b>0</b>	<b>75 592 256</b>
<b>28 PROJECT CO-ORDINATION IN OSLO</b>						
29	<b>Office costs</b>					
30	Salary, personnel, office expenses	2 610 720	2 610 720	1 160 320	580 160	6 961 920
31	Consultancies	78 400	241 472	0	0	319 872
32	Travel	1 293 600	1 293 600	776 160	517 440	3 880 800
33	Accounting and audit	124 186	414 030	124 186	124 186	786 587
34	<b>Various costs (5%)</b>	205 345	227 991	103 033	61 089	597 459
35	<b>SUB TOTAL Ksh</b>	<b>4 312 251</b>	<b>4 787 814</b>	<b>2 163 699</b>	<b>1 282 875</b>	<b>12 546 638</b>
36	<b>TOTAL Ksh</b>	<b>5 450 878</b>	<b>88 326 309</b>	<b>4 239 496</b>	<b>2 704 110</b>	<b>100 720 792</b>

## *Appendix 2*

### **HUMAN RIGHTS HOUSE IN NAIROBI**

*By Ms. Christine A. Agimba, Lawyer, Hamilton Harrison & Mathews, Nairobi*

We set out as follows our recommendations with regard to

- (a) Ownership of the Human Rights House
- (b) Management of the Human Rights House

We recommend the incorporation of two companies.

One company (ACompany A@) will be incorporated to hold title to the property on which the House will stand.

Another company (ACompany B@) will be incorporated to deal with the management of the House.

We recommend that Company A and Company B should both be Private Companies Limited by Shares rather than Companies Limited by Guarantee. This means that the liability of the members of the company will be limited to the amount unpaid on the shares held by the members

#### **1. Formation of Company**

The Memorandum and Articles of Association (ie the legal statutes) of each of the two companies will state:-

- (1) the name of the company
- (2) the objects of the company i.e the purposes for which the company has been set up.
- (3) the names of the members or the shareholders i.e those who will own shares in the company. There must be a minimum of 2 shareholders up to a maximum of 50.
- (4) the shares to be allotted to each member
- (5) the names of the directors of the company.

#### **2. Members**

- (6) The members of the shareholders of Company A must be at least two. We recommend that there be two shareholders, a nominee of the Human Rights Foundation, and a nominee representing the Kenyan Participants.

The member should sign a Declaration of Trust to the effect that they hold the shares in trust for their respective constituencies, and also sign a blank share transfer form to facilitate the transfer of shares should the members need to change.

- (ii) The members or the shareholders of Company B must be at least two but not more than 50. In this case the members should be nominees of the Kenyan Human Rights Organization who should also sign Declarations of Trust, and blank share transfer forms.

3. **Directors**

Each of the companies should have at least one director and one secretary. The directors are responsible for the management of the company. We recommend that the companies should have between 3-5 directors.

The Companies Act regulates the appointment and removal of directors, as well as the duties and powers of directors.

4. **Distribution of Profits**

The Memorandum and Articles of Association of each of the Companies will clearly state that any income from the House will be used solely towards the promotion of the objects of Companies as set out in their respective Memorandum and Articles of Association and no part of it should be distributed to any members of the Companies.

5. **Obligations under the Companies Act**

Both companies would have to comply with the provisions of the Companies Act (Cap 486 of the Laws of Kenya). These include filing of annual returns, which would disclose among other things, the names of the members and directors holding of annual general meetings, keep of books of account, appointment of auditors.

6. **Tax Liability**

The two companies would be liable to pay income tax to the Kenya Revenue Authority. We have recommended that you seek the input of a Tax Expert with regard to tax liability, and how to limit the companies tax liability through structuring the relationship between the two companies (as set out in the following section of the relationship between the companies).

7. The relationship between Company A and Company B.

- (i) We recommend that Company A enters into a management contract with Company B with regard to the management of the House.

**Company B would be responsible for:**

- S allocating space in the house to the Participants and collecting rent.
- S providing common services to the Tenants of the house and collecting the service charge to pay for the operating expenses.

S        payment of rates and rent of the House.

(ii)     Company A as owner of the House would give leases or licences directly to the Participants, clearly setting out the respective rights and obligations of the Participants and Company A as the Landlord.

This Memorandum of Understanding confirms the commitment of the following human rights organisations to establish a Human Rights House in Nairobi, Kenya.

Centre for Law and Research International (CLARION)

The CRADLE – The Children Foundation

Coalition on Violence Against Women Kenya (COVAWK)

Federation of Women Lawyers - Kenya (FIDA-Kenya)

Kenya Human Rights Commission (KHRC)

People Against Torture (PAT)

Release Political Prisoners Pressure Group (RPP)

The establishment of the Human Rights House shall be co-ordinated by the Human Rights House Foundation of Oslo, Norway (HRH)

**1. PURPOSE**

- (a) The Human Rights House will be an independent institution whose purpose is to provide office space and ancillary facilities for non-governmental human rights organisations in Kenya. The above-mentioned participating organisations are the initial participants (hereinafter called the Participants) but membership to and participation in the Human Rights House shall be open to other human rights organisations in Kenya in accordance with such rules and regulations as shall be set out by the management entity (hereinafter defined).
- (b) The entire secretariats of the Participants will be moved to the Human Rights House upon completion of the establishment of the Human Rights House.

- (c) The Human Rights House will be formally owned by a non-profit company. Shareholders are nominated by the Participants and shall not be persons involved in any formal capacity with any of the Participants.
- (d) The Human Rights House will be managed by a management entity (hereinafter referred to as the management entity) controlled by the Participants through a management board and in which the Participants are equal partners. The management entity will be registered under Kenyan law as a non-profit company, and equal and democratic participation of all Participants in the management of the Human Rights House will be secured.
- (e) The Participants shall remain as independent organisations. Neither the Participants nor the management entity shall make public statements or announcements on behalf of the Human Rights House nor commit any Participants to activities outside of the common activities agreed upon by the management entity unless so agreed by all the Participants.
- (f) The Participants shall have no claims to the title and interest in the land on which the Human Rights House is situated and to any fixtures and fittings or equipment purchased jointly by or on behalf of the Participants for the purposes of the Human Rights House.
- (g) Each of the Participants will be responsible for its own liabilities incurred in relation to its occupation of the Human Rights House. None of the Participants shall be responsible for economic liabilities incurred by other Participants.
- (h) The Human Rights House will seek to become a member of the international Human Rights House Network.

## 2 **IMPLEMENTATION OF THE PROJECT**

- (a) Implementation of the establishment of the Human Rights House in Nairobi (the project)

will commence upon the signing of this Memorandum of Understanding by all the Participants subject to the project being funded by donors and funds being made available by the donors.

- (b) The Participants accept each other as equal partners in the project and agree to enter into a suitable agreement to govern their participation in and the management and use of the Human Rights House.
- (c) The Participants accept that the project will require considerable resources and attention from their respective organisations, and they are ready to commit such resources. They will commit necessary resources and undertake any effort in the production of plans, legal documentation for the ownership and management entities, applications for legal registration and applications for funding needed to implement the project.
- (d) The Human Rights House Foundation in Norway will undertake to co-ordinate the implementation of the project. This entails the facilitation of the soliciting for funds for the project, procuring the technical, professional and construction services and goods required for the project, coordinating the purchase of the land for the Human Rights House and coordinating the construction and/or the renovation of any existing buildings on the land, reporting to the funders of the project and other efforts necessary to facilitate the establishment of the Human Rights House.

### 3. **RESOLUTION OF DISPUTES**

The Participants will endeavour to amicably resolve any dispute or misunderstanding between the Participants in connection with the project and failing such amicable resolution such dispute or misunderstanding will be referred to an arbitrator or arbitrators agreed to between the parties to the dispute. Failing such agreement, an Arbitrator will be appointed by the Chairman, or in his

absence, the Vice-Chairman of the Institute of Chartered Arbitrators.

#### 4. **TERMINATION**

A Participant may withdraw from this Memorandum of Understanding by giving three months written notice to the other participants. A Participant may be asked to withdraw from this Memorandum of Understanding by other Participants if there is a fundamental change in its objects after signing of this Memorandum, or if it becomes involved in partisan politics as defined by the management entity or engages in activities that are contrary to international human rights instruments.

Signed by )  
for and on behalf of CENTRE )  
FOR LAW AND RESEARCH )  
INTERNATIONAL (CLARION) )  
)  
)  
)  
)  
)

Signed by )  
for and on behalf of the CRADLE )  
– The Children Foundation )  
)  
)  
)  
)

Signed by )  
for and on behalf of COALITION )  
ON VIOLENCE AGAINST )  
WOMEN (COVAW) )  
)  
)  
)  
)

Signed by )  
for and on behalf of )  
FEDERATION OF WOMEN )  
LAWYERS - KENYA )  
(FIDA-Kenya) )  
)  
)  
)

Signed by )  
for and on behalf of KENYA )  
HUMAN RIGHTS COMMISSION )  
(KHRC) )  
)  
)  
)

Signed by )  
for and on behalf of PEOPLE )  
AGAINST TORTURE (PAT) )  
)  
)  
)  
)

Signed by )  
for and on behalf of RELEASE )  
POLITICAL PRISONERS )  
PRESSURE GROUP (RPP) )  
)  
)  
)

Signed by )  
for and on behalf of HUMAN )  
RIGHTS HOUSE FOUNDATION )  
IN NORWAY )  
)  
)  
)

## LEGAL OPINION

*By Ms. Christine A. Agimba, Lawyer, Hamilton Harrison & Mathews, Nairobi.*

You have asked me to render my legal opinion on the acquisition and construction of a Human Rights House in Nairobi, Kenya.

### 1. Purchase of Property

1. After a suitable property has been identified, it will be necessary to first conduct a title search at the Land Registry to ascertain the ownership of the property and whether there are any encumbrances against the title, or any restrictions which will prevent the property from being used for the purposes of a Human Rights House.
2. We have recommended the formation of a private limited liability company, limited by shares to purchase the property, and to be the owner of the property (see recommendations). There will be an Agreement for Sale between the ownership company and the Seller of the property. The Agreement for Sale, once signed, will be a valid and binding legal document, enforceable by the Ownership Company in a court of law.
3. The purchase of the property will be completed by the registration of the Transfer of the property from the Seller to the Ownership Company at the Lands Registry. Once the transfer is registered the Ownership Company will become the registered proprietor of the property.

You have asked us to consider what steps can be taken to ensure that the Ownership Company does not sell or mortgage or deal with the property in any way, except as determined by the Human Rights Foundation, Oslo.

This can be done either by:-

- (a) The Ownership Company signing a Declaration of Trust in which it is clearly stated that the Ownership Company holds the property in trust for the Human Rights Foundation Oslo and the Participating Organizations and cannot deal with the property except in the manner stated in the Declaration of Trust.
- (b) Registering a caveat or restriction against the title to the property by the Human Rights Foundation, Oslo claiming a Mortgagee's right to the property. This would have to be supported by a document to show that Human Rights Foundation Oslo has given a loan to the Ownership Company.

### B Occupation and Management of the Human Rights House

1. It is recommended that the Ownership Company gives a lease of defined space in the House to each of the Participating Organizations. The lease will be a valid and legally binding contract between the Ownership Company and each Participant and will clearly set out the respective rights and obligations of the Participant (as the Tenant) and the Ownership Company (as the Landlord). This will include the service charge payable by the Participant, the instances when the lease with the Participant may be terminated, etc.
2. It is recommended that the management of the House, and the provision of services to the common areas be undertaken by a Management Company. (See recommendations).

There will be a Management Contract between the Ownership Company and the Management Company with regard to the management of the House.  
The correct structuring of the relationship between the Ownership Company and the Management Company will limit the tax liabilities of each company (in a legal manner).  
This is common business practice.

If the above legal mechanisms are put into place and the documentation carefully drafted, the acquisition, construction, management and continued use of the Human Rights House will be possible within the legal framework in Kenya.

## **Appendix 5**

### **1.0.0 PROJECT OUTLINE BRIEF**

*By Mr. Charles M. Kahura, Architect, Space Form Studio, Nairobi*

1.1.0 **Project Description:** The proposed Project is an Office Block accommodating 7 Human Rights Organizations with separate secretariats but sharing certain common facilities and the basic amenities.

1.1.1 For the institution to be viable a number of parameters have to be taken into consideration, these are :-

- a) Scale and nature of the internal spaces
- b) The services availed
- c) The neighbourhood
- d) The overall design layout

These factors have to be considered within the context of Local Authority requirements and the equally important targeted market group.

#### **1.1.2 The Neighbourhood**

- i) In choosing the neighbourhood consideration should be given to: -
  - a) proximity from the nearest bus stop
  - b) terrain - not too hilly or forested
  - c) proximity to services e.g. electricity and water ( these nevertheless should not be critical in rejecting a site)
  - d) proximity to an all weather road
  - e) security

#### **1.1.3 The overall Design Layout**

- i) **Outline Proposal** Though a proposed outline brief is provided, for the appropriate brief analysis to be made, a number of factors need to be considered :-

Viz :

- a) User Spatial Requirements and Area
- b) Local Authority By-laws on Plot Coverage and Plot Ratio
- c) Availability of services e.g. sewer, accessibility etc.
- d) The size of the plot vis a vis spatial requirements

#### **1.1.4 The Services Availed by the Human Rights House**

- i) Common reception areas for Clients, Programs and Staff

ii) A Resource Centre that will provide Library Services and E-mail / Internet for Staff and Network Members ; Students from Universities and the Public.

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iii) Counselling / Training Facilities for Staff, network Members and Members of the Public.

iv) Administration Offices for programs, administrator and support staff.

v) An auditorium for video presentation, open talks, discussions presentations and interaction between members of the public and programme initiators.

vi) a printing room

### 1:1:5 Scale and Nature of Internal Spaces

#### Conceptual Outlook

The development is to accommodate 60 people working within it in 7 Organizations receiving 100 walk in, walk out Clients. It will comprise, but will not be limited to the following spatial requirements :-

#### Office Requirements

		CLARION		FIDA		CRADLE		KHRC		COVAW		PAT		RPP		Total
		No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	
Current	Standard	9		14		5		19		7		8		5		
	Large	3		-		1		3		1		1		1		
Future	Standard	8	80	18	180	5	50	18	180	5	50	7	70	6	60	
	Large	1	20	-	-	1	20	2	40	1	10	2	40	2	40	
Recommended	Standard	7	70	13	130	3	30	12	120	3	30	4	40	4	40	(460)
	Large	1	20	1	20	2	40	1	20	2	40	1	20	1	20	(180)
																(640)

#### Furniture Requirements

		CLARION			FIDA			CRADLE			KHRC			COVAW				PAT		RPP				
		C	F	R	C	F	R	C	F	R	C	F	R	C	F	R	C	F	R	C	F	R		
Furniture	Desk	17	18		7			7			7	6											14	
	Executive	11	15		4			4			6	6											2	12
	Visitors	29	29		16			16			21	2											11	18
	Others	15	15		5			5	4		3												4	8

C - Current

F - Future

R - Recommended

### Common spaces

Reception	Area	Adm. Offices	Area	Resource Centre	Area	Counselling room / Conference room	Area	Programme Officer	Total
Waiting Area	32	H.R.H. Manager	10	Stack up Lib.	64	Auditorium	288		
Receptionist	8	H.R.H. Accountant	10	Stack up C.D. rooms	10	Stage	32		
Waiting area programme	24	Support Staff	10	Reading area	64	Office	10		
Receptionist	8			Storage	27	Store	32		
				Cataloguing	27	Utilities	28		
				Lending area	12				
				Librarians	10				
				Repair area	16				
				Publishing room	64				
<b>TOTAL</b>	<b>72</b>		<b>30</b>		<b>292</b>		<b>388</b>	<b>640</b>	<b>1608</b>

Area = 1608 SM

Add 16 % Circulation = 257

**Total = 1865 SM**

The Human Rights House will therefore require approximately 1865 M<sup>2</sup> of floor space. With a Plot coverage restriction of 35 % and assuming a four storeyed development, the size of plot required to accommodate the building is :-

$$= \frac{1,865 \times 100}{35} = 1,332.0 \text{ M}^2$$

$$4 \times 35$$

$$= \frac{1,332 \times 2.47}{10,000} = 0.33 \text{ acres}$$

$$3$$

In view of the requirement for parking and anticipated future growth a minimum of half an acre should be considered for the development.

*It is not possible to give an indicative price of the cost of the plot at the moment but a provisional figure of Kenya Shillings Ten Million ( Ksh. 10,000,000.00 ) would be adequate for half an acre. In view of our ground assesment and the available parcels, (one acre plots), a provisional figure of Kshs. 20,000,000 ( Kenya shillings twenty million will eliminate any restrictions towards a preferred plot.*

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## PROPOSED KENYA HUMAN RIGHTS HOUSE, NAIROBI

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### PRELIMINARY COST ESTIMATES

1.0 OFFICE BUILDING [1,865 SM]	<b>COST</b>		
	Shs.	Cts.	
1.1 Substructures	1,399,000.00		
1.2 R. C. Superstructures	5,595,000.00		
1.3 Walling	1,196,000.00		
1.4 Roofing & Rainwater Disposal	1,971,000.00		
1.5 External Finishes	1,311,000.00		
1.6 Internal Finishes	3,311,000.00		
1.7 Balustrades & Railings	641,000.00		
1.8 Windows [Aluminium]	2,199,000.00		
1.9 Doors	1,557,000.00		
1.1 Fixtures & Fittings	<u>400,000.00</u>		<b>19,580,000.00</b>
0			
<b>2.0 SERVICES</b>			
2.1 Plumbing & Drainage Installations	2,000,000.00		

2.2 Fire-Fighting Installations	500,000.00	
2.3 Electrical Installations	2,100,000.00	
2.4 Standby Generator	<u>400,000.00</u>	<b>5,000,000.00</b>

### 3.0 EXTERNAL WORKS

3.1 Parkings & Driveways	2,000,000.00	
3.2 Foul & Surface Water drainage	500,000.00	
3.3 Landscaping	500,000.00	
3.4 Boundary wall, Guard House & Gates	<u>1,500,000.00</u>	<b>4,500,000.00</b>

29,080,000.00

**4.0** Add: Preliminaries & Contingencies @ 5% 1,454,000.00

30,534,000.00

**5.0** Office Partitioning 7,500,000.00

<b>Estimated Construction Cost</b>	<b>Kshs.</b>	<b>38,034,000.00</b>
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### 6.0 SUMMARY

6.1 Office Building including Services	24,580,000.00
6.2 External Works	4,500,000.00
6.3 Preliminaries & Contingencies	1,454,000.00
6.4 Office Partitioning	7,500,000.00

<b>Estimated Construction Cost</b>	<b>Kshs.</b>	<b>38,034,000.00</b>
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### 7.0 NOTES

The above figures are exclusive of the following-;

- 7.1 Government taxes e.g. Value Added Tax
- 7.2 Professional fees [To be agreed during consultants presentation]
- 7.3 Cost of land - Estimated at Kshs. 20 Million
- 7.4 Furniture, fittings and equipment

**Proposed remuneration for works undertaken as described ;**

Activity	Man Hour (Hr )	Rate (USD)	Total (USD)

i)	Preparation of a comprehensive brief including consultation with participating human rights organization and human rights house foundation, developing spatial needs, neighbourhood assessment and preliminary cost estimates.	68	30	\$ 2040
ii)	Preparation of a comprehensive consultant sourcing document including detailed terms of reference.	32	30	\$ 960
<b>Total</b>		<b>100</b>	<b>30</b>	<b>\$ 3000</b>

## 2:0:0 TECHNICAL IMPLEMENTATION

The Architect aims at setting out a most critical and convenient work programme to oversee the Design and implementation of the Project.

The proposed technical procedure is detailed in this part of the report in as much as it would be executed if the Project is awarded to us.

This is detailed in two parts viz :-

- \* *Pre - contract Project Administration*
- \* *Post - contract Administration*

2:1:0	<i>Pre-Contract</i>	This entails the design of the project in liaison with the Client up to the approval stage by the Local Authority. The critical approach is detailed hereunder.
2:1:1	<i>Brief Analysis</i>	The Architect has already made the appropriate brief analysis and mapped out the stringent parameters to be considered in the evaluation of spatial requirements and design requirements as detailed in the project outline brief.
2:1:2	<i>Area Study Analysis</i>	This will be comprehensively evaluated to determine what spatial configurations may be achieved from the Clients spatial <i>Analysis</i> requirements. A most suitable design evolution will therefore be developed to suit both the client and the site layout.
2:1:3	<i>Site Analysis</i>	A thorough Site analysis will be evaluated to ensure that all critical

Site parameters are adequately taken care of. This entails the analysis of :-

- i) Climatic Factors
  - \* *Solar Orientation*
  - \* *Wind Direction*
  - \* *Noise Evaluation*
- ii) Infrastructure and Services
  - \* *Site Accessibility*
  - \* *Sewerage System*
  - \* *Power Rating*
  - \* *Telephones*
- iii) Soils
  - \* *Determination of the type of soil*

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2:1:4 *Local Authority By-Laws* The prevailing Local Authority By- Laws will be looked into as a matter of controlling the Plot Ratio and Plot Coverage.

2:1:5 *Outline Proposal* The Architect will then set out to envisage the most appropriate design solution that suits the parameters addressed above. This will be presented as the proposal for the Clients evaluation and will be detailed in the Architectural Drawings and Model.

2:1:5 *Detailed Design* If the Client approves 3:1:4 above, and if awarded the Project, there would be a need to embark on a scheme of Cost Evaluation, Cost Planning and Cost Control to ensure that a most desirable Project is achieved on both Cost and Spatial Configuration.

It is only after the consideration of Cost that the final Working Drawings and production drawings shall be worked out and submitted to the Local Authority for statutory approval in accordance with the set out regulations.

It is also worth mentioning that the input of other Consultants at this level is of paramount importance. Consultancy Services will be required for :-

- \* *Civil / Structural Works*
- \* *Mechanical & Electrical Works*
- \* *Quantity Surveying Works*

- 2:2:0 *Post Contract* At his stage the Architect shall advise the Client on the best way to execute the Project. The Architect shall harmonise the building team and ensure that the Project is accomplished within the set out time and financial budget.
- 2:2:1 *Tendering* In order to maintain the art of transparency and accountability the Architect shall advise on the best method of tendering for the Project. The Client will be fully involved at every level and will have the discretion to award the tender after a tender evaluation report is compiled and issued out.
- 2:2:2 *Project Implementation and Supervision* During the course of the execution of the Contract, joint Site inspections with all parties involved shall be agreed upon on regular intervals to ensure that work is executed in a well organized set up.

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The Contractor in addition to his duties shall be required to present:

- \* Site Weekly Reports
- \* Monthly Reports

Site meetings shall be held as agreed where all matters shall be discussed, evaluated and agreed upon.

The Consultant handling Quantity Surveying works shall be deemed to provide valuation reports when they fall due and the Architect shall issue the Certificates in accordance with the Contract for the Clients settlement as work progresses.

The architect shall endeavour to ensure strict adherence to *all Contractual Duties and Obligations* as entailed in the contract up to the time the project Is completed.

- 2:3:0 *Pre-Contract Programme* The Architect has considered a suitable Pre-Contract time frame set out in the programme Below. The programme has been carefully thought out and if adhered to, may pave way to efficient, speedy and economic building implementation.

A post-contract period of 52 weeks has been considered to be the most appropriate time frame based on our experience on time taken to finish

similar Projects handled by us in the past.

### **3:0:0 SCALE OF FEES AND MODE OF PAYMENT**

These will be determined by the quotations received from the invited Architects based on the terms of reference drawn up in the request for proposals forwarded.

## **COVAW**

The Coalition on Violence Against Women - COVAW(K) is a women's human rights organisation that is committed to the eradication of all forms of violence against women and the promotion of women's human rights. COVAW(K) was formed in 1995 through an initiative that sought to strengthen the networking capacities of women's organisations in Kenya. It is membership based and includes both individual and organisations as its members. The organisation is secular and non-partisan and membership is open to all regardless of race, sex, ability, religious affiliation or political affiliation.

The objectives of the organisation are to continuously provide women friendly and client centered psychological support, to expand alliances and jointly strategise with groups and institutions that repudiate the forms of violence, to maintain an equally active dialogue at the state level with the aim of searching out areas in need of new services for women and preserving those that exist, to provide continuous community education (especially to women, men, youth and law enforcement agents) with the aim of transforming attitudes that justify and tolerate violence against women. These objectives are met through the three main programs that are carried out - Counselling and Training, Outreach and Impact Litigation and Monitoring, Documentation and Advocacy.

**Contact person:** Ms. Hilda Mawanda, email: [covaw@iconnect.co.ke](mailto:covaw@iconnect.co.ke)  
Tel: 254-2-574357/8/9, Fax: 254-2-574253.

# **Centre for Law and Research International – CLARION**

## **Background of CLARION**

The Centre for Law and Research International (CLARION) began in 1993 in response to the need for concerted social and legal research to sustain and enhance human rights, democratisation and policy process in Kenya. CLARION was registered as a non-governmental organisation under the Non-Governmental Organisations Coordination Act in January 1994.

## **Objectives of CLARION**

### **CLARION's objectives and aims are;**

- (i) Enhancement and development of legal resources in Kenya
- (ii) Implementation of legal and related research
- (iii) Facilitation of civic education, including basic and continuing legal education
- (iv) Training communities and individuals to enhance their legal and socio-economic developmental capacities
- (v) Networking with organisations and individuals undertaking work similar to CLARION's own activities.

## **Past Activities of CLARION**

During the years 1993-2000, CLARION has conceptualised, planned and facilitated many research and education projects across the country in line with its objectives. The main themes of these projects are constitutionalism, democracy, human rights and good governance.

Implemented research activities include research on the anatomy of corruption; the need of an ombudsman institution; research on options available to Kenyans vis a vis various constitutional reform areas; and research on the law as it relates to women, persons with disabilities, the media and public order. Publications have resulted from these researches. CLARION's civic education activities are founded on the premise that an aware citizenry may begin acting to establish democratic institutions which will propagate sustainable development.

In CLARION's experience, careful research forms a sound basis for national soul searching and revitalisation. For example its work on the anatomy of corruption made Kenyans shift their focus and condemnation from petty corruption to corruption in the top echelons of government and public and private corporations. CLARION continues to believe in the utility of law as an instrument for positive social change, democratisation, enhancement and entrenchment of the dignity of the human being and of socio-economic development. Law can and indeed has effected change in gender relations; and it has facilitated the enhancement of individual liberties even in Kenya.

CLARION realises that continuous civic education is a critical under-pinning for increasing Kenya's capacity for positive change. The ultimate goal in this respect is the entrenchment of constitutionalism in the country. The beneficiaries of education initiatives must ultimately be grassroots communities who by definition are at the bottom of socio-economic and political benefits, which this country offers its citizens.

**Director of CLARION:** Professor Kivutha Kibwana

**Contact person:** Mr. Lawrence Mute, Programme Manager, e-mail:  
clarion@africaonline.co.ke

## **PEOPLE AGAINST TORTURE (PAT)**

### Introduction

People Against Torture (PAT) is a non-governmental organisation formed in 1997 by individuals, some of whom have had first experience with torture in Kenya, some of whom are simply concerned citizens, but all of whom felt strongly about the need to take up the challenge of torture through a vigorous campaign against it. PAT seeks the eradication of torture in Kenya through advocacy, lobbying, research and documentation as well as through litigation. PAT is a membership organisation with a current membership of 30.

### Political, Economic, Socio-cultural and Technological Environment

The political environment in which PAT came into existence and under which it still operates is one of intolerance and many unjust laws, an environment that is conducive to practice of torture. The result is that many civil society organisations have taken on the state on human rights issues, but none is focussing on torture. The economic environment is characterised by a non-performing economy and massive poverty partly as a result of gross mismanagement of public resources, including public institutions. In this kind of economic environment torture can easily be overlooked and in some cases, it can be a form of rent seeking. The social environment is dominated by the ethos of survival and societal fragmentation on tribal, regional and class lines, all of which have direct implications on the practice of torture. One of the most important implications is that the poor are not only the most likely to be tortured, but also the most likely to be denied access to justice. The technological environment can be double edged. On the hand those inclined to torture have better technology with which to do it, but on the other hand, those fighting the practice also have better technology with which to fight it.

### Organisation Context

The vision of PAT is a torture-free society, in which individuals freely enjoy their rights in accordance with just laws and moral obligations of society

The mandate of PAT is to uphold the inherent dignity of all human beings in Kenya, as enshrined in national and international instruments, and as a moral obligation of all people regardless of their status in society.

The mission of PAT is to prevent and fight torture through exposure, advocacy and provision of legal and rehabilitation services to survivors and families of torture.

PAT is guided by four core values three of which are societal and one which is organisational. These are human dignity, equality, democracy and organisational credibility.

The objectives of PAT are: (a) to advocate against perpetration of torture through awareness creation and activist events in collaboration with like-minded organizations and individuals, (b) to expose incidents of torture through research, documentation and dissemination of information, (c) to provide rapid intervention in occurrences of torture and alleged cases of torture, (d) to enable torture survivors and families to access and obtain justice and (d) to campaign for the repeal or amendment of laws that encourage torture and enactment of those that discourage torture.

The supreme body of PAT is the General Assembly. It has a Board of Management made up of eight elected members. The actual management is done by a secretariat which is headed by a coordinator supported by nine staff.

**Contact details:** Ms. Beatrice Kamau (Programme Manager), e-mail [patorture@iconnect.co.ke](mailto:patorture@iconnect.co.ke)

## **The Federation of Women Lawyers Kenya (FIDA Kenya)**

Putting Women First

The Federation of Women Lawyers Kenya (FIDA Kenya) is a non-profit, non-partisan and nongovernmental membership organization, committed to the creation of a society that is free of all forms of discrimination against women through provision of legal aid, women's rights monitoring, advocacy, education and referral. Membership to FIDA Kenya is open to Kenyan women lawyers and women law students.

The organisation was started in 1985 after the 3rd UN Conference on Women, which was held in Nairobi, Kenya.

Currently, there are more than 360 registered FIDA Kenya members. The Secretariat is located off Ngong Road, Mucai Drive in Nairobi. The Kisumu Legal Aid Clinic, was opened in 1997. It is located off Achieng Oneko Road, Kenya National Assurance building, 6th Floor.

FIDA Kenya works to achieve its mission through four main programmes namely. Legal Aid Services, Women's Rights Monitoring and Advocacy, Gender and Legal Rights Awareness and Public Relations and Fundraising.

FIDA Kenya Secretariat:

Jane Kiragu  
Executive Director  
Federation of Women Lawyers - Kenya  
P. O. Box 46324, NAIROBI, Kenya  
Tel (254) 2 717169/711853/714629/718370  
Fax (254) 2 716840  
E-mail: fida@africaonline.co.ke  
info@fida.co.ke

## **The Kenya Human Rights Commission (KHRC)**

The Kenya Human Rights Commission (KHRC) is a non-partisan, non-profit making, membership non-governmental organization based in Nairobi, Kenya. The KHRC was formed in the United States of America in 1991 by Kenyan exiles and activists to specifically lobby for the respect of human rights and promotion of democratization, accountability and good governance in Kenya.

In 1992, the KHRC sought registration in Kenya and was ultimately registered as an NGO under the NGO Co-ordination Act, 1990 on January 20 1994.

Since then, the KHRC has consistently monitored and documented human rights violations in Kenya.

Owing to the hostile political climate in Kenya, the KHRC has provided legal hosting to human rights groups that have been denied registration by the Kenya government. Thus the Release Political Prisoners pressure group (RPP), the Legal Resources Foundation (LRF), the Citizens for Constitutional Change (4Cs), Muslims for Human Rights (MUHURI), and the Kenya Pastoralist Forum (KPF) operate as projects of the KHRC although they are in practical terms autonomous organisations. These legal covers, and the subsequent collaboration with these organizations, have enabled these projects to have a lasting impact on the struggle for the respect for human rights and democratization in Kenya.

Promotion, protection, and the enhancement for the respect and enjoyment of all internationally recognized human rights in all facets of the Kenyan society

We promote our mission by monitoring, documenting and publicizing human rights violations in Kenya

Carrying out advocacy campaigns in support of the rule of law and mobilizing the public to defend their rights

Mainstreaming gender in all programmes

Creating a human rights movement that will support continuous democratic change in Kenya

Committing ourselves to the realisation of a Kenyan society without human rights violations

The KHRC supports social, political, economic, and cultural change aimed at enhancing respect of the rule of law, the development of a society that upholds democratic values, a society aware of its rights and comes to their defense whenever threatened or attacked.

### Contact Information

Executive Director: Dr. Willy Mutunga

Interim Board: James Nduko

Kenya Human Rights Commission

Gitanga Road

Valley Arcade

Nairobi, Kenya

P.O Box 41079

Tel: 254-2-576063/4/5/6

Fax: 254-2-574997

## **CRADLE - The Children Foundation**

Millie Odhiambo - Executive Director  
P O Box 10101-00100 GPO Nairobi, Kenya  
Tel: 710156  
Email: thecradle@wananchi.com

### Background

The CRADLE was founded in 1997 to respond to the urgent need for the provision of legal aid to children following a baseline that revealed a gap in the provision of the same. It was officially launched on December 7, 1998 by Justice Arline Pacht - then Director of the International Women Judges Association and assisted by Hon Shem Ochoudho - MP.

### The Vision

The vision of the CRADLE is a just society that provides a protective and nurturing cradle to the child.

### The Mission

To promote, protect and enhance the rights of the child and to contribute towards the promotion and enhancement of the status of women by improving the status of the girl-child.

### Programs

legal aids scheme - the scheme runs a legal aid clinic, rescue project, pro bono scheme, counselling unit and referral project

legal awareness - school, community and public awareness projects

Public Interest and Law Reform: Impact litigation aimed at changing discriminatory laws and practices against children with an emphasis on the girl child. The CRADLE also lobbies for law reform on retrogressive child laws

Rights Monitoring and Documentation - under this program the CRADLE monitors and documents the rights of the child nationally and internationally. The CRADLE also runs a resource center and Family desk under this program.

E-mail: [khrc@Africaonline.co.ke](mailto:khrc@Africaonline.co.ke)

## **RELEASE POLITICAL PRISONERS (RPP)**

The Release Political Prisoners Pressure Group is a human rights organisation that was formed in December 1991 to champion for the rights of political prisoners. It documents, publicises and engages in advocacy on the issue and rights of political prisoners. As a means of addressing the root cause of political prisoners, RPP engages in rights awareness activities through workshops, cultural activities and production of publicity materials.

In program terms, RPP has three main programs:

- Legal affairs program (focussing on prisons and courts)
- Civic education program (workshops, publicity and cultural activities)
- Support programs (research, networking and newsletter)

The organisation has 10 full time staff members.

Since RPP is a membership organisation, there is a pool of volunteers for the above programs. The organisation has legal cover under the Kenya Human Rights Commission. The organisation has a Constitution with a Board of seven national executive committee members who include two women.

### **Contact Information:**

Tirop Kitur - Coordinator  
Mucai Drive, off Ngong Rd  
P O Box 50613  
Nairobi  
Tel: 714607/713683  
Email: [rpp@iconnect.co.ke](mailto:rpp@iconnect.co.ke)



# THE HUMAN RIGHTS HOUSE FOUNDATION

## **Human Rights House Network**

A Human Rights House is a working community of human rights organisations. The purpose is to share resources and create a community of human rights groups, to the benefit of the member organisations and the general public. Since 1989, Human Rights Houses have been established in Oslo, Warsaw, Moscow, Sarajevo, Tirana and Bergen. The Human Rights House Network is a forum of co-operation between the Human Rights Houses.

## **Human Rights House Foundation**

The Human Rights House Foundation was established in 1989. The Foundation seeks to promote the concept and assist the establishment of new Human Rights Houses worldwide, and acts as secretariat of the Human Rights House Network. It is located at the Norwegian Human Rights House in Oslo.

## **Contact Details**

Executive Director of the Foundation is Ms. Maria Dahle, while Ms. Borghild Krokan is the Co-ordinator of the Kenya project. Address: The Human Rights House Foundation, Urtegata 50, 0187 Oslo. Tel: +47 23 30 11 00 (ext. 21), Fax: +47 23 30 11 00. E-mail: borghild@humanrightshouse.org. Internet: www.humanrightshouse.org

The Human Rights House Network include the following organisations:

### **Norway**

Norwegian Helsinki Committee  
Committee for Human Rights in Iran  
Norwegian forum for Freedom of Expression  
Norwegian Tibet Committee  
Norwegian P.E.N.  
SOS Baltics

### **Warsaw**

Friends of Law Association  
Helsinki Committee in Poland  
POLIS  
Friends of Tibet  
Polish Mediation Society  
School Arena

### **Tirana**

Human Rights Documentation Library  
Human Rights Education  
Monitoring of State Electronic Media  
Human Rights Publications  
Psycho - Social Rehabilitation  
Human Rights Education for Police Forces  
Human Rights Planning

### **Moscow**

The Moscow Research Centre for Human Rights  
Independent Psychiatric Association  
Moscow Center for Prison Reform  
Moscow Helsinki Group  
Mothers Rights Foundation  
Movement Without Frontiers

### **Bergen**

Amnesty International WN  
Centre for Minority Rights  
Non Profit Publishers  
Egil Rafto House Foundation  
Nordpas  
Thorolf Rafto Foundation

### **Sarajevo**

Center for Protection of Minority Rights  
Association of Independent Intellectuals  
Helsinki Citizens Assembly  
Helsinki Committee BH  
Independent Union of Professional Journalists  
NGO Information and Support Centre  
P.E.N.  
Serb Civic Council Office

## 1.00 Architects Report

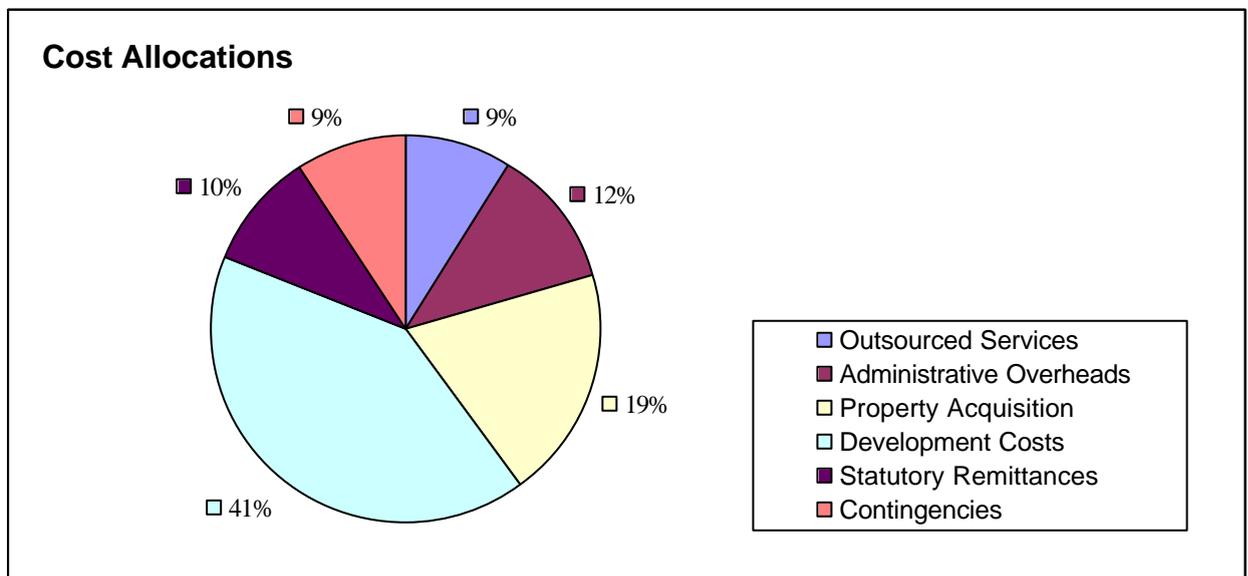
- 1.01 The preliminary brief covers the broad spatial requirements as collectively presented by the various organisations. This area should be subjected to a detailed needs assessment to justify all physical provisions and the associated costs.
- 1.02 The construction cost of KShs. 38,034,000.00 for a new office building, occupying a total built up area of 1865 sq. metres, is deemed reasonable. A proportional decrease in cost may be anticipated should the total area be reduced to 1500 sq. metres as indicated in your recent correspondence. The above presumes procurement of a vacant lot and savings may arise if the purchased property contains usable facilities, as a whole or in part.
- 1.03 The proposed methodology is derived from the normal work plan for executing consultancy services of a similar character with activities divided into a logical sequence of stages. The implementation programme is not included in the attachment but the 52-week post-contract period could be reduced under a fast track programme. In addition the pre-contract period should allow for site identification and procurement, the design and contract documentation phases, and the various statutory approvals that may arise such as change of use and planning permission. These aspects could cumulatively consume a nominal period of 6 months.

## 2.00 Cost Benefit Analysis

- 2.01 The analysis is comprehensive though it would be useful for consumables such as meals to be omitted from the workings. The outgoings for the secretariat may also be higher for maintenance of the resource centre, and if a regional or international role is assumed.

## 3.00 Investment Budget

- 3.01 We have interpreted the investment budget as follows: -



- 3.02 The primary differences pertain to computation of taxes and the provisions for contingency sums. Though savings could be realised in all areas the present allocations should be retained as the budgetary targets.

Item	Description	Cost (KShs.)		Comment
1.0	Outsourced Services		9,161,258.00	
1.1	Legal Charges	964,491.00		
1.2	Building Design Consultants	5,705,100.00		Taken at 15% of item 4.1 with this rate likely to be lower, subject to fee negotiations and the form of building contract. Disbursements and the appointment of site staff will also need to be considered.
1.3	Supervising Architect	1,700,000.00		It may be prudent to engage a local project manager to attain a more effective monitoring, coordination, and reporting schedule, particularly during construction.
1.4	Accountancy	791,667.00		
2.0	Administrative Overheads		12,356,835.00	
2.1	Interim Secretariat	1,750,791.00		
2.2	Emoluments	7,036,044.00		
2.3	Training	320,000.00		
2.5	Travel and Accommodation	3,250,000.00		
3.0	Property Acquisition		20,000,000.00	
4.0	Development Costs		42,971,360.00	
4.1	Construction	38,034,000.00		Considered adequate for the given development, on a vacant premises.
4.2	Equipment and Furnishings	4,937,360.00		
5.0	Statutory Remittances		10,195,371.18	
5.1	Stamp Duty	800,000.00		Taken at 4% of item 3.0.
5.2	Change of Use	220,000.00		This may be necessary if the site is not initially designated for commercial or institutional use.
5.3	VAT @ 18%	8,935,371.18		To include items 1.1, 1.2, 4.1, & 4.2. This would represent a net saving if tax exemptions could be obtained.
5.4	Rates and Ground Rent	240,000.00		Estimate to cover the period from procurement of the plot to building occupation.
	<i>Sub-total</i>		94,684,824.18	
6.0	Contingencies		9,468,482.45	A 10% allowance should be adequate to cater for miscellaneous expenses that may accrue during project implementation.
	<b>Total</b>		<b>104,153,306.63</b>	

George Kagiri, Architect, 13 March 2002

## **The Human Rights House Foundation, Oslo**

### **ESTABLISHMENT OF A HUMAN RIGHTS HOUSE IN NAIROBI, KENYA PROGRAMME AND COST ANALYSES**

#### **1. Introduction**

The purpose of this paper is to consider the programme and the cost estimates prepared for the above project, as discussed in a meeting with the Human Rights House Foundation (HRHF) on Thursday the 7<sup>th</sup> of March 02.

The considerations is based on the following documents:

- “Proposal for establishing a human rights house in Nairobi”, prepared by HRHF.
- “Project outline “ prepared by Mr. Charles M. Kahura, Space Form Studio, Nairobi.
- “Cost specifications and considerations”, also prepared by Space Form Studio, Nairobi.
- “Architects Report”, cost considerations prepared by architect George Kagiri, Nairobi.
- “Notes to the investment budget”, prepared by HRHF.

#### **2. PROGRAMME SPECIFICATIONS AND TENURE OPTIONS**

The brief for a Human Rights House in Nairobi specify office space requirements for 60 employees, 100 walk-in visitors per day and an resources and conference center with seating capacity up to 300 persons.

The total required floor area was originally calculated to approximately 1800 square metres. In later correspondence the area has been reduced to approximately 1500 square metres.

In the space calculations it is concluded that approximately 700 - 800 square metres will be used for office accomodation wheras the remaining 700 – 800 square metres will be used for the resources and conference centre.

Three options exists to resolve the space requirements for the Human Rights House:

1. To rent an existing building, or to rent space in an existing building and convert and fit out the space to meet the specified requirements.
2. To buy an existing building and convert and fit out the space to meet the requirements.
3. To construct a new building which is tailormade for the specified requirements.

In addition to the layout of the floor space also the location of the Human Rights House is important. From an accessibility point of view a down town location seems most favourable and the building should be “visible” within the townscape.

However, if a downtown location proves difficult to achieve, the Westland area and particularly the Ngong area where a number of NGOs are located already will also be suitable.

#### **Re. Option 1:**

To rent a building or part of a building may seem to be the fastest and cheapest solution to meet the space requirements.

However, to find an existing building or part of an existing building that may easily be converted to accomodate the proposed fit out may not be easy. Conference facilities require “off standard” ceiling heights and ventilation capacities which is usually beyond the standard in common buildings.

To provide such facilities will usually require costly conversion works that the tenant will have to pay for himself and which may be difficult to recover from the owner in case the organisations decide to move or to close down the activities.

The cost of these conversion and fit out works will accordingly have to be added to the basic rent of the space.

In spite of lower capital investment compared to the buying of or construction of a new building, the overall cost of the option may easily turn out to be very expensive and will probably require a longterm contract to be financially viable.

### **Re. Option 2:**

It is understood that to buy and convert an existing building has been considered thoroughly by the Client. However, it has so far been difficult to find a suitable building.

Accordingly it is likely that, like mentioned above for rented space, an existing building will need considerable conversion and renovation works to suit the requirements.

To convert an existing building imply possibilities for encountering unforeseen problems during public approval of the plans and during the actual renovation and fit out.

To avoid excessive unforeseen expenditures it is paramount that the condition of the building and the requirements of the authorities are thoroughly investigated before any contract is signed.

Based on experience, the consultant has concluded that under normal circumstances the cost of converting and renovating an existing building will be the same as to construct a new.

Unless an existing building is found with a very favourable location and layout, little savings accordingly seem to be achieved by buying and converting an existing building compared to constructing a new.

### **Re. Option 3:**

The cost estimates prepared by the consultants are based on this option which is considered the best and most viable from a functional point of view.

The construction of a new building will allow for a tailormade fit out which will serve the purpose in the best possible way.

## **3. PROGRAMME CONSIDERATIONS**

The project outline brief specify the sizes of the offices to be used by the various organisations to be 10 square metres for small offices and 20 square metres for large. The total area for office facilities in the building is calculated to 640 square metres. To this is added 16% for circulation which will bring the total floor area up to 743 square metres.

This means 12,4 square metres gross floor area per works station.

However, calculations from modern office buildings show that to meet the emergency requirements regarding width and number of corridors and stairs, the need for support rooms such as archives and stores, toilets, server and pabx rooms etc., it under normal circumstances becomes impossible to reduce the gross floor area per work station to under 15 – 16 square metres in a multistoried building.

Accordingly to base the calculations on 12,4 square metres per work station seems to be too low.

If 15 square metres is used as a parametre, which is still on the lower side of normal space requirements, then the required area for office acitivities increases from 743 square metres to 900.

The resources and the conference centre is calculated to cover an area of 782 square metres. Adding 16% for circulation bring the gross floor area up to 868 square metres.

The sum of the two departments will accordingly bring the total gross floor area up to 1768 square metres.

The conclusion is that if functional space is to be provided for the activities specified in the brief, it will not be possible to reduce the gross floor area of the building from 1800 to 1500 square metres.

With the present brief the 1800 square metres of gross floor area should be maintained.

#### **4. COST EVALUATIONS**

The total cost allocations for the proposed project is divided as follows:

- Cost of the plot for the building: 19 %.
- Consultant fees and disbursements: 15 % of construction costs
- Building construction: 41%
- Administration in Norway and Kenya, legal fees, overheads and unforeseen: 26%.

The cost of the plot accounts for a considerable part of the project cost, and accordingly efforts should be made to negotiate a reduced price for the plot.

The 18% VAT for the construction amounts to USD 86,770,-. An exemption would accordingly result in an equivalent saving.

The total project cost, excluding loose furniture is calculated by the consultant to approximately USD 1,280,000.- inclusive VAT.

For a building of 1800 square metres gross floor area this means approximately USD 711.- per square metre.

According to the programme description of the project and compared with similar projects recently completed in Nairobi the costs seems reasonable. However, the estimate is rather on the lower side than on the higher, particularly if the building is to be constructed in the down town area where limited site establishment and tight working conditions for the contractor may be more costly than in an suburban area.

The consultants has calculated the total project cost to USD 1,312,950.- whereas the project outline description specify USD 1,400,000.-.

It is hereby recommended that USD 1,400,000.- should be maintained as the total project cost.

#### **5. COST SAVING OPTIONS**

In addition to the mentioned attempts to reduce the project cost by reducing the price of the plot and to seek VAT exemption, two additional options may be considered which may contribute to further reduction of the costs:

1. to choose a design-build approach for the project.
2. to change the programme for the building to an "office hotel" concept.

##### **1. Design-build approach.**

A design-build approach means that tenders are invited from contractors based on a prepared programme only. The invited contractors are so-called "design-build" contractors who will take care of both the design of and the construction of the project.

In practise it means that the required consultants to prepare the plans for the project are hired and paid for by the successful contractor instead of by the Client.

In addition to the cost component the tenders from the contractors in a design-build tender competition will include preliminary sketch layouts of the proposed building together with a completion schedule.

This approach may accordingly provide a number of alternative sketch layouts for the Client to choose among.

A design – build approach will imply that the Client only has to deal with one contract partner during the completion of the project, which simplifies the flow of information and reduces administration. However, the concept also gives the contractor a very strong position versus the Client, which requires that the Client has a competent project coordinator at his disposal assisted by a professional Clerk of Works.

In addition to usually pressing the design and construction costs down, the advantage of a design – build approach is that it will be possible to obtain design sketches of the building together with binding cost estimates and completion schedules for a minimum of costs to the Client, as the initial plan preparation costs and estimates will be covered by the contractors during the tender competition. Accordingly a design – build approach is usually considered a cheap and fast way to clarify the financial viability of a project.

It is important that all city and building code requirements are clarified in advance and are included in the tender programme before the competition is held to avoid delays in the approval procedures by the public authorities after the competition.

The competence and seriousness of the interested design-build contractors should also be investigated properly before the option is chosen.

## **2. “Office hotel” concept.**

The main purpose of this approach is to reduce the space requirements to a minimum and thereby also reduce the costs.

The idea behind the “office hotel” is that the employees will share the available work stations. Experience shows that in many service organisations up to one third of the employees for some reasons are out of the office every day. Instead of having offices or work stations standing empty or unused, the number of work stations are reduced to the average complement and the available stations have to be shared among the employees who are coming to work. Accordingly the employees have no fixed work station but may have to work in different locations from one day to the other. The reduced number of work stations allows for an equivalent reduction of the floor areas in the building.

In this concept most of the work stations are located in open office landscapes. A number of enclosed cubicles are provided to secure privacy for confidential telephone calls, meetings or for work that require particular concentration.

The concept is also considered to enhance professional and social interaction among the employees and thereby secure a better flow of information and professional upkeep among them.

For the Human Rights House this approach could reduce the number of work stations from 60 to say 50. The work stations would be located in open office landscapes. Interviews and conversations with clients and visitors could take place in enclosed interview cubicles which would be shared among the various organisations. The interview cubicles could be used to separate the areas occupied by the various organisations.

The “office hotel” approach may enable a reduction of the required floor area for office facilities by 150 – 200 square metres and reduce costs accordingly. The open office landscapes will reduce the need for partitioning walls which will reduce costs further.

Finally, open office landscapes will simplify and thereby reduce the costs for electrical and ventilation installations in the building.

However, the “office hotel” concept may by some users be perceived as too radical and the suitability of the concept should accordingly be thoroughly considered before an implementation is decided.

A design-build and “office hotel” approach may reduce the total cost of the project by maximum 7 – 10%.

## **6. ADMINISTRATION, RUNNING AND MANAGEMENT COSTS**

The total costs to own and maintain a building is usually separated into the above three main activities.

The cost division between the various activities is usually as follows:

### **Administration**

The administration cost will cover the running expenditures of the “owner company A” mentioned in the “Proposal for establishing a human rights house in Nairobi”.

The administration costs will also cover the annual depreciation of the property, property tax, the cost of an estate manager and other expenditures implied in the administration of the property.

The annual depreciation is usually calculated at 2% of the total project cost, i.e. of USD 1,4 mill. for this project

The cost of the estate manager will cover his salary and the rent of his office / workshop which is usually located in the basement of the building or in an outbuilding. In addition comes required equipment, tools and consumables.

### **Running costs**

The running costs will among others cover the expenditures for:

- Electric power and energy required for lighting, space heating and cooling
- Telephone and telecommunications
- Water supply and drainage
- Waste collection
- Computer installations and IT services
- Security and alarm systems
- Security manpower

As a “thumb rule” the running costs for a property is estimated to 10% of the rent expenditures.

For a building worth USD 1,4 mill. the annual rent expenditures may be estimated to 10% of the value or to USD 140,000.-.

The annual running expenditures for the building is accordingly estimated to be 10% of this, which is USD 14,000.-.

However, the figure may vary and particularly the security requirements may change the estimate.

### **Maintenance**

The “thumb-rule” for maintenance is that the annual expenditures should equal the annual depreciation of the property, i.e. 2% of the project cost.

Accordingly to cover annual maintenance an amount equivalent to 2% of USD 1,4 mill should be allocated in the budget for the property, i.e. an amount equivalent to USD 28,000.-.

However, this is a rather theoretical approach to maintenance. In practise much less is spent on maintenance annually. Instead the bulk of the annual allocations will be spent on the cyclic upgrading and renovation works, usually carried out every five to ten years.

Oslo the 25<sup>th</sup> of March 2002

FINN KLEIVA CHARTERED ARCHITECTS