



PEACE BRIGADES INTERNATIONAL

International Office
Development House, 56-64 Leonard Street
Tel: 44 (0)20 7065 0775 London EC2A 4LT
Email: admin@peacebrigades.org
Website: www.peacebrigades.org

**An assessment of the
feasibility and effectiveness
of protective
accompaniment in Kenya**

External Report

Peace Brigades International

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A. INTRODUCTION

1/ About Peace Brigades International (PBI)

Since 1981, Peace Brigades International (PBI) has supported hundreds of communities and thousands of people in eleven countries in Latin America and Asia. We protect human rights defenders who work tirelessly in pursuit of justice for those who have been denied their basic rights and have experienced threats, violence and displacement. We work at the request of human rights defenders and in response to their needs. Protective accompaniment, our main methodology, combines on-the-ground expertise and local knowledge with international advocacy. We aim to ensure that human rights defenders are able to carry out their work, contributing to social justice and peace, in relative safety.

2/ Background: PBI's work in Africa and Kenya

PBI has not to date established a field project in Africa, although we have received requests for support from human rights defenders based in different parts of the continent. These led us to carry out an assessment of the potential for PBI work in Chad in 1993, which was inconclusive, and more recently to conduct an in-depth study of the protection needs of human rights defenders in Africa in 2009-10.

In 2009, PBI established an Africa Working Group, which investigated the situation for human rights defenders across the continent. The Africa Working Group undertook in-depth field research in five African countries, including Kenya. Findings in Kenya suggested that, in the context of a worsening human rights situation, Kenyan defenders and the international community would strongly support a PBI protective accompaniment project in the country and that the methodology could be feasible and effective.

3/ Aims and methodology: assessing the feasibility and effectiveness of a PBI project in Kenya

In 2011, PBI established a Kenya Project Exploratory Committee (KPEC), made up of experienced PBI activists and human rights and Kenya experts from outside of PBI, to consider in greater depth the key outcomes of PBI's field research in Kenya in 2009, which identified:

Need for accompaniment: An active human rights movement is facing high levels of repression and there are fears that the next few years will see the situation worsen further;

PBI's method(s) could be effective: Defenders and the international community believe that PBI's methods would create more space for human rights work;

Key opportunities: Defenders and the international community would welcome the deployment of a protection organisation in Kenya; and

Key challenges: Any organisations working on the ground in Kenya would need to develop a clear understanding of how to operate safely in areas where civil militias are active.

PBI's aim with the more in-depth exploration that is the subject of this public report was to determine the feasibility and the potential effectiveness of PBI work in Kenya. For PBI's pioneering methodology of protective accompaniment to be applicable in any given country a number of key conditions have to be met. These conditions, which are covered in detail in this report, are as follows:

1. There is an objective and measurable risk for HRDs operating in the country¹;
2. The national government must have sufficient stability, with established lines of accountability, to serve as a liaison with PBI and respond to calls for protection of HRDs;
3. Governmental mechanisms for protection of HRDs have to be insufficient or inefficient;
4. Governmental authorities (and other aggressors) have to be sensitive to international pressure;
5. The international community must be willing to intercede and take actions in defence of HRDs;
6. The presence and movement of PBI as an international organisation must be permitted in at least certain key parts of the country;
7. Security conditions in the country have to meet minimum standards for PBI to be able to carry out its work²;
8. There is potential for PBI to enhance existing HRD protection mechanisms;
9. Local HRDs have expressed a clear need and desire for PBI support³.

The KPEC also found it useful to keep the following questions in mind when exploring the feasibility and potential effectiveness of PBI work in Kenya:

- Which PBI interventions did HRDs indicate would be useful to them? (i.e. what did contacts say they wanted?)
- What are the particular challenges for PBI working in this country?
- Where should PBI operate? (i.e. which parts of the country, which urban or rural areas)
- Who should PBI work with? (i.e. what is the strategic relevance of the work of different HRDs)

¹ This point is explored in Section E of the main report (THE SITUATION FOR HUMAN RIGHTS DEFENDERS).

² Points 2 – 7 are explored in Section F of the main report (CONDITIONS FOR PROTECTIVE ACCOMPANIMENT).

³ Points 8 – 9 are explored in Section G of the main report (HRDS' NEEDS AND HOW PBI COULD MEET THESE).

- When should PBI start work? (i.e. timing around upcoming elections)
- How should PBI work? (i.e. various possible tactics: long-term protective accompaniment versus more episodic interventions; conflict resolution and peace-building, psycho-social supports, etc.)

This report is based on desk research and information gathered during a field trip (September 5 - October 1, 2011) to Kenya during which interviews were held with 46 local organisations in Nairobi, West Kenya (Rift Valley, Western Kenya and Nyanza) and the Coast (Mombasa), covering both civil and political rights and economic, social and cultural rights (e.g. post-electoral violence, internally displaced persons, extra-judicial executions, torture, land issues, minority rights, women's rights, LGBTI, and the impact of multinational corporations).⁴ At the government level, interviews were conducted with the Minister of Justice, the Chief Justice of the Supreme Court and the Senior Deputy Secretary of the Ministry of Internal Security and Provincial Administration, and with seven embassies and two international donor agencies⁵.

B. ACKNOWLEDGEMENTS

PBI would like to thank all the members of the Kenya Project Exploratory Committee (KPEC) who contributed their time to this project: Sergi Bach, Samar Badouin, Seynabou Benga, Emanuela Ferrari, Louise Khabure and Tessa Mackenzie. We would like to thank in particular Sergi Bach, who coordinated the exploration.

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This report, and the work that it is based on, was funded by the Swedish Amnesty Fund, without whom the exploration would not have been possible.

⁴ See Annex 2 – Human rights organisations visited in Kenya.

⁵ See Annex 3 – Governmental and international contacts visited in Kenya.

C. EXECUTIVE SUMMARY

The exploration was undertaken to assess protection needs of human rights defenders in Kenya and assess the feasibility and effectiveness of a PBI protective accompaniment project in the country.

A volunteer Kenya Project Committee (KPEC), made up of experienced PBI activists and human rights and Kenya experts from outside of PBI, was established and a Project Coordinator recruited in 2011. The KPEC carried out desk-based research and undertook a 4-week field trip to Kenya in September – October 2011. The KPEC used criteria and key questions to underpin their analysis of whether PBI could establish a project in Kenya, which are explained in full in the main report.

The exploration identified HRD protection needs and found that key conditions for protective accompaniment are met in at least some regions of Kenya, particularly Nairobi, West Kenya and Mombasa, suggesting PBI's work there could be effective. The principal findings of the exploration were:

Situation for HRDs in Kenya

While the situation in Kenya has improved since PBI's research in 2009, which focused on the immediate context of post-electoral violence, HRDs there continue to face a number of challenges and risks that hinder and/or prevent their work.

There is a pervasive environment of impunity for human rights abuses (including impunity for violations against HRDs), threats and relocation are not uncommon, and incidences of surveillance by state and non-state actors have been reported. Offices have been raided or burgled and computers hacked, and several organisations suspected that their phones were being tapped. Arbitrary arrest (particularly during peaceful demonstrations) was commonly reported, particularly in the West and in Coastal areas, often accompanied by the denial of bail or demands for bribes.

Higher risk issues that HRDs are working on include impunity for post-electoral violence and extrajudicial executions; counter-terrorism; accountability, anti-corruption and social auditing; sexual and reproductive rights; and land rights.

The work of women HRDs (WHRDs) was highlighted as particularly challenging. Rape and other forms of sexual violence are experienced by women HRDs working in the slums of Nairobi, usually perpetrated by non-state actors. LGBTI persons are routinely harassed by police, detained without due process, blackmailed (frequently by police), and subjected to violence.

It became clear that fear informs some of the strategies and programmatic choices made by HRDs. The murders of two HRDs from the Oscar Foundation in 2009 'sent shockwaves' through civil society, prompting some HRDs to shift from naming and shaming and pursuing individual cases to focusing on institutional reforms.

The overall human rights movement is fractured, with community level HRDs often feeling 'used' or ignored by those at the national level. National level organisations were criticised for being unresponsive, unsupportive and unable to consider the needs of community level HRDs who were doing front-line human rights work. The fact that Nairobi-based organisations are said to receive an estimated 80% of donor money increases the sense of inequity. Disconnect is also experienced between the more donor-driven NGOs in Nairobi and the grassroots and community organisations in the slums and outside Nairobi. These divisions and lack of national networks result in higher vulnerability amongst grassroots HRDs working in the regions and in the slums in Nairobi. In addition, HRDs generally operate in relative isolation, without taking advantage of the potential of national and international networking.

Conditions for protective accompaniment

The national government has sufficient stability, with established lines of accountability, to respond to calls for protection of HRDs. Governmental mechanisms for protection of HRDs are largely non-existent. It appears that the international community is willing to intercede and take actions in defence of HRDs. The Kenyan Government appears to be sensitive to international pressure to some extent, and there are indications that a combination of domestic and international pressure can have positive results. However, recent developments with the indictment of prominent political figures by the International Criminal Court (ICC) have created a climate in which anti-Western sentiment is being fuelled. PBI would be able to operate in Kenya, although there may be some bureaucratic and administrative challenges to establishing a long-term presence in the country. Security conditions would allow PBI to deploy volunteers in a number of areas in Kenya, including Nairobi, West Kenya and Mombasa. (Certain regions including the border with Somalia, the Upper Rift Valley and the North East border with Ethiopia are currently considered too unsafe.)

HRDs needs and how PBI could meet these

HRDs needs identified by HRDs in Kenya include a number which are an integral part of PBI's protective accompaniment methodology including: building and developing HRD networks, creating international and regional links, and fostering broader recognition as legitimate HRDs. A clear need for security training and follow-up support was also identified. In addition, all the HRDs met with were open to the concept of protective accompaniment – which was new to most of them – and many offered valuable input as to how to adapt accompaniment to the particular Kenyan context. Some individuals were fairly enthusiastic but nonetheless realistic about potential challenges that would need to be considered. These include the need to balance likely negative perception of physical accompaniment within certain communities with the positive, broad impact that PBI could have through engaging with authorities and through the moral support and solidarity that PBI accompaniment would represent. The exploration established that PBI could help to fill an identified protection gap in

Kenya through protective accompaniment, and that there may be scope to provide support to HRDs in the broader East Africa region over the longer term.

Conclusion

PBI could potentially play an important role providing protection and support to HRDs in a time of expected heightened risk during the March 2013 election period, if able to establish a presence in the country before that time. Short term work around the electoral period could provide the opportunity for PBI to conduct further research into factors which generate challenges for establishing protective accompaniment work in Kenya and to explore whether these could be overcome. An extended presence on the ground would also facilitate analysis of HRDs protection and support needs in the wider region of East Africa. For these reasons, this report recommends that PBI take steps to establish a short term project in Kenya in 2012 – 13.

D. KENYA:AN OVERVIEW

I/ Key contextual information

Kenya is a country in East Africa, with an area of 580,367 sq km, which borders with Ethiopia, Somalia, Sudan, Tanzania, Uganda and the Indian Ocean to the east. Its population is estimated at over 40 million people comprising several ethnic groups including Kikuyu, Luhya, Luo, Kalenjin, Kamba, Kisii, and Meru, among others.⁶ Its ethnic diversity has created a vibrant culture but also underlies many community conflicts. The main religions are Protestant, Roman Catholic and Muslim alongside a small percentage of indigenous beliefs. English and Kiswahili are the official languages with many other local languages also spoken.

Most Kenyans live below the poverty threshold of \$1 a day and increasing droughts have contributed to large areas of food insecurity. Internationally, Kenya has been a leading mediator in the Somali and Sudanese peace processes. It is a regional hub for licit and illicit trade, serving as a conduit from the Indian Ocean to Central and other parts of Africa. Tourism has been Kenya's main hard currency earner, along with horticulture and tea, at least until recent terrorist attacks in Nairobi, Mombasa and other parts of Kenya.⁷ Kenya intervened militarily in Somalia in October 2011 shortly after the abduction and murder of foreign nationals on the Coast, although the intervention was a much broader

⁶ People of African descent make up about 97 percent of the population divided into about 40 ethnic groups belonging to three linguistic families. The main ethnic groups are the Kikuyu (22%), Luhya (14%), Luo (13%) Kalenjin (12%), Kamba (11%), Kisii (6%), Meru (6%), and other Africans (15%). Small numbers of people of Indian, Pakistani, and European descent live in the interior, and there are some Arabs along the Coast.

⁷ The Government also announced in March 2012 the discovery of potentially significant oil deposits in Kenya's Turkana District.

operation viewed as a significant contribution to global anti-terrorism efforts, particularly against the Al-Shabaab terrorist cell of Al Qaeda based in Somalia.

2/ Politics and electoral violence

After independence from Britain in 1963, Jomo Kenyatta became Kenya's first President, succeeded in 1978 by Daniel arap Moi whose 24 year regime was characterised by systematic human rights violations against political opponents and activists. The ruling Kenya African National Union (KANU) was for most of this time the only legal political party, but after the restoration of multi-partyism in the early 1990s, KANU was finally displaced in 2002 with the election of Mwai Kibaki as leader of the multi-party alliance National Rainbow Coalition (NARC).

President Kibaki ran for re-election in 2007 for the Party of National Unity (PNU) against his main opponent Raila Odinga from the Orange Democratic Movement (ODM). After the Electoral Commission controversially declared that Kibaki had won the December 27, 2007 elections, Odinga and ODM alleged electoral fraud. The elections, which were generally deemed not to have been free and fair due to manipulation by both sides (with threats against HRDs who criticised the conduct of the elections), thus triggered long-standing tensions underlying a cycle of electoral violence that had occurred throughout the 1990s. As a result, over the two-month post-election period, attacks and retaliation against Kikuyu, Kalenjin, Luhya, Luos and other ethnic groups erupted across the country, involving killings, sexual violence, vandalism and looting, in which over 1100 people are believed to have been killed, thousands injured, and some 350,000 displaced.

International pressure resulted in the Panel of Eminent African Personalities (EAP), chaired by Kofi Annan under AU auspices, brokering negotiations between the warring political parties. Agreement was reached to establish the current Grand Coalition Government with Mwai Kibaki as President and Raila Odinga in the newly created position of Prime Minister. The parties also agreed to embark on a fundamental reform process to restore the rule of law and address long term issues such as: constitutional, institutional and legal reforms; land reform; poverty and inequity; unemployment, particularly among young people; consolidating national cohesion and unity; and transparency, accountability and impunity.

Recent processes related to accountability for the Post-Election Violence (PEV) – including the Government's Commission of Inquiry into Post-Election Violence (CIPEV), better known as the 'Waki Commission', the Truth, Justice and Reconciliation Commission (TJRC), and the International Criminal Court (ICC) proceedings against some of the suspected leading figures behind the violence – have documented to different degrees the politically motivated and planned nature of much of the violence and reprisals that included the use of youth and gangs like the Mungiki to target ethnic groups perceived to support one or the

other of the two main political parties, particularly in the Rift Valley region, Central Province, the Nairobi slums (e.g. Kibera and Mathare), and Mombasa. In addition, it was found that the police in their responses were often inadequately prepared and failed to intervene promptly and effectively to stop the inter-communal violence, also often applying a disproportionate and excessive use of force and sometimes complicit themselves in the violence.

Suggestions by government figures that national judicial proceedings would be instigated to pressure the ICC to relinquish jurisdiction have resulted in barely any effective prosecutions to date⁸. So far, all appeals against ICC proceedings against four of the remaining six original suspects have failed, though their trials will likely take at least a year (from confirmation of their charges in January 2012) to commence. These will be against Deputy Prime Minister Uhuru Kenyatta and former Secretary to the Cabinet Francis Muthaura, who each face five counts of crimes against humanity, and former Cabinet Minister William Ruto and radio journalist Joshua arap Sang, who each face three counts of crimes against humanity. Both Kenyatta and Ruto controversially continue to run for election as the next President, despite the confirmed charges of crimes against humanity against them.

E. THE SITUATION FOR HUMAN RIGHTS DEFENDERS

For PBI to work in any given country, there must be an objective and measurable risk to human rights defenders (HRDs). This section examines whether such a risk is present in the case of Kenya.

PBI's 2009 research on Kenya was necessarily focused on the immediate context of post-electoral violence (PEV) and the impact it was having on the human rights movement. While threats against HRDs increased significantly in 2007-2008, with arrest and attack effectively becoming an occupational hazard, post-2009 there has been a marked decrease in the extent and severity of human rights violations generally, and those against HRDs in particular. The adoption of the 2010 Constitution, including its expansive Bill of Rights and accompanying human rights reforms more generally, has opened space for human rights activists in Kenya. Therefore, the previous assessment that "an active human rights movement is facing high levels of repression and there are fears that the next few years will see the situation worsen further" no longer applies to quite the same extent.

The current ICC proceedings suggest potential accountability for even the most powerful figures, seemingly lessening the boldness of those who would threaten HRDs even at community level. Little or no violence was reported in Kenya upon the outcome of the ICC confirmation of charges hearings on 23rd January 2012, which seems a positive sign. Accountability for action taken during electoral

⁸ The first conviction occurred just a few days before the completion of this report.

periods should temper political discourse. However civil society actors' role in the ICC proceedings has been a growing part of some politicians' campaigning in the run-up to the next elections. For example, on 28th January at a large 'prayer' rally in Eldoret following the ICC rulings, presidential candidate and ICC suspect Uhuru Kenyatta was reported as saying that Kenyans should be allowed to vote for the leader they want: "Will Kenyans decide or will NGOs decide?", Kenyatta asked the crowd in Kiswahili, to which they replied: "Kenyans will decide." Concerns have also been expressed by the National Cohesion and Integration Commission at allegations of ethnically tainted hate speech during such rallies and of political instigation of pastoral conflicts in the run-up to the elections. This suggests that the upcoming elections may be accompanied by an increase in levels of intimidation and repression of HRDs.

Although there has been a marked decrease in the extent and severity of human rights violations in Kenya since 2009, HRDs continue to face a number of risks which could hinder and/or prevent their work. These are described in detail below.

1/ Impunity

Impunity is still a pervasive feature of Kenyan society, including impunity for violations against HRDs. The fact no one has been arrested in the case of the broad daylight murders in 2009 of HRDs Oscar Kamau King'ara and John Paul Oulu from the Oscar Foundation is simply perhaps the most egregious example.

Impunity informs both the environment in which HRDs in Kenya work, and the work that they do. The lack of effective accountability for the PEV is at the core of the efforts of several organisations and individuals the field mission team met with, particularly in those areas where the violence was most acute. They often face risks because of this work due to the perceived threat to vested interests. Allied to them are peace and reconciliation organisations and church groups that have been working to address conflicts of many forms, including ethnic conflicts, over many years, but particularly with an eye to averting a repeat of the PEV in the next elections. HRDs are also often targeted for their work in seeking to address deep rooted social questions around land rights (many of which give rise to community conflicts) and evictions from informal settlements, and around women's rights and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) rights.

2/ Threats

During the course of interviews with HRDs, the field team did not find evidence of post-2009 disappearances or murders of HRDs, nor infiltration of NGOs. Several HRDs in different parts of the country noted that attacks in broad

daylight were no longer common. Attempts on life or physical attack since the murders of members of the Oscar Foundation in March 2009 are few. However, the number of instances of temporary relocation clearly indicate that fears for physical safety have been felt in both West Kenya and Nairobi. Rape and other forms of sexual violence were experienced by women HRDs working in the slums of Nairobi, usually perpetrated by non-state actors. Arbitrary arrest (particularly during peaceful demonstrations) was commonly reported in the West and in Coastal areas, often accompanied by the denial of bail or demands for bribes. One HRD noted that he had been arrested 20 times since 2006 and never once convicted, in what he characterised as a clear strategy of criminalisation.

Freedom of assembly has been limited in recent times, with peaceful demonstrations broken up and HRDs threatened by local officials with charges of 'incitement'. Threats and intimidation are fairly common with anonymous threats over the phone and by texting related by HRDs in West Kenya, Nairobi and Mombasa. Local politicians or other government authorities have been known to make direct threats against HRDs. LGBTI people and HRDs have experienced hate speech, and at times they experience attacks and intimidation against family and fellow community members. Sexuality baiting and slander of WHRDs were noted, with the example of WHRDs collecting information for the Truth, Justice and Reconciliation Commission being referred to as prostitutes within their community.

Surveillance by state and non-state actors was noted in the regions, with visits by Mungiki (a criminal gang) to the houses of members of one Coastal organisation, as one example. Offices have been raided or burgled and computers hacked, and several organisations, including some in Nairobi, suspected that their phones were being tapped.

There is no doubt that fear informs some of the strategies and programmatic choices made by HRDs. The murders of two HRDs from the Oscar Foundation 'sent shockwaves' through civil society, prompting some HRDs to shift from naming and shaming and pursuing individual cases to focusing on institutional reforms. Where one organisation found its photos and names of its staff members and interns being posted to the internet, it has made them cautious about working on sexual and reproductive rights. A Coastal organisation spoke of making strategic choices informed by the question of, "Is this something we are actually going to win, [and] are the threats worth it?"

3/Vulnerabilities

To a great extent, HRDs in Kenya operate separately, without taking advantage of the potential of national and international networking. There are no well-coordinated national human rights networks operating in Kenya, far less any specifically designed to support the protection of HRDs. The Kenya National

Human Rights Commission (KNHRC) is generally considered ineffective in addressing the needs of HRD protection, in part due to its lack of a specific mandate in that regard. The National Coalition of Kenyan Human Rights Defenders – a 2007 initiative of national, regional and international NGOs – is still trying to establish itself, with few HRDs even mentioning it. Beyond this initiative, there is also an apparent lack of connection with international networks, with the exception of some successful land rights cases that domestic NGOs litigated in Kenya and before African human rights bodies with some international support.

The overall human rights movement is fractured by the perception of an 'us against them' mentality, with community level HRDs often feeling 'used' or ignored by those at the national level. National level organisations were criticised for being unresponsive, unsupportive and unable to consider the needs of community level HRDs who were doing front-line human rights work. The fact that Nairobi-based organisations are said to receive an estimated 80% of donor money increases the sense of inequity. Disconnect is also experienced between the more donor-driven NGOs in Nairobi and the grassroots and community organisations in the slums and outside Nairobi. These divisions and lack of national networks result in higher vulnerability amongst regional HRDs and those working in the slums in Nairobi.

HRDs expressed uncertainty about the extent of community support they might receive in the event of attack by gang members. Several HRDs noted that HRDs are frequently perceived in communities as anti-government and anti-development, as well as anti-community in taking up the human rights of criminals or other social undesirables, with assumed funding from abroad (and as such informed by foreign agendas).

There is also little HRD solidarity with LGBTI activists. The 'silence from the human rights movement and HRD community' in regard to human rights related to sexual orientation and gender identity leaves LGBTI activists feeling isolated and frustrated, at times forced to work on more general human rights issues with other organisations instead of their particular concerns. Where other organisations have explicitly supported LGBTI groups, they have experienced backlash.

HRDs can find themselves alone and isolated if a victim they are supporting agrees to a settlement or bribe from police to settle a case. Ethnicity was noted as a source of vulnerability, with police ignoring HRDs' complaints depending on their ethnic group, or dismissing a HRD's attempt to hold an alleged perpetrator to account on the grounds that it was informed by ethnic difference.

4/ Higher Risk Issues

Borne out by the opinion of several contacts, the HRDs most at risk are those working on some of the following higher risk issues:

a/ Impunity – for Post-electoral violence (PEV), Mount Elgon violations,⁹ and Extrajudicial Executions

'Digging up the past is dangerous', was noted by one HRD from the Western region, who mentioned how since 2008 he is 'always moving' – a strategy designed to avoid being tracked.

Processes related to accountability for PEV have inevitably been highly politicised. The ongoing proceedings will undoubtedly be a potent ingredient in upcoming elections. Providing information to the Waki Commission, TJRC and the ICC made HRDs targets for attack. As one HRD PBI met noted, '*...human rights are associated with giving information to the ICC, so HRDs are now considered betrayers. We are considered criminals rather than crusaders for the voiceless.*' Several ICC witnesses and HRDs involved in relevant cases, especially at the epicentres of the violence (e.g. Rift Valley and Mt. Elgon), had been forced into hiding, apparently due to threats from both state and non-state actors.

b/ Counter-terrorism

The detention of the director of the Nairobi based Muslim Human Rights Forum in Uganda for over a year on charges of terrorism, murder and attempted murder made evident the charged atmosphere that HRDs working on these issues in the current climate face. He was arrested while trying to attend the trial of suspects who had been rendered to Uganda by Kenya. Since the Kenyan incursion into Somalia, grenade attacks in Nairobi and shootings in the North East of the country at the start of 2012 indicate that the terrorist threat will continue to be a current concern. It was noted that those working on these issues – including defending rights of association of groups now outlawed under counter-terrorism legislation – cannot rely on public support if they are attacked or face jail.

c/ Accountability, anti-corruption and social auditing

HRDs working on accountability, anti-corruption and social auditing issues in West Kenya and the Rift Valley, but also in the Nairobi slums were identified as at particular risk. Journalists also face threats for investigative reporting into corrupt police, politicians and companies.

d/ Sexual and reproductive rights

In a country where same-sex relations between men are criminalised, LGBTI persons are routinely harassed by police, detained without due process, blackmailed (frequently by police) and subjected to violence. Sexual rights defenders living in fear as LGBTI people and as defenders are targeted by their communities at times at the instigation of politicians and religious leaders.

⁹ Human rights groups have documented widespread atrocities (killings, rapes, mutilations, torture, arbitrary detention and extrajudicial executions) by the Sabaot Land Defence Force (SLDF) militia and Kenyan security forces in the Mt. Elgon region of western Kenya between 2006 and 2008.

Concern about police response and backlash regularly dissuades LGBTI people from reporting violations.

The work of women HRDs was highlighted regularly as particularly challenging. Reproductive health rights activists are frequently targeted, for example, because their area of work is commonly identified with abortion, which is highly restricted in Kenya.

e/ Land rights

Apparent collusion with law enforcement officials complicates holding corporations accountable. HRDs working on land rights in the Western region spoke of armed police using excessive force during evictions of communities on land claimed by companies. HRDs also highlighted land rights activists and communities in the North East of the country and Narok District for specific attention.

5/ Higher Risk Locations

'Everything goes wrong in the slums. People don't recognise you if you come from the slums.' (WHRD)

In addition to some of the locations identified above, HRDs living and working in the slums or informal settlements of Nairobi (comprising approximately 50% of Nairobi's estimated population of over 3 million) face higher risks in directly challenging those who gain by keeping the poor impoverished and the powerful rich. Vertical and horizontal dynamics constrain activism – hierarchies of potential perpetrators including politicians, village elders, and criminal gangs such as the Mungiki, reinforce each other, while ethnic differences are exploited for political advantage. Threats against HRDs are facilitated by discourse characterising HRDs as a danger to security in that they stir up the community, for example, by making calls for addressing impunity for PEV.

Women HRDs face the risks of endemic violence, particularly in Nairobi's slums, and are targeted for their activism. There is a general lack of police protection (and no police stations) in the slums, and many women refrain from reporting violence because they do not believe any action will be taken. Many fear stigmatisation and reprisal attacks by state and non-state perpetrators. The environment of the slums – with narrow, unlit alleyways – increases risk for HRDs, particularly WHRDs.

Working in the slums would present many challenges for PBI, including the request for bribes from criminal gangs, such as the Mungiki. For example, to secure permission for one PBI researcher to enter a slum, one HRD organisation paid vigilantes 1,500 KSH. The same organisation indicated that for PBI to operate in the area, it would need to consult with the Mungiki first.

HRDs working in the slums emphasised that different slums present various challenges to foreigners, but gaining acceptance is possible. A Western academic and an Italian priest were cited as having worked in the slums with no problem, but it should be noted that neither was engaged directly in human rights work. HRDs remarked that deciding which slum in particular to start work in would be key, with the development of links with the communities themselves essential to facilitating PBI's entry into the area. Given the nature of the slums, PBI would need to explore how to avoid a high reliance on accompanied organisations for ensuring PBI's own safety, particularly in the initial phases of any PBI work there.

The possibility of creating a deterrent effect against criminal gangs – including the Mungiki – requires much more exploration. Links between these groups and the political class were frequently cited – and explored during the ICC proceedings – but there are very few studies pointing to these connections or how they operate. HRDs working in the slums noted that there were several pressure points that can be used to influence the Mungiki, who, after all, are members of the community. For example, the Mungiki have been known to approach HRDs for help with court cases, but these are but small indications of potential positive means of influence. The overall experience of the Mungiki toward HRDs in the slums is one of violence and intimidation.

F. CONDITIONS FOR PROTECTIVE ACCOMPANIMENT

PBI's aim with this exploration was to determine the feasibility and the potential effectiveness of PBI work in Kenya. For PBI's pioneering methodology of protective accompaniment to be applicable in any given country a number of key conditions have to be met. These include: an objective and measurable risk for HRDs operating in the country (covered in section E), the potential for PBI to enhance existing HRD protection mechanisms and local HRDs having expressed a clear need and desire for PBI support (covered in section H). In addition to these, covered elsewhere in the report, the following conditions are essential for protective accompaniment:

- The national government must have sufficient stability, with established lines of accountability, to serve as a liaison with PBI and respond to calls for protection of HRDs;
- Governmental mechanisms for protection of HRDs have to be insufficient or inefficient;
- Governmental authorities (and other aggressors) have to be sensitive to international pressure;
- The international community must be willing to intercede and take actions in defence of HRDs;

- The presence and movement of PBI as an international organisation must be permitted in at least certain key parts of the country;
- Security conditions in the country have to meet minimum standards for PBI to be able to carry out its work.

This section of the report considers each of these conditions in turn and examines whether they are met in the case of Kenya.

I/ Stable national government

In order for PBI to work successfully, the national government must have sufficient stability, with established lines of accountability, to serve as a liaison with PBI and respond to calls for protection of HRDs. The Kenyan Government does have sufficient stability and established lines of accountability, but the potential for PBI to create sufficient deterrence in relation to nonstate actors is much less clear.

Most cases of torture over the last decade have been carried out by law enforcement officers, primarily the police. At the end of 2011, several national NGOs made a joint public statement regarding the recent rise in extra-judicial executions, torture and enforced disappearances by police over the last year.

Members of the Kenya National Commission on Human Rights (KNCHR) told PBI that they were able to track back to police officials over 300 cases of past extrajudicial executions to support their claim that, despite there being some cases in which the links were unclear, it is generally possible to trace the link between perpetrators and state officials.¹⁰

It is clear that civil authorities – government officials and other political figures – have control over the military and other law enforcement officials. The deployment of the army in Mount Elgon, the Mandera Triangle and recent intervention into Somalia were publicly announced and directed from the heart of government. PBI's field mission team was not made aware of any 'rogue' elements operating within law enforcement. However, the high levels of impunity for violations at the hands of police apparently affords certain leeway to act without license. Also, the constitutionally mandated process of devolution is meant to give local authorities greater power, which could possibly weaken the central chains of command while creating new power bases with unclear degrees of influence ability.

For HRDs in particular, where previously security forces and law enforcement officials were the main perpetrators, the concern is now around the political class using 'informal tactics' such as surveillance by neighbours and hacking email. In

¹⁰ See KNCHR, *'The Cry of Blood': Report on Extra-Judicial Killings and Disappearances* (September 2008). See also Inquest No. 7 of 2008 in the Principal Magistrate's Court at Kilifi, Republic of Kenya (18 April 2011) in which the inquest found that the police had been killing innocent civilians and their colleagues with impunity in what appeared to be well planned and systematic extra judicial executions.

addition, the use of organised community gangs to intimidate HRDs is common in what was described as 'impunity decentralised'. Police threats, arrest and torture of some HRDs continue, though, as relatively recent OMCT and Front Line reports related to Bunge la Mwananchi demonstrate.¹¹

From the information gathered in Kenya, it can be concluded that collusion between state and non-state actors occurs at all levels, in all areas of the country, and in many forms. PBI was informed that a top governmental official directed the Mungiki sect (consistent with ICC preliminary findings). On the Coast, it was noted that non-state actors work both on direct order from State officials and autonomously. HRDs working in the slums noted how police use civilians (e.g. gang members) to attack HRDs.

A wide range of non-state actors also threaten HRDs of their own accord. Previous periods of conflict between communities can inform current threats against HRDs. Within communities, HRDs are at risk where their activities are perceived as a threat to community social standards, security, or livelihoods, as in one community where activism against a garbage dump led to threats from community members scavenging from the dump.

Individual members of particular religious groups have threatened LGBTI activists. It was noted that Muslim individuals and groups can be very 'moralistic', speaking out publicly against LGBTI people. There are cases of violence which can 'happen anytime', but it was noted that after prayer in mosques, 'people go round looking for LGBTI people to beat up.' It is worse during Ramadan. More generally, neighbours and even family members also regularly threaten anyone found to be LGBTI or advocating on their behalf. Women HRDs are also threatened for challenging social mores through their activism.

How to positively influence the attitudes and actions of community and family members who threaten HRDs is unclear. The degree to which the simple presence of PBI volunteers would restrain them is unknown. Direct engagement by PBI with community and religious leaders could be a starting point.

2/ Governmental mechanisms for protection of HRDs are insufficient or inefficient

Now appears to be a key moment for consolidating democratic human rights gains in Kenya including via implementation of the new Constitution and its Bill of Rights, the ICC Hague trials of PEV suspects, and the devolution process to ensure more equitable regional governance. There are a number of government reform initiatives underway in Kenya that aim to improve the human rights situation. However, many of these initiatives are still in their infancy and face resistance from vested interests, therefore it will only become clear over time the

¹¹ <http://www.omct.org/human-rights-defenders/urgent-interventions/kenya/2010/05/d20676/>

degree to which they are actually implemented with lasting impact. In terms of protecting HRDs, there is still a great deal of headway to be made.

In discussion with contacts, it became apparent that Kenyan HRDs face a 'protection gap' when dealing with threats because of their human rights work. They can either exercise self-censorship and stop their human rights work or go into hiding and relocate to safe houses or outright exile. There did not appear to be any real options in between that would provide sufficient protection for them to continue their work safely.

Temporary relocation was cited primarily by HRDs in Western Kenya and in the slums of Nairobi as a tactic they have employed – in one case as recently as the summer of 2011 with the relocation of one HRD to another slum in the city. Relocation has been funded by a few embassies providing assistance on a case-by-case basis to get threatened HRDs out of the country often to neighbouring countries like Uganda or Tanzania, but these efforts are apparently not coordinated. According to a Release Political Prisoners Trust (RPP) study,¹² only 6% of HRDs considered approaching embassies for assistance if they were at risk. The field mission team was also informed of the existence of relocation programs involving some 90 activists (55 Kenyans) with most relocated in-country.¹³ However, some high profile activists including several the field mission team met with in the Western region had been previously relocated outside the country (2008-09) through assistance from OSIEA, Freedom House, Human Rights Watch and the UN Special Rapporteur on Extrajudicial Executions after assisting his investigations, and by Front Line after receiving threats for their work on violations by security forces in Mt. Elgon.

Several sources indicated that the Kenya National Commission on Human Rights (KNCHR) only protects high profile witnesses/HRDs, but, according to the KNCHR, due to their lack of capacity they no longer provide such protection other than for their own staff who have previously come under threat for their human rights reporting on police extrajudicial executions, PEV, and Mt. Elgon atrocities.

RPP recommends that, in general, witness protection mechanisms should incorporate HRDs, not just as witnesses, but as HRDs. The Minister of Justice was of the view that HRDs would be eligible for the revamped national witness protection program, but this remains to be seen. The 2006 Witness Protection Act was amended with UN support in 2010 to remove the programme from the office of the Attorney General and establish an independent and autonomous Witness Protection Agency.¹⁴

¹² Release Political Prisoners Trust (RPP), *Promoting & Protecting the Rights of Human Rights Defenders* (2010).

¹³ The field mission team was not able to confirm how recently these relocations occurred, why there was such a significant number of non-Kenyans involved, and whether all those relocated were in fact HRDs or perhaps also witnesses.

¹⁴ The Witness Protection Agency (WPA) claims that since its governing Act came into force in August 2011 it has been operational based on international best practices and standards, but international NGOs have

3/ Government authorities (and other aggressors) are sensitive to international pressure

External observers often assume that Kenya is quite sensitive to international pressure. On closer scrutiny, however, it can actually prove difficult to gauge the sensitivity of Kenyan government authorities to international pressure for a number of reasons. It is often unclear how reform-minded or obstructionist particular government actors are, especially when they may switch their orientation quite readily for purposes of political expediency. Also, a given issue may have greater traction or encounter more resistance depending on the extent of the threat to vested interests.

PBI found only limited examples where international pressure appears to have resulted in positive changes in policies or positions. The degree to which international involvement significantly added to the effect of pressure generated domestically is also hard to determine. Two examples are the removal of ICC suspects Kenyatta and Muthaura from the Witness Protection Agency Board on ICC Chief Prosecutor Ocampo's request and Prime Minister Odinga backpedalling on his call in November 2010 for gays to be arrested after domestic and international reaction.¹⁵ In the former case, the Government has gone out of its way to claim cooperation with the ICC, meanwhile vigorously challenging the prosecution of the suspects. In the latter case, Odinga had called for the arrest of gays, but then said that his comments were taken out of context and that he was simply pointing out that same sex marriages were illegal.

By comparison, when 19 diplomatic representatives took out opinion pieces in the leading Kenyan newspapers calling for speedier police reform, there was little, if any, government response, and continuing international pressure in that regard has not led to any discernible influence on the stiff resistance to genuine police reform. Similarly, international calls by the US and EU, among others, for the President and PM to set the next election date have fallen on deaf ears.

Donor countries seem to have less financial leverage given Kenya's relatively lesser dependency on aid, and given the availability of apparently less conditional aid from China. If anything, Kenya seems more concerned with inter-African relations, with its African neighbours showing minimal concern where their own national self-interest is not otherwise implicated, along with more general AU opposition to the ICC's allegedly Western bias against Africa.

criticised the lack of a properly functioning witness protection system with inadequate funding as a fundamental obstacle to addressing the PEV.

¹⁵ Pressure from the EU and Prime Minister Odinga also reportedly led Muthaura to resign as Secretary to the Cabinet and Head of the Public Service and Kenyatta to resign as Minister of Finance after their ICC charges were confirmed, although Kenyatta has continued to serve as Deputy Prime Minister with President Kibaki's support despite pressure for him to step down from that post as well.

This is not to suggest that Kenyan government authorities are so intransigent or unpredictable as necessarily to render ineffective the kind of influence PBI would work to leverage. Kenya has most certainly embarked on a course of transformative reform that offers numerous entry points for seeking accountability for HRD protection needs. However, PBI will need to define its approach in regard to the particularities of the Kenyan context and be aware of the risk that it may be seen to be representing Western interests in a politically charged conspirational environment.

Notably, the ICC suspects Kenyatta and Ruto have accused foreign governments, especially the UK, of seeking to subvert the next elections by sponsoring NGOs to confuse Kenyans about the legitimacy of their presidential campaigns while facing ICC charges. Some political allies went so far as to introduce in Parliament apparently forged UK government documents referring to such a plan in cooperation with PM Odinga. At other times, they have alleged a similar ethnic Luo conspiracy between the three 'Os' (Obama, Ocampo, and Odinga).

The field mission did not have capacity to explore the possibilities of influencing corporations operating in Kenya. The work of the Friends of Yala Swamp did provide a small indication of the possibility to influence foreign corporations effectively. They noted that where previously the provincial administration local security apparatus was put at the disposition of the corporation to act as an 'illegal gang', now the situation has 'changed a bit' with some apparent engagement between the American multinational and the community. The specific strategy employed by Friends of Yala Swamp would need to be explored more closely but does seem to indicate that a combination of domestic and international pressure can get results.

4/ The international community is willing to intercede and take actions in defence of HRDs

The international community is taking and is willing to continue taking actions in defence of HRDs in Kenya. There is variance among countries in terms of their interest in human rights issues in the country, and likewise in terms of the actions they would be willing to take, especially when their country nationals are not involved. The research carried out by the field mission suggests, however, that many countries would be willing to work with PBI, and that PBI could play an important role acting as a bridge between HRDs and key members of the international community in Kenya.

Kenya is a regional hub and considered a key driver in the region, and so its consolidation of democracy and human rights is viewed as having an important demonstration effect, while a stronger Kenyan civil society could also help directly to support civil society in neighbouring countries. At the same time, however, with Kenya serving as a focal point for anti-terrorism on the continent,

experience in other regions suggests that donor countries can at times give greater leeway for violations by important counter-terrorism allies/proxies.

While serving as a UN hub as well, there do not seem to be particularly useful in-country resources (OHCHR or UNDP) directly available to address HRDs' protection needs in Kenya. The visit of the UN Special Rapporteur on Extrajudicial Executions in 2009 was very high profile but temporary. Nonetheless, supporting the work of local NGOs in further engaging with United Nations mechanisms and processes could be helpful.

HRDs in the Western part of the country noted that they were aware of the EU Working Group on HRDs but did not think that they had visited the region. One of the Western region NGOs is currently funded by the EU, which provides some political support. However, EU funds do not seem to be more widespread in backing HRDs in the region. The Rift Valley Network visited seven embassies in 2009 as a proactive measure in relation to the protection of HRD members.

The reported new British government policy to make aid to several African countries conditional on LGBTI rights was met with a mixed reaction by local activists in the continent, and very negative governmental and media commentary in Kenya. In one public statement, several African organisations, including from Kenya, noted that the policy, 'disregards the role of the LGBTI and broader social justice movement on the continent and creates the real risk of a serious backlash against LGBTI people'. As noted above, part of the strategies being pursued by LGBTI people in the continent include building 'relationships with governments for greater protection of LGBTI people'. In the words of the activists, the new British policy risks exacerbating the climate of intolerance, undermining strategies to build relationships with governments for greater protection of LGBTI people, and 'sustains the divide between the LGBTI and the broader civil society movement' in which LGBTI rights could be perceived as 'special'.

5/ International organisations must be able to operate in Kenya

For PBI work in Kenya to be viable, the presence and movement of PBI as an international organisation must be permitted in at least certain key parts of the country.

The deportation of international human rights activists is reportedly rare. The case of Clara Gutteridge from Human Rights Watch, who in May 2011 was prevented from entering Kenya on the invitation of KNCHR to investigate counter-terrorism violations and then deported to the UK, was much cited for being exceptional.

Discussions with authorities and organisations suggested it would be possible for PBI to operate under legal status in Kenya and obtain visas to engage in human rights related activities. Contacts did not mention any current restrictions on the

movements of foreigners (Somali refugees being an exception), though they did warn of instability in certain regions (Upper Rift Valley, North Eastern (border with Ethiopia), Coast (border with Somalia)).

6/ Security conditions

For PBI to be able to carry out its work in Kenya, security conditions in the country have to meet minimum standards. Although Nairobi has been subject to terrorist attacks in recent years, as have some other parts of the country, the risks are not significantly greater than in other countries where PBI has operated before (Colombia, Sri Lanka, Indonesia). However, certain regions pose serious security challenges, namely the border with Somalia, Upper Rift Valley, and the North East (border with Ethiopia), and could potentially put PBI volunteers at risk. PBI will need to consider these security conditions carefully in making decisions about project program work and geographical location.¹⁶

G. HRD SUPPORT NEEDS AND HOW PBI COULD MEET THESE

For PBI to establish work in a certain location we have to be confident that we have the potential to enhance existing protection mechanisms for HRDs, and HRDs have to have expressed a need and desire for PBI support. This section examines the protection and support needs of HRDs in Kenya and whether and how PBI could address them.

I/ Institutional capacity building and funding

HRDs in Kenya suffer from an apparent lack of strong experienced leadership due in part to co-optation, as some activists have sought to work with government directly, while other leading HRDs have been forced into exile or silence. The PEV further fragmented civil society which has become less cohesive and collaborative with younger, less experienced activists taking up the reins.

HRDs also spoke of difficulty in obtaining funding, informed by limited educational opportunities. For example, funders' offers to consider backing work of women HRDs can be defeated by the WHRDs' inability to write the proposal as required. Also, some donors place restrictions on funding, limiting the ability of HRDs to do certain kinds of work. Some HRDs noted that though they had worked up a security plan, they lacked resources to carry it out, and therefore had limited security measures in their offices and homes.

¹⁶ The deterrent effect PBI might have upon militia operating in some of these regions and elsewhere would depend upon their location and the type of militia. A nuanced assessment would be required to gauge PBI's potential effectiveness in that regard, one that was not possible in the short time available.

PBI avoids imposing, interfering or getting directly involved in the work of HRDs. We do not provide institutional capacity building or direct funding support to HRDs, so would be unable to support the needs described above.

2/ Self-protection and networking

The HRDs PBI spoke to had developed varying levels of self-protection and networking strategies. Some HRDs referred to their own standing as more established individual HRDs or as organisations as a status likely to protect them from actual harm. Some had fostered contacts with the local media to be responsive to human rights issues. While there is an absence of functional national networks, regional and local HRD groupings have developed to provide some support. One Coastal NGO noted that it is at the centre of a loose cross-sector CSO network in Mombasa where it receives support from peers and community members. HRDs in the West have also developed regional human rights networks that link up with each other, including by way of regional conferences at one of which the field mission team gave a talk. One LGBTI organisation is engaged with other African LGBTI groups and has experience at the African Commission on Human and Peoples' Rights (ACHPR).

Close proximity and working relationships between organisations (Western Kenya Human Rights Watch, Mwatikho Torture Survivors Organisation, and the West Kenya Legal Aid Centre), two of which have offices in the same small side street, ensure awareness for each other's security (similarly with COVAW and Amnesty International in the same office building).

The 'gradualist' advocacy strategies pursued by several LGBTI groups are aimed at changing attitudes and building alliances, all essential to both advancing the rights of LGBTI people and to the protection of LGBTI HRDs. Acknowledging the role religious groups play in fostering discriminatory attitudes toward LGBTI people, some religious leaders based in Nairobi have attempted to bring Muslim and Christian leaders in the region together with LGBTI activists to discuss how to address violence against LGBTI people.

PBI aims to support and strengthen HRD self-protection and networking efforts so a PBI presence in Kenya could help bolster these.

3/ Security needs

Human rights defenders identified a number of specific security needs that PBI could meet, many of which are an integral part of PBI's protective accompaniment methodology (described in section d below). These included:

Effective HRD networks: Some HRDs noted the need for a national umbrella network, while others emphasised the need for grassroots HRDs networks. Many saw how membership in such a network would 'impress' the local police as it spoke to local HRDs being part of a bigger project.

International and regional links: Greater links with the international community was noted both for the political and technical support this might enable (including assistance in reporting to the UN on the situation of HRDs) but also for the solidarity this would provide.

Broader recognition as legitimate HRDs: One HRD suggested PBI would need to develop a very particular component around WHRDs to assist with this. LGBTI activists could also use assistance in fostering support for their work in mainstream civil society. Generally, PBI could help raise the profile of such otherwise marginalised activism, including minority rights and grassroots community work on economic, cultural and social rights.

Security training: HRDs expressed their need for greater awareness of protection issues, and increasing their capacity to appreciate their own risk levels. Many HRDs reported to PBI that they had attended general **security training workshops**. Several attendees mentioned, though, that while the workshops had certainly raised their security awareness, there had not been any follow-up to the training, and they did not have the capacity to implement full security plans. They also emphasised how this training should be at the grassroots level and should include a component on ICT security.

Monitoring HRD risks: One national NGO noted the need for a database of HRDs in different sectors to assist with defining protection measures.

Opportunities for HRDs to reflect and strategise: It was noted that HRDs had not done this consistently, or broadly across sectors in recent times.

Safe houses and office space: WHRDs working in slums noted how a safe house would be a boost to them in their work. The need for a safe office space was also highlighted, especially since with no place to work there is no document back-up and working from cyber-café's is dangerous.

Overall, analysis of security risks and protection needs are issues that the newer generation Kenyan HRDs that we spoke to seem to have started to consider more deeply only relatively recently. A few spoke of the need to put in place security plans at their NGOs and talk about these questions with colleagues. Several seemed to consider threats as par for the course. Capabilities and protection measures developed by HRDs themselves, and offered by state and non-state actors are apparently not sufficient to deal with threats, which suggests that PBI could play a useful role in filling some of the gaps in protection for HRDs.

4/ Need for protective accompaniment

PBI's key methodology is protective accompaniment. This combines sending trained, long-term international volunteers to provide on-the-ground protection and support to HRDs in areas of repression and conflict with international advocacy. Our work is effective because we take an integrated approach,

combining field presence alongside HRDs with an extensive network of international support. In this way, PBI ensures the experiences and concerns of HRDs are relayed to a global audience and pressure is exerted on those responsible for upholding human rights and ensuring the protection of HRDs. Human rights abuses require the collaboration and collusion of actors at all levels, from the local to the national and international levels. Where present, PBI is a constant reminder and deterrent against attacks against human rights defenders.

All the HRDs we met with were open to the concept of protective accompaniment, which was new to most of them. Some individuals were fairly enthusiastic but nonetheless realistic about potential challenges that would need to be considered in the Kenyan context. These include the need to balance likely negative perception of physical accompaniment within certain communities with the positive broad impact that PBI could have through engaging with authorities and through the moral support and solidarity that PBI accompaniment would represent.

Some HRDs placed particularly high value on PBI's emphasis on semi-permanent presence and medium to long-term commitments working in the field along side defenders. They expressed discomfort with the approach of many international organisations that limit their work to gathering information in short-term visits and returning to their home countries or Nairobi, sometimes leaving defenders even more exposed. A number of HRDs thought it would be natural for PBI to work on related issues within the broader East Africa region as a whole, not just in Kenya, especially given interactions between civil society in the various neighbouring countries.

It was noted that without pressure from the international community in 2008 the PEV situation would have been worse. Pressure from the international community was also crucial in enabling the return of those temporarily relocated at the time.

Some HRDs believed that knowing that the 'world is watching' would be a deterrent to potential perpetrators and increase space for HRDs to work, including for those not working directly with PBI. Some organisations noted that having international support would strengthen the potency and legitimacy of the human rights message delivered by local HRDs. Protective accompaniment, for example, could increase the impact of the work of HRDs – community members would be more likely to attend human rights meetings. Specifically, one HRD suggested how a foreigner with a camera at demonstrations could deter police from use of excessive force. Finally, it was noted that such support would provide a psychological boost to HRDs.

One minority rights organisation felt that PBI's non-partisanship could be perceived as playing a useful neutral role in transcending ethnic divides that inform many aspects of the space in which HRDs work (see further discussion

below). Another national NGO noted there was a need for PBI involvement in Kenya, whose work would be complementary to existing initiatives, such as those of Protection International, and that the problem PBI would face would be being overwhelmed with requests for accompaniment.

Through providing protection and support to individual HRDs, and through advocacy, PBI aims to encourage change at the policy and implementation level to increase protection for HRDs more broadly. Our research identified clear potential for PBI to enhance existing protection mechanisms, which are limited. The only government protection mechanism in Kenya is the Witness Protection Agency (WPA), which does not currently offer support to HRDs. PBI could seek to improve the WPA, aiming to ensure it includes specific measures for HRDs. In the absence of other government protection mechanisms, PBI could help with temporary relocations by facilitating connections with international NGOs and seeking to address the lack of coordination amongst the international community. PBI could also help to address some of the other difficulties facing HRDs described above and in section C. Most importantly, PBI could help to fill the identified protection gap in Kenya, giving HRDs a viable option to continue their work through protective accompaniment.

H. FUTURE STEPS: PBI WORK IN KENYA

I/ General contextual challenges for PBI and mitigation strategies

In considering future PBI work in Kenya, it is important to keep in mind at least two general challenges PBI would face in seeking to operate effectively in the particular context of the country. Possible responses to address these challenges are suggested below and would need to be tested.

a/ Possible backlash against white foreigners

International observers would likely be initially received with distrust or suspicion as outsiders, or even presumed arrogance within some communities. There would also be a perception that HRDs working with PBI are 'serving their foreign masters' and receiving money. HRDs would receive pressure from community members who won't believe that they don't or can't get money from the foreigners.

One HRD did note that he had worked with international representatives from UN bodies and elsewhere without experiencing negative consequences. One NGO on the Coast noted that it had received interns from the US and Europe, and where one intern had been arrested on one occasion a few years back she had been released shortly afterwards. However, the ICC proceedings have created a different dynamic which has made HRDs more wary – a few meetings with HRDs from Mt. Elgon and Naivasha took place in other towns in the region, as it was felt that Westerners with notebooks would attract undue attention as likely ICC

researchers. This concern is heightened by the recent campaigning of two of the ICC suspects for President alleging that NGOs are working with foreign sponsors to subvert the elections against them in favour of PM Odinga.

Overcoming the association community members make between white people and wealth (and consequently a potential perception that funds are being channelled to those being accompanied, putting them at possible risk) is an issue that PBI must be prepared to address. A couple of HRDs noted that a mix of African and international volunteers could be key, but they also noted that ethnicities cross borders so PBI would have to be careful in its choice of African volunteers. Some HRDs suggested that building trust in given communities over time could be accomplished in part by persuading community members that PBI's mission is about local people advancing their own rights struggle on their own terms. Language training in Kiswahili (and perhaps other languages) would also be beneficial.

b/ Ethnicity

Ethnicity permeates Kenyan society in ways that can be difficult for outsiders to understand or calibrate, and PBI has no experience dealing with such complexities in the African context. Similarly, the nexus between politics and ethnicity dominates, such that PBI would need to be able to analyse and navigate expertly to remain effective.

PBI's non-partisanship could be an asset that renders it well placed to help bridge divisions that make local conflict resolution very challenging due to mistrust and suspicion. PBI would nonetheless need to be extremely alert and appropriately cautious about the ways in which ethnicity informs political developments and social movements when involving itself in particular issues as it establishes itself as a new kind of organisation in the Kenyan context.

2/ Future PBI work in Kenya

Electoral periods are known to be periods of heightened risk for HRDs, when political flux can lessen accountability. HRDs' critical engagement with political agendas around election time and their efforts to press for fair electoral processes can make them targets. Risks can also increase for other kinds of LGBTI activists, for example, given that upholding family values (and other classic heteronormative themes) are frequently the focus of political manifestos.

A very changeable political landscape with many shifts in alliances between ethnic groups make for very precarious political arrangements. Democratic advancements could easily regress. Elections were frequently cited by HRDs and diplomats as being the period when PBI presence could be most critical. With the backdrop of the ICC proceedings, international attention on Kenya will be very high around the time of the upcoming elections. PBI could potentially play

an important role providing protection and support to HRDs during the election period if able to establish a presence in the country beforehand.

The date for presidential and parliamentary elections remains unsettled, although likely to take place in March 2013. The High Court ruling that the election would take place in March 2013 – 60 days after the current parliamentary term expires – unless the President and PM agree to dissolve the Coalition to trigger the election earlier has now been appealed.¹⁷ A constitutional amendment Bill to ensure a December election currently sits in Parliament while the political wrangling over the preferred date continues, with the President apparently preferring a March election while the PM prefers December. Political divisions and expediencies could, of course, also lead to the collapse of the Coalition at any time with unpredictable consequences. It is unclear how recent gains will affect tensions that may arise in conjunction with the upcoming elections.

Depending on PBI's timeframe for beginning work, it might be difficult for PBI to begin having a protective effect prior to the election. However, a PBI presence of some kind could serve it well in terms of longer term credibility and understanding of the Kenyan context.

Getting work permits and registration as an international human rights organisation operating in the country would be bureaucratic and time-consuming, but not unprecedented, and would need to start as soon as possible depending on the preferred option for any project.

a/ PBI presence during elections

To create some deterrent effect, PBI works on the basis of having established a responsive and influential network in the country, including diplomats, and having communicated the existence of such a system to civil and military authorities at the highest levels, amongst other factors. While PBI has no track record in the country, or the continent, its profile in other contexts and the public recognition for effectiveness by relevant actors – including embassies, the UN, Amnesty International, Human Rights Watch – could assist in opening doors and situating PBI effectively. As indicated above, however, PBI's deterrent effect is untested in Kenya and this would need to be considered very carefully in establishing working relationships with particular HRDs, especially over such a short period of time.

PBI could identify very specific objectives for work during the electoral period.

¹⁷ New constitutional provisions related to elections requiring a simple majority (more than half of all votes) for one candidate may also take the Presidential elections into a second round, further extending the period of uncertainty in the country.

PBI could have a presence in-country to witness the election run-up and thereby seek to deter the more general suppression of human rights activism like demonstrations or other public gatherings. As a visible international observer, PBI could conceivably provide an initially small general deterrent effect while gaining some useful credibility and experience for purposes of any longer term work without so directly engaging some of the challenges discussed.

PBI could also engage with the standing EU Working Group on HRDs. Drawing on considerable experience with similar grouping in other contexts – including Colombia and Nepal – PBI could encourage the Working Group to consider how to maximise EU diplomatic action vis-à-vis HRDs before, during and after the elections. Increased interaction could encourage a more responsive diplomatic engagement and ensure better coordination around specific responses such as relocations, which have been fairly ad hoc up until now.

During the electoral period it is also possible to envisage PBI working in Nairobi and potentially on the Coast. This work could include advocacy work with accompaniment of a small number of organisations. The particular nature and frequency of any such accompaniment would need to be explored and evaluated with those organisations.

The complexities of ethnicity as a socio-political factor, and the context of the ICC hearings, make accompaniment of HRDs working on higher risk issues in the Western region more challenging in the short term. Whether PBI could effectively 'neutralise' the perception of being associated with Western intervention – likely to be the focus of political discourse during the electoral period – sufficiently to provide a degree of protection to HRDs is hard to assess. The field mission experience suggests that PBI presence in some locations in the Western region would be unhelpful to HRDs, but it may be that in one of the main urban centres of the region – such as Kisumu – PBI presence could be beneficial. Work with HRDs based in the slums of Nairobi would again need to be explored in terms of what could be feasible – given the security risks – in the short term.

Short term work around the electoral period could provide the opportunity for further consideration of those factors which generate challenges for establishing PBI work in Kenya. These factors include the potency and pervasiveness of ethnicity as a political and social factor. Such factors would seemingly require a deeper reading before commitment to longer term work. If it turns out that PBI is unable to establish a pre-election presence of some kind in Kenya, this could still be part of an initial post-election pilot phase for a potentially longer term project.

b/ Possibility of establishing a longer term project in Kenya

The strategic choices of organisations and individuals to accompany would be important for maximising the effectiveness of PBI's work with each HRD, and collectively, in a longer term project. Establishing any project should have clear goals and scheduled processes of evaluation of the need for and effectiveness of PBI's ongoing presence. Such goals could be around the realisation of specific human rights objectives that the HRDs whom PBI would accompany define themselves.

It should be possible longer term to gain a better understanding of the needs of the HRDs facing higher risks for work on issues such as impunity and PEV, counter-terrorism, anti-corruption, sexual and reproductive rights, and land rights.

PBI could be of particular help in increasing the recognition of those HRDs working on other otherwise marginalised issues, such as LGBTI, women HRDs, minority rights organisations and grassroots community ESCR activists. PBI could help open advocacy space for such groups and foster greater networking with broader civil society.

LGBTI activists

PBI's work, which speaks to supporting the agency of local activists, is consonant with the thrust of much of LGBTI activism across the continent. Supporting local initiatives and working to incorporate LGBTI into broader HRD agendas are part of PBI's mission and experience. While many mainstream HRDs in Kenya consider LGBTI rights to be 'a hot potato, a no go zone' there are signs that the situation is changing. This change is attributed to the work of the LGBTI community itself with the help of public statements by key political figures, such as the Chief Justice, supporting rights associated with sexual orientation and gender identity. The Open Society Initiative for East Africa (OSIEA) noted the need for open national conversation in Kenya on these questions and felt that this was achievable within 3-5 years. PBI could contribute by facilitating connections between LGBTI HRDs and mainstream HRD groups, encouraging closer working relationships and action to increase protection for LGBTI HRDs.

The UK's recent initiatives indicating that aid would be conditional upon decriminalisation showed a lack of appreciation of local HRD strategies. PBI could facilitate contact between local HRDs and diplomats to sensitise the latter toward defining policies complementary to grassroots efforts and placing the protection of HRDs at the heart of their policies.

One LGBTI organisation felt it was clear that accompaniment by Westerners could feed into the perception of homosexuality as a Western import, and more thought would be needed on how to try to best neutralise this. The question of PBI supporting a cause that is commonly presented as a Western imposed concept could be counterweighed by PBI working with groups representing a range of HRDs and thematic concerns. It should be noted that church officials

that PBI may consider natural allies in other contexts would not be available as such with respect to LGBTI HRDs.

The responses of LGBTI organisations to the idea of physical accompaniment were varied. One organisation felt this would not be useful because of the visibility angle given the context in which they operate, while another organisation noted that accompaniment for them in Nairobi could be useful. Particular tactics would need to be explored further, with a focus potentially on advocacy work, and encouraging greater incorporation of LGBTI HRDs into broader HRD networks.

While LGBTI activism in neighbouring Uganda is under considerably more attack that would make it harder to establish effective PBI work there, the Kenyan context does appear to present real opportunities. Given the strong cross-regional LGBTI networks, PBI could foresee some degree of regional work¹⁸ with this group of HRDs over the longer term. This said, PBI would need to be cautious as to when and how it would start work with LGBTI groups, both for PBI in its mission to establish itself in the country and because the means of opening space for LGBTI groups depends in part on contributing to their involvement and recognition by other HRD groups.

Women HRDs

PBI's work with women HRDs (WHRDs) could significantly assist in boosting their recognition as women doing real human rights work, including amongst fellow HRDs. The combination of economic dependency and social mores increase WHRDs' vulnerability to threat and attack from both state and non-state actors. Given that WHRDs can frequently be targeted by community members, PBI would need to work carefully, especially in the slums, to maximise community support for PBI's work while assessing how to influence the behaviour of members of the community who threaten WHRDs.

Capacity-building measures from arranging safe houses, to office space, to donor applications would help otherwise isolated WHRDs to better establish themselves, particularly in the slums. Support for an organisation of WHRDs who are capacity builders themselves (advocacy trainers) could possibly have a multiplier effect.

I. CONCLUSION & RECOMMENDATION

Given the current complexities at this transformative time for Kenya, there are a number of options for establishing a PBI presence. All are highly dependent on particular contextual circumstances and on-going extensive analysis would be required. The best option would seem to be an initial presence and research in

¹⁸ For example, covering countries such as Uganda, Tanzania, Sudan, Somalia, Burundi, Rwanda.

the pre-election period, with the aim of providing support and protection to HRDs if possible during the election period. A short term election focused project could be the starting point for PBI involvement, which would possibly grow in scope and duration as PBI gains greater experience and credibility in the Kenyan context. With this in mind, the core recommendation for a possible PBI project in Kenya is the following:

The Kenya Project Exploratory Committee (KPEC) believes that PBI could *effectively* address some of the *key risks* and *protection needs* of Human Rights Defenders in Kenya. There are HRDs who would be suitable for *protective accompaniment* in appropriate circumstances. PBI would also seem well-placed to strengthen Kenyan civil society through *capacity-building* and other supports. There is a *spectrum* of potential involvement for PBI in Kenya from short term to longer term and from lesser to greater involvement with attendant challenges. KPEC would recommend a short term PBI presence of some kind during the coming *elections* which could lead towards the establishment of a longer term project in Kenya. Any effectiveness over the upcoming electoral period will depend a great deal on PBI's ability to lay the groundwork for such a project in the *short time* before the next elections. KPEC also recommends that, after the post-election period, the project field members evaluate their experience and further consider PBI's ability to navigate the considerable contextual challenges towards a *longer term* project along the lines suggested in this report.

ANNEXES

ANNEX I – Glossary of abbreviations

CIPEV - Commission of Inquiry into Post-Election Violence

COVAW - Coalition on Violence Against Women

CSO - Civil Society Organisations

EAP - Eminent African Personalities

HRDs - Human Rights Defenders

ICC - International Criminal Court

KNHRC - Kenya National Human Rights Commission

KPEC - Kenya Project Exploratory Committee

LGBTI - Lesbian, Gay, Bisexual, Transgender, and Intersex

NARC - National Rainbow Coalition

NGOs - Non-Governmental Organisations

ODM - Orange Democratic Movement

OHCHR - Office of the High Commissioner for Human Rights

OMCT - World Organisation Against Torture

OSIEA - Open Society Initiative for East Africa

PBI - Peace Brigades International

PEV - Post-Election Violence

PNU - Party of National Unity

RPP - Release Political Prisoners

SLDF - Saboot Land Defence Force

TJRC - Truth, Justice and Reconciliation Commission

UNDP - United Nations Development Programme

WHRDs - Women Human Rights Defenders

WPA - Witness Protection Agency

ANNEX 2 - Human rights organisations visited in Kenya

MOMBASA

Ilishe Trust

Ilishe Trust is a local legally registered community based organisation operating in the Coast Province of Kenya with its secretariat in Mombasa. Established in 1993 and then housed by Kituo cha Sheria, its aim was to raise consumer rights awareness amongst communities. Ilishe later became independent of Kituo cha Sheria, and exists to support long term grassroots action with clear emphasis on empowering the poor to develop effective strategies for combating poverty and ensuring social justice and equity for all. Its membership of over 180 community groups plan and run their activities with technical support from the secretariat. Ilishe activities include education and training projects and assisting residents in their struggles for land and proper shelter.

Muslims for Human Rights (MUHURI)

Founded in 1997 after the Likoni clashes, Muslims for Human Rights (MUHURI) is a Non-Governmental Organisation (NGO) based on the Coast of Kenya with the goal of realizing a Kenya where those in leadership are informed by democratic values and desire to see the people realize individual and societal development. It is not a Muslim organisation, despite the name. The idea behind the name was to mobilise the majority of the population (Muslims) to support and be part of the mainstream struggle for human rights realisation in the region. It seeks to promote adherence to human rights principles as the guiding values to all decisions made by citizens and their government.

Its mission is to bring about a new way of life where rule of law is the guiding norm and the rights of individuals and groups are enhanced and improved constantly.

National Coalition of Churches Kenya (NCKK) Coast

The National Council of Churches of Kenya is a family of Christian communions and organisations working across the country. The Council works for the holistic development of all persons as guided by her motto: "For Wananchi" (For Citizens). Its activities have focused on disseminating information on the ICC by translating an informative booklet in several languages, in order to demystify the International Criminal Court, diffuse tensions and promote coexistence during international justice investigations. It is also involved in capacity building of member organisations. The NCKK is also active in advocacy, especially at crucial political junctures, and reporting of violations

Persons Marginalized and Aggrieved (PEMA Kenya)

PEMA was created by a group of gay and bisexual men following the untimely death of a gay friend. It is a member of GALCK and it is the first community-based organisation in Mombasa that caters to Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) individuals. Over the years PEMA has grown to provide a number of diverse services: in addition to finding safe social spaces for MSM and peer meetings and support groups, PEMA also offers legal advice

and assistance to LGBT sex workers through an in-house lawyer who helps with their release when they are arrested. They provide health information and counseling to LGBT people in the region. PEMA also brings in Protection Desk Kenya to provide security training since LGBT often face violent discrimination, as well as additional support through a 24-hour member hotline.

NAIROBI

Akiba Uhaki

Akiba Uhaki, the Human Rights and Social Justice Fund, is an emerging grant-making organisation dedicated to supporting and accompanying Human Rights and Social Justice related organisations in East Africa. Akiba Uhaki was established in response to the need to fill the critical gap that existed within the sector with regard to developing capacity for sustainably addressing social injustice and Human Rights violations. The creation of Akiba Uhaki as a regional entity was inspired by key players in the human rights and social justice movement in East Africa with guidance and support from the Ford Foundation office for Eastern Africa. Its mission is to be a proactive and innovative grant-making institution working to promote and strengthen Human Rights inclusive of social justice.

Amnesty International Kenya

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries who campaign to end grave abuses of human rights. Its vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. It is independent of any government, political ideology, economic interest or religion and funded mainly by membership and public donations. Through its country offices it seeks to stop human rights abuses by mobilizing the public to put pressure on governments, armed political groups, companies and intergovernmental bodies through publications, lobbying, advocacy, public demonstrations, campaigns and education among other tools.

Bunge La Mwananchi – People's Parliament

Bunge la Mwananchi (Swahili for people's parliament) is both a concept and an organisation. As a concept it brings people together at grassroots level to discuss, make resolutions and implement them. As an organisation, its mission is to create community platforms that will help people at the grassroots level to understand how democracy works, the importance of active citizenship, and how to move from information to participation. It ultimately aims at enhancing people's power to decide on political, economic and social issues affecting them. It takes the form of a 'mega' parliament, made up of several community platforms that evolve organically across the country. It is modeled on a hybrid between the English parliamentary system and the traditional African community gatherings structured for community dialogue.

Bunge La Mwananchi – People's Parliament – Women's Chapter

Bunge Wamama is a women's social movement which aims to give a voice to women in Kenya who otherwise do not have a platform to express their views on issues such as constitutional review, good governance, public service delivery, corruption, human rights, development and freedom of information. The

movement formed after the PEV to maintain a focus upon women's role in conflict resolution and political participation. It is a grassroots organisation of caucuses and congresses. It signposts people to legal representation where needed and follows cases. In Nairobi it concentrates efforts in the slums of the city. Its campaign Waremba Ni Yes was originally established to mobilize young women in Kenya to support the proposed constitution and grew to include LGBTI.

Centre for Minority Rights & Development (CEMIRIDE)

CEMIRIDE is an advocacy organisation devoted to strengthening the capacities of minority and indigenous communities in Kenya and East Africa to secure the respect, promotion and protection of their rights. CEMIRIDE is a member of the General Assembly of ESCR-Net, contributing to setting the network's agenda and activities.

Coalition on Violence Against Women – Kenya (COVAW-K)

COVAW-K is a registered non-partisan and non-profit national women human rights NGO. COVAW-K works to promote and advance women's rights through working towards a society free from all forms of violence against women. It seeks to achieve this through advocacy, knowledge generation and dissemination. While in its previous stage the organisation focused on breaking the silence surrounding the issue of violence against women in the country, having realized that this objective had been achieved it now changed its strategy to that of seeking to uproot the causes of violence against women in the Kenyan society.

Federation of Women Lawyers (FIDA Kenya)

The Federation of Women Lawyers – Kenya (FIDA Kenya) was established in 1985 after the 3rd UN Conference on Women which was held in Nairobi. FIDA Kenya is a non-profit, non-partisan membership organisation committed to the creation of a society that is free from all forms of discrimination against women based on gender, sex, class, ethnic origin, physical disability and religious beliefs. This is done through the provision of legal aid to indigent women, engagement on legal, policy and legislative reform, treaty monitoring and research among other programmatic interventions.

Gay and Lesbian Coalition of Kenya (GALCK)

The Gay and Lesbian Coalition of Kenya is a registered trust (currently registered as the "Kenya Gay and Lesbian – KEGALE Trust"). GALCK acts as the national umbrella body of LGBTI organisations in Kenya working on various LGBTI rights, health and social welfare issues. GALCK works at the policy level and has been instrumental in the advocacy of human rights for sexual and gender minorities as well as in capacity-building LGBTI organisations. The coalition was established in May 2006 following the convening of regional LGBTI activists by Urgent Action Fund-Kenya (UAF-Kenya.). It pursues a 'gradualist strategy' which includes building links with a broader civil society constituency, and talking to religious leaders.

Independent Medico-Legal Unit (IMLU)

The Independent Medico-Legal Unit (IMLU) is a non-governmental organisation that seeks a torture free society by promoting the rights of torture victims and survivors. It seeks to protect all Kenyans from all forms of state perpetrated torture by advocating for policy reforms, monitoring government adherence to

human rights, rehabilitating victims of torture and capacity building of key stakeholders

IMLU has been documenting torture cases and using legal and advocacy means to seek justice for torture survivors since 1992. Over the years, IMLU has developed the capacity to rehabilitate torture victims through provision of medical and psychological treatment, facilitating legal interventions and documenting torture cases in Kenya. IMLU has also actively advocated against torture through the media and other outlets.

Kamkunji Paralegal Trust (KAPLET)

KAPLET is a community based membership paralegal service organisation that works throughout the Nairobi slums to build capacity via health promotion programs, human rights education and advocacy, civic education, mediation, networking, legal advice (paralegal representation and training), case documentation, thematic sports programs and referrals.

Katiba Institute

Katiba Institute (KI) was established to promote the understanding and implementation of Kenya's new Constitution. KI endeavours to enhance the implementation and the realization of the objects of the constitution through research, constitutional education, constitutional litigation and encouraging public participation.

Kenya Human Rights Commission (KHRC)

The Kenya Human Rights Commission (KHRC) is a national level NGO which since its creation in 1992 has been campaigning for the entrenchment of a human rights and democratic culture in Kenya through monitoring, documenting and publicising rights violations. It envisions a Kenya that respects, protects and promotes human rights and democratic values which it seeks to achieve more specifically by facilitating and supporting individuals, communities and groups to claim and defend their rights and holding state and non-state actors accountable for the protection and respect of all human rights for all Kenyans. The KHRC works at community level with 27 human rights networks (HURINETS) across Kenya.

Kenya National Coalition of Human Rights Defenders

The Kenya National Coalition of Human Rights Defenders was launched in 2007 by The East and Horn of Africa Human Rights Defenders Project and its partner Independent Medico-Legal Unit, with the aim of bringing together eight regional and special interest networks from across the country. The Coalition seeks to reinforce the potential of individual human rights defenders by providing support and protection in their often dangerous endeavours to protect the rights of others. The members of the Coalition pledges to stand in solidarity and demonstrate unflinching support for Human Rights Defenders, in particular those facing political and legal repression, and other forms of violations; support the regional and international special mechanisms for the protection of Human Rights Defenders; and disseminate the Nairobi Declaration and implement the Plan of Action of the Nairobi Declaration.

Kituo cha Sheria – The Centre for Legal Empowerment

KITUO was established by a group of lawyers as an NGO in 1973 to empower the poor and marginalized people to effectively access justice and realize their human and peoples' rights through advocacy, networking, lobbying, legal aid, legal education, representation and research. KITUO's programmes deal with issues of legal aid education, forced migration, advocacy, governance and community partnerships. In addition, KITUO will strengthen its work around research, communication and documentation and strategic leadership and governance. All the programmes aim at empowering poor and marginalised people to effectively access justice and enjoy human and people's rights.

Kutoka Network

The Kutoka Network is a voluntary gathering of Christian teams who minister to people living in the various informal settlements. The network aims to analyze the reality of the slums, to share experiences, to reflect together on the pastoral approach, to plan common initiative and actions, and to highlight positive aspects of the reality of the community living in the informal settlements.

Legal Resources Foundation

The Legal Resources Foundation envisions a society that respects and upholds human rights and ensures justice and equity for all, especially the poor, vulnerable and marginalized either as individuals or groups. Its mission is to be a resource for justice for the poor, marginalized and vulnerable through participatory Interventions and mutual partnerships.

Mathare Roots

Mathare Roots is a youth organisation working in Mathare slum to provide educational opportunities, raise HIV/AIDS awareness, and offer community programming alternatives (arts, sports, recreation, counselling) for youth to avoid a life of crime and violence.

Pamoja Trust

Pamoja Trust (PT) is a non-profit organisation that seeks to promote access to land, shelter and basic services for the urban poor. It owes its origins to the need for institutional support for the anti-evictions movement that arose and grew in Kenya in the late 1990s and early 2000s. PT's vision is an equitable and democratic society where urban citizens have adequate space. Its mission is to facilitate and advocate for processes and approaches aimed at strengthening people's organisation formations to ensure better livelihoods for the urban poor. The Trust collaborates closely with Muungano wa Wanavijiji, a federation of over 30,000 households living in 400 informal settlements across the country, helping to form daily saving groups through which poor communities can access crucial resources.

PeaceNet Kenya

PeaceNet Kenya works for a peaceful and stable society that upholds equity and development. Its mission is to facilitate, advocate and co-ordinate broad-based peace and development initiatives for the co-existence of Kenyan communities. PeaceNet-Kenya's main objective is to support and consolidate inclusive and integrated approaches that are rooted in mainstreaming popular participation of the ordinary people and which bring together both traditional and

modern structures in taking practical action to achieve lasting peace and security.

Protection Desk – Kenya

Protection International (PI) contributes to reinforcing the security and protection of HRDs by mobilising the national and international community and by providing the concerned parties and beneficiaries with the knowledge and necessary tools to integrate protection on the ground into work plans and programmes. This programme will also facilitate the exchange of experiences locally and foster best practices between HRDs. Through its Protection Desks (permanent technical desks on the ground), PI seeks to provide ongoing support to local human rights defenders in security and protection management in order that those defenders in turn can offer greater protection to the victims and witnesses they work with.

Release Political Prisoners Trust (RPP)

RPP started as a human rights, good governance and democracy organisation and has through the years built a strong reputation as an organisation committed to upholding and promoting human rights through lobbying, advocacy and networking activities at community, national and regional level.

It envisions a prosperous society founded on human dignity, equity, social justice and democratic ideals while its mission as a social movement is commitment to rights awareness, protection of prisoners' rights, the abolition of all forms of repression and persecution with special focus on political, economic and socio-cultural rights and the realization of social transformation through processes that empower citizens.

Transparency International (TI)

Transparency International is a global civil society organisation leading the fight against corruption. It brings people together in a powerful worldwide coalition to end the devastating impact of corruption on men, women and children around the world. TI's mission is to create change towards a world free of corruption. Transparency International challenges the inevitability of corruption, and offers hope to its victims. Since its founding, TI has played a lead role in improving the lives of millions around the world by building momentum for the anti-corruption movement. TI raises awareness and diminishes apathy and tolerance of corruption, and devises and implements practical actions to address it.

Usalama Reform Forum

The Usalama Reform Forum brings together local, national and international organisations working in the area of Security Sector Reform in Kenya. The organisation works towards a reform of the Kenyan Security institutions, to make them effective, accountable and sustainable, operating under a framework of democratic governance, respect for human rights and the rule of law. Usalama has a specific mandate to promote active citizen engagement with ongoing Security Sector Reforms in Kenya, specifically the reforms in both the Kenya Police and Administration Police Force. Usalama recognizes that police reforms will contribute to the rule of law, poverty reduction and sustainable development, good governance, respect of human rights, peace and stability.

NAKURU

Centre for Enhancing Democracy and Good Governance (CEDGG) (formerly known as ENDOROIS)

CEDGG is an organisation based in Nakuru, Rift Valley which focuses on governance and constitutionalism. Its programs aim to empower vulnerable people groups and ethnic communities on their governance and development rights through civic education and create awareness about human rights as a way to empower people, advocacy and capacity building. It has been involved in the process of providing information on post-electoral violence connected to international justice investigations (ICC).

Kenya Land Alliance

The Kenya Land Alliance (KLA) is a not-for-profit and non-partisan umbrella network of civil society organisations and individuals committed to effective advocacy for the reform of policies and laws governing land in Kenya. Its mission is to facilitate the activities of members and affiliates by gathering and disseminating information towards an all-embracing, participatory and comprehensive land policy and laws reforms. The KLA envisions a society in which all people are assured of sustainable livelihoods through secure and equitable access and utilization of land and natural resources.

Naivasha Human Rights Network

Naivasha Human Rights Network's mandate is to respond to the needs of the increasing number of street children moving to urban areas as a result of the displacement generated by the post-electoral violence. It is involved in advocacy at local and national level and it networks with other organisations

Nakuru Human Rights Network (NAKURINET)

The Kenya Human Rights Commission (KHRC) commenced its work in this region in 2004 by partnering with organisations leading community struggles including Internally Displaced Persons (IDPs) who were victims of past politically instigated violence. Whereas most of the work done by the Human Rights Networks (HURINETs) focuses on community specific struggles, the HURINETs also participate in national agenda concerns. The KHRC/HURINETs partnership is intended to enhance the capacity of communities to respond effectively to human rights issues and violations in their areas. The networks are involved in community mobilisation and organisation, lobbying and networking, advocacy, monitoring, documenting and reporting on human rights violation. In the mid-Rift, KHRC collaborates with Greater Nakuru Human Rights Network, which covers Nakuru Town, Molo, Kuresoi, Rongai, Naivasha and Subukia constituencies (focal point office in Nakuru). This is a nascent network, which is currently involved in monitoring of public funds, advancing the rights of Internally Displaced Persons as a result of post-election violence and is instrumental in lobbying for the rights of the sexual minorities (LGBTI).

Nakuru Women Human Rights Centre (Hurricane)

Based in Nakuru, Hurricane is part of the Rift Valley Human Rights Network and has a focus on sexual and reproductive rights. In particular, they challenge gender based violence, working within the framework of the new Sexual Offences Act. More specifically, the Centre has collaborated with the local hospital to

provide a free post-rape unit, representation of victims before police officials, and other forms of support to victims, as well as trainings and campaigning. In addition to that, Hurricane is an outspoken critic of impunity related to the PEV and it advocates in favour of the ICC hearings.

WEST KENYA

BUNGOMA, Western Province

Mt. Elgon Residents Association (MERA)

MERA is a local organisation in Western province working on intra- and inter-ethnic conflicts through mediation and peace building as well as support to humanitarian assistance. MERA is situated in Mount Elgon.

Mwatikho Torture Survivors Organisation (MATESO)

MATESO is a community based organisation formed by victims of torture and their families whose aim is to fight against torture. It does so through medical treatment and psychosocial support to victims, information and advocacy, networking and liaising with relevant institutions, training and education, referral and documentation.

Partnership for Peace (+ Mt. Elgon Residents Association (MERA)), Cheptais, Mt. Elgon

The Partnership for Peace is an EU project being implemented in Nyanza, Rift Valley and Western Provinces in Kenya. The project seeks to build a lasting peace in the three regions and is further aimed at strengthening the capacities of non-state actors in the 3 provinces as a means of mitigating community conflicts by improving their knowledge base and know how in early warning mechanisms, informal mediation, field based political analysis, policy oriented conflict research and policy dialogue.

West Kenya Legal Aid Centre

WKLA carries out human rights monitoring and advocacy particularly on women's and children's rights, and the rights of prisoners and detainees.

Western Kenya Human Rights Watch

Western Kenya Human Rights Watch (WKHRW) is a small rural based organisation whose work includes denouncing abuses in the region, including work with the UN and Human Rights Watch on Mt. Elgon atrocities.

ELDORET, Rift Valley Province

Centre for Human Rights and Democracy (+ Chair, National Council of NGOs)

The Centre for Human Rights and Democracy (CHRD) is a Kenyan civil society organisation. It is located in the Rift Valley, a politically volatile region. Its mission includes the promotion, protection, and advancement of human rights of the people of the Eastern and Central Africa. CHRD also has programs of peace and conflict resolution. CHRD implements its programs through advocacy,

monitoring research, trainings of activists, lawyers and media workers, publications education and public awareness campaigns.

Eldoret Initiative on Conflict Resolution (ELDICORE)

ELDICORE is an NGO registered in 2009 that uses a community participatory approach in conflict resolution and peacebuilding in the North Rift region of Kenya.

National Council of Churches Kenya (NCCK)

The National Council of Churches of Kenya is a family of Christian communions and organisations working across the country. The Council works for the holistic development of all persons as guided by her motto: "For Wananchi" (For Citizens). Its activities have focused on disseminating information on the ICC by translating an informative booklet in several languages, in order to demystify the International Criminal Court, diffuse tensions and promote coexistence during international justice investigations. It is also involved in capacity building of member organisations. The NCCK is also active in advocacy, especially at crucial political junctures, and reporting of violations.

KISUMU, Nyanza Province

Friends of Yala Swamp (FOYS), Siaya

The Friends of Yala Swamp (FOYS) is a network that was formed by civil society organisations with the goal of building an effective coalition and alliance of citizens and civil society organisations to secure Yala Swamp and other natural resource based assets from non-sustainable commercial exploitation by both the locals and international investors. It brings together twelve organisations that have diverse civic mandates, ranging from environmental governance, human rights, community mobilization and capacity building, advocacy and lobbying. The FOYS currently covers the three districts straddled by the swamp: Siaya, Bondo and Busia. It works together with relevant government departments and community members.

Kisumu Peace Tent

The peace tents are an initiative launched in to 2009 by PeaceNet with financial support of USAID aimed at encouraging peace mediation processes at PEV hot spot locations in parts of Rift Valley, Nyanza and Nairobi Provinces. The tents are manned by peace mediators and other local peace building organisations. The peace tents are meant to provide a simple structure placed in a neutral location where peace mediation process can be undertaken with all parties in conflict without any feelings of threat. The peace tents also serve as resource centres, where conflict related information can be obtained by government agencies, local communities and civil society organisations.

Peace & Community Development (Kakamega)

Peace and Community Development is a Quaker organisation based in Kakamega. It has been involved in organizing public demonstrations in favour of better public accountability. It has a network of volunteers working in the Mt. Elgon, Kakamega region. The organisation's motto of 'Healing and Rebuilding our Community' points to their work both with victims and perpetrators, particularly following the PEV.

Social NEEDS Network

The Social Needs Network (SNN) is an environmental and socio-economic development non-governmental organisation in Kenya. The organisation monitors environmental degradation, and aims to enhance social integration and stimulate economic growth. SNN works collaboratively with partners on programmes in four areas: research, training, consultancy and networking. During the post-election crisis, SNN played a key role in organising for reconciliation and rehabilitation of displaced persons and helped to organise medical camps.

Women Working with Women – 3W

3W is an LGBTI organisation that falls under the umbrella of the Western and Nyanza Coalition NYAWEK (a regional coalition of groups dealing with sexual minority causes). It aims to respond to the challenges faced by LGBTI people in being 'hidden' in Kenyan society, and to reach out to LGBTI people in the interior of the country. Its activities focus on challenging discrimination that LGBTI people are facing in their daily lives. They include training to healthcare providers, outreach and youth programs.

ANNEX 3 – Governmental and international contacts visited in Kenya

KENYAN GOVERNMENT

Hon. Mutula Kilonzo
Minister for Justice, National Cohesion & Constitutional Affairs

Hon. Dr. W. Mutunga, SC
Chief Justice/President, Supreme Court of Kenya

Shadrack M. Mwadime
Senior Deputy Secretary, Ministry of State for Provincial Administration and Internal Security

Kenya National Commission on Human Rights (KNCHR)

The Kenya National Commission on Human Rights (KNCHR) is an independent national human rights institution established by Act of Parliament. It envisions a nationally and globally respected public institution providing leadership in Human Rights. Its mission is to enhance the protection and promotion of human rights in Kenya through strategic programming and partnerships. In particular, key programme areas are Complaints and Investigation; providing Redress; Reforms and Accountability; Economic, Social and Cultural Rights(ECOSOC), Public education and Training; Regional Outreach and Partnership Building.

INTERNATIONAL COMMUNITY

Deputy Head of Mission, Spanish Embassy

Deputy Head, German Embassy

Deputy Head, Swiss Embassy

First Secretary for Political Affairs, Norwegian Embassy

Officer, UK Foreign and Commonwealth Office

Political Officer, US Embassy

Political and Economics Officer, Swedish Embassy

DONOR AGENCIES

Civil Peace Service

The aim of the Civil Peace Service (CPS) is to contain the outbreak of violence without resorting to arms, in doing so reinforcing civil structures for peaceful conflict resolution.

The programme started in 1999. Since then, specially-prepared experts have been sent to crisis areas, supporting local partner organisations in:

- preventing violent conflicts from erupting,
- resolving conflicts peacefully,
- building structures following conflicts which help to secure peace in the long-term.

The CPS is funded by the German Federal Ministry for Economic Cooperation and Development (BMZ), and its work is carried out by 8 German peace and development organisations, of which only one is a government agency. In Kenya, CPS projects are currently carried out through both the GIZ and the Association for Development Cooperation (AGEH).

German Agency for International Cooperation (GIZ)

The services delivered by the Deutsche Gesellschaft für Internationale Zusammenarbeit (German Agency for International Cooperation – GIZ) draw on a wealth of regional and technical expertise and tried and tested management know-how. As a federal enterprise, they support the German Government in achieving its objectives in the field of international cooperation for sustainable development. They are also engaged in international education work around the globe.

Open Society Initiative for Eastern Africa (OSIEA)

The Open Society Foundations work to build vibrant and tolerant democracies whose governments are accountable to their citizens. In Eastern Africa, the Open Society Initiative's key goal is to amplify the voices of Eastern Africans to call for accountability from their governments. The initiative supports local and regional groups working to advance democratic governance and public accountability, challenge corruption, strengthen free media, and end stigma and abuse directed at marginalized groups. In addition to working with a wide variety of national civil society groups, the initiative pursues projects to promote greater civil society interaction with African Union programs. To support ongoing international justice investigations in Kenya, Rwanda, Sudan, and Uganda, the initiative works to increase awareness and information about international criminal justice in east Africa.