Network of African National Human Rights Institutions

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Réseau des Institutions
Nationales Africaines
des Droits de l'Homme

NETWORK OF AFRICAN NATIONAL HUMAN RIGHTS INSTITUTIONS



The Role of National Human Rights Institutions in Conflict Management, Resolution and Peace Building

A Baseline Survey of the East African Situation

The Network of African National Human Rights Institutions (NANHRI)

The Network of African National Human Rights Institutions (NANHRI) is an independent not-for-profit organization established under Kenyan Law since 2007. Its Secretariat is based in Nairobi, Kenya.

NANHRI is a membership organization that brings together all National Human Rights Institutions (NHRIs) across Africa and provides them with practical support in strengthening their mandate of promoting and protecting human rights. NANHRI provides this support through the following ways as set out in its Constitution:

i. Encouraging the establishment of NHRIs in conformity with the United Nations' Paris Principles
ii. Facilitating the coordination, strengthening and effectiveness of NHRIs in Africa
iii. Encouraging cooperation with other NHRIs, and with regional and international human rights mechanisms.

Vision

An Africa where every country has a well functioning NHRI established in accordance with the Paris Principles and contributing meaningfully to a continent characterized by human rights culture and justice for all.

Mission

To support, through national, sub-regional, regional and international cooperation, the establishment, strengthening, and development of national human rights institutions, in order to enable them to more effectively undertake their mandate of human rights monitoring, promotion, protection and advocacy.

* * *

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The Role of National Human Rights Institutions in Conflict Management, Resolution and Peace Building

A Baseline Survey of the East African Situation



RAOUL WALLENBERG INSTITUTE
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Many people whom we cannot thank individually as we would wish to have as well contributed their efforts towards the survey and the current publication. Our obligation to them is very great.

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The NANHRI also sincerely appreciates the work of Mr. Joel Aliro Omara for undertaking the survey and compiling the report.

FOREWORD

Conflict is a state of discord or disharmony when the beliefs or actions of one side are considered unacceptable by another side. When conflict evolves into violence it poses the greatest threat to the realization of the enjoyment of human rights. It then constitutes a brutal attack on human dignity and presents an opportunity for execution of grave humiliation and degradation of human beings. It could culminate in crimes against humanity that litters the historical landscape of the world resulting in severe humanitarian crises. Whether perpetrated by a government or other group in a systematic mode against helpless civilians, the result is often a massive scale of vicious destruction of lives and societies. Conflicts within the EAC have their basis essentially in human rights violations. These range from dearth of respect for the rule of law, electoral malpractices, and discrimination such as exclusion of whole communities from mainstream development agenda.

This study was commissioned by the Network of African National Human Rights Institutions (NANHRI) and Raoul Wallenberg Institute (RWI) to interrogate East African NHRIs' competence in conflict management and peace-building. The findings reveal institutions that face challenges they need to overcome to become effective in promoting peace. This is due to the high number of conflicts in the East African region that necessitate their engagement. The most memorable—the 1994 genocide that devastated Rwanda—left, in only three months, almost a million people dead and many others emotionally and physically traumatized. In Kenya, the deadly 2007 post-election violence was the climax of previous seasonal spates of ethnic violence that occurred every election cycle. Northern Uganda on its part has witnessed one of Africa's longest-running conflicts pitting the Ugandan government against the Lord's Resistance Army. Tanzania has not been spared either, with disputes related to resources threatening the peace.

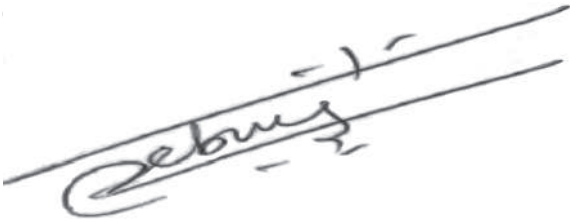
Further, the conflicts in the Great Lakes Region have frequently escalated beyond national borders and taken on more intractable cross-border proportions. There have also been effects in the way of refugees fleeing hostilities. In the majority of these countries grievances triggered by developments in the oil and gas sectors continue to escalate thus serving as early signs of serious threat to peace. NHRIs, being the central national mechanism for the protection and promotion of human rights with formal links to international mechanisms, can play a critical role in preventing conflicts and mitigating its effects. They are suited for this role since in the majority of instances they are viewed as neutral by conflicting sides. Indeed, the Paris Principles which guides their functions contemplates their independence from undue manipulation by vested interests.

They can thus play this peace-building role effectively by championing for ratification of international instruments and other legislations and policies that address social and economic inequalities; monitoring implementation of preventive policies; advocating for redress for victims; conducting civic education; and setting up viable complaints handling and investigations mechanisms.

They can also engage in promoting transitional justice and national integration; early warning mechanisms; and facilitating mediation between hostile sides.

However, this can only be realized if the challenges faced by East African NHRIs as unearthed by this study are sufficiently addressed through implementation of a high impact programme for enhancing their capacity. We thus seek to respond by answering to the needs of these NHRIs by boosting their technical capacity and relevant skills with the view of reducing incidences of conflict in the region.

We therefore wish to express our sincere appreciation to those of our partners from whom this study has benefitted, more specifically, these are the RWI and the East African NHRIs. The result is expected to be East African NHRIs that are effectively responsive to the challenge of conflict.



Executive Director,
The Network of African National Human Rights Institutions (NANHRI)

LIST OF ACRONYMS

ACHPR	African Commission on Human and Peoples Rights
ADF	Allied Defense Forces
ACTV	African Centre for the Treatment and Rehabilitation of Torture Victims
ADR	Alternative Dispute Resolution
BNUB	*Bureau des Nations Unies au Burundi* (UN Office in Burundi)
CCR	Center for Conflict Resolution
CENAP	*Centre Nationale d'Alert et de Prevention des Conflits* (Conflict Alert and Prevention Centre)
CENI	Commission Electorale Nationale Indépendante
CERFOPAX	*Centre de Recherche et de Formation pour la Paix*
CEWARN	Conflict Early Warning and Response Mechanism
CHRAGG	Commission for Human Rights and Good Governance
CMCCs	Civil Military Cooperation Centres
CNDP	*Commission Nationale des Droits de la personne*
CNIDH	*Commission Nationale Indépendante des Droit de L'Homme*
CNLG	*Commission Nationale de Lutte Contre le Genocide*
CNTB	*Commission Nationale Terre et Autres Biens*
CSOs	Civil Society Organizations
DPCs	District Peace Committees
EAC	East African Community
EACJ	East African Court of Justice
EALA	East African Legislative Assembly
EALS	East African Law Society
FBOs	Faith Based Organisations
FHRI	Foundation for Human Rights Initiative
FNL	*Forces Nationales de Libération*
FORSC	*Forum Pour le Renforcement de la Société Civile*
HURINET	Human Rights Network
ICC	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
ICGLR	International Conference on the Great Lakes Region
IDPs	Internally Displaced Persons
IEBC	Independent Electoral and Boundaries Commission
IEC	Information, Education and Communication
IGAD	Intergovernmental Authority on Development
IRDP	Institute for Research and Dialogue for Peace
JLOS	Justice, Law and Order Sector
KHRC	Kenya Human Rights Commission
KNCHR	Kenya National Commission on Human Rights
KPTJ	Kenyans for Peace with Truth and Justice
LRA	Lord's Resistance Army

MRC	Mombasa Republican Council
NANHRI	Network of African National Human Rights Institutions
NCIC	National Cohesion and Integration Commission
NHRIs	National Human Rights Institutions
NURC	National Unity and Reconciliation Commission
OHCHR	Office of the United Nations High Commission for Human Rights
PEV	Post Election Violence
PWGID	Protection Working Group on Internal Displacement
RDRC	Rwanda Demobilization and Reintegration Commission
RGB	Rwanda Governance Board
RWI	Raoul Wallenberg Institute for Human Rights
SLDF	Sabot Land Defence Force
TJRC	Truth, Justice and Reconciliation Commission
TRC	Truth and Reconciliation Commission
UHRC	Uganda Human Rights Commission
UN	United Nations
UNDP	United Nations Development Programme
UPDF	Uganda Peoples Defence Forces
UPF	Uganda Police Forces
UPR	Universal Periodic Review

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CHAPTER 1

1.1 INTRODUCTION

Conflicts are unavoidable part of society, but which if not properly managed have the potential of transforming into harmful products such as violence and human rights violations. It is thus important for any society to attempt to deal with the causes and manage conflict situations. Beyond conflict prevention is the necessity for conflict resolution and peace building where conflict has become violent. Within the East African Community (EAC), all the partner states have historically experienced violent conflict and continue to experience its consequences, and the potential for new violent conflicts.

The role of National Human Rights Institutions (NHRIs) in conflict prevention, resolution, management and peace building has become increasingly recognisable, especially with the emerging discourse linking the effectiveness of promotion and protection of human rights with effective prevention, resolution and management of conflict. This study was therefore conducted on the basis that NHRIs have an important role in conflict prevention, resolution, management and peace building. They are well placed as government yet independent institutions, usually trusted by society and acting as a bridge between governments and non-state actors including civil society. NHRIs also have the broad mandate of human rights protection and promotion which gives them the prerogative of intervening in such conflict and peace building situations.

The document covers the definition of NHRIs in accordance with the Paris principles, key theoretical definitions, a contextual analysis of on-going and potential areas of conflict in the EAC region, the role NHRIs in the EAC sub-region have played in managing such conflicts, including prevention, resolution, management and peace building, identifying best practices and lessons, strengths and weaknesses and capacity gaps. A three year action plan has been recommended for building their capacity and that of their collaborative partners, and helping them in implementing strategies for sustainable systems in conflict prevention, management and peace building.

1.2 OBJECTIVES

The objective of the study is to assist Raoul Wallenberg Institute (RWI) and Network of African National Human Rights Institutions (NANHRI) Secretariat, develop an action plan for systemic interventions to build the capacity of NHRIs in EAC in the field of conflict prevention, resolution and peace building. The Terms of Reference therefore required doing the following:

a) Carrying out a baseline study of current involvement and capacity of NHRIs in EAC in the field of conflict prevention, resolution and peace building and identifying best practice.
b) Identifying gaps in the current

capacity of EAC NHRIs in the field of conflict prevention, resolution and peace building.

c) Proposing recommendations for possible strategic interventions and outline for an action plan to be implemented over a three year period.

1.3 METHODOLOGY AND LIMITATIONS

This study involved secondary and primary research in the EAC countries. This covered a review of literature on NHRIs and their role in conflict management and peace building, and of policy documents and action plans. Interviews were also conducted with officials of the NHRIs in the five countries of the EAC, relevant national institutions, civil society organizations (CSOs) engaged in human rights work and in conflict and peace building , some academicians and lawyers in the region and the East African Law Society (EALS). Some former and/or current officials of the EAC and East African Legislative Assembly (EALA) as well as some East Africans were also interviewed.

There were limitations to the study. For one, given the limited time and the extremely busy schedules of the EAC officials it was not possible to meet with some key officials who would have given the EAC regional perspective. This shortcoming was however addressed by reviewing secondary literature on the EAC. And because of time and resources, the personnel of the NHRIs working in regional offices outside the Capitals could not be interviewed.

CHAPTER 2

2.1 NATIONAL HUMAN RIGHTS INSTITUTIONS

NHRIs are bodies with a constitutional and/or legislative mandate to promote and protect human rights. The Principles relating to the Status of National Human Rights institutions (the Paris Principles) provide the basic standards expected of a competent NHRI. They must be established by law, be independent and autonomous, have pluralistic membership composed through a fair and transparent appointment procedures. The ideal is to have a NHRI that is compliant with the Paris Principles. Thus institutions which are subject to the control of a government department are not recognized as compliant with the Paris Principles.[1]

NHRIs can be human rights commissions, ombudsmen, or other human rights institutions specifically focusing on vulnerable groups like women, children, persons with disabilities etc. Some of these institutions may also have a combined mandate, for instance the Commission for Human Rights and Good Governance (CHRAGG) of Tanzania with a human rights and ombudsman mandate. Others like the Uganda Human Rights Commission (UHRC) have a quasi-judicial mandate with jurisdiction to adjudicate human rights matters. In accordance with the Paris Principles, the mandate of NHRIs usually involve complaints handling and investigation, monitoring of human rights, civic education, writing reports and advising government on human rights issues, monitoring government compliance with national and international human rights standards, quasi-judicial role etc.

The Paris Principles do not expressly mention conflict management as part of the mandate of NHRIs. However, by the nature of their work, NHRIs engage in conflict prevention, resolution and peace building; receiving and handling cases, investigating human rights violations in areas affected by conflict etc. A link exists between human rights violations and conflict in which case one may foster or lead to the other. Where there is conflict, there is great likelihood of human rights violations such as loss of lives, abuse and torture, displacement and destruction of property. On the other hand, the very fact of human rights violation can in turn generate or fuel violent conflict. Logically, NHRIs while implementing their mandate to protect and promote human rights cannot avoid working towards conflict prevention resolution and peace building.

NHRIs have come to accept that they have a role to play in conflict management and peace building. In 2004, at the Kampala Conference of African National Human Rights Institutions, NHRIs from Africa committed themselves to work on and in issues related

[1] UNDP-OHCR Toolkit for collaboration with NHRIs

to peace building and conflict resolution. At the 7th International Conference for NHRIs held in Seoul 2004, NHRIs also recognized the link between the work of NHRIs and conflict resolution and prevention, and identified areas of engagement such as early warning and mediation to prevent conflict; monitoring and reporting on the situation of human rights during conflict to ensure accountability; monitoring respect for peace agreements etc.

NHRIs have through some of their functions engaged in conflict management and peace building. They investigate and handle complaints that involve disputes and conflicts over rights; and make recommendations on how governments and institutions can address issues that structurally can be potential causes of conflict. For example, they deal with issues of good governance, discrimination, and inequalities and injustice in society, all of which if not addressed can lead to conflict. NHRIs also conduct human rights education - discussing issues fundamental for the existence of sustainable peace and harmony in society - ; they monitor the government's compliance with international human rights to create the necessary environment in which the dignity and integrity of people are respected; competitions are constructive; the state is responsive, accountable and does not abuse power but respects rights of people. Such an environment would prevent violent conflict and instead promote peace. NHRIs advocate for equalisation of opportunities, respect for the rights of the disadvantaged and marginalised groups.

2.2 THE THEORY OF CONFLICT AND PEACE BUILDING

2.2.1 Understanding Conflict

Conflict is an inherent and legitimate consequence of social and political life. It is reflective of the divergent interests of persons or groups. In its positive aspect conflict is seen as a way of settling disagreements and problems that arise due to opposing interests. But conflicts that are not properly managed can erupt into violence, result in human rights violations such as loss of life, destruction of property etc. According to Galtung, conflict "involves three key elements: contradiction (the actual or perceived incompatible goals between the parties), attitude (parties' perceptions and misperceptions of themselves and of others), and behaviour (how parties treat and interact with each other) (1969; 1996:72)"[2]

2.2.2 Conflict Management

Conflict management is the deliberate institution of programmatic measures to limit the negative aspects of conflict. It involves designing effective strategies to minimise the dysfunctions of conflict and enhancing the constructive functions of conflict.

[2] National Human Rights Institutions, Conflict Management and Peace building in Africa. TECHNICAL SEMINAR REPORT

2.2.3 Conflict Analysis[3]

Conflict analysis requires assessing key conflict factors, identifying the sources of conflict, the actors involved and the dynamics, such as conflict triggers, capacities for conflict management etc. The main purpose of conducting conflict analysis is to inform effective conflict prevention, conflict management and peace-building.

2.2.4 Peace Building

To get to the process of peace building one must understand the concept of peace, and the distinction between negative and positive peace, both of which have been well defined in the literature of peace and peace building. Negative peace means the absence of violence; the absence of manifest human rights violations such as loss of life, destruction to property, displacement of persons, rape etc. Positive peace relates to the presence of equality and social justice including harmonious relationships within society conducive to mutual development, growth and attainment of goods. "Positive peace seeks to constructively address 'structural violence', a term introduced by Galtung to refer to situations where injustice, repression, and exploitation exist within the fundamental structures in society, and where individuals and groups are severely marginalised due to differential access to social and political resources (1969:168–70)"4

The contextualization of peace building within the realm of post-conflict discourse became increasingly popular in 1992 following a speech of then UN Secretary General Boutros-Ghali in his "Agenda for Peace and the Role of the United Nations in Situations of Violent Conflict." He defined peace building as an 'action to identify and support structures which will tend to strengthen and solidify peace in order to prevent a relapse into conflict.[5] From that backdrop, peace building is now defined to involve interventions that aim at ensuring that violent conflicts do not break out, continue or relapse, and in so doing rehabilitating and solidifying peace. It involves undertaking programmes designed to deal with structural causes of conflict and past grievances, and building sustainable relationships in order to promote long-term stability and justice.[6] These strategic interventions may include legislative and institutional building, economic and political reform, human rights and civic education, rehabilitation and reconstruction. Part of peace building also includes developing a human rights culture and ensuring human rights promotion and protection.[7]

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3 For detailed discussion see the GDSDRC Applied Services website at http://www.gsdrc.org/index.cfm?objectid=3133E975-14C2-620A-277DFFB9CA069184

4 Ibid.

5 Ibid.

6 Miall, Hugh, Ramsbotham, Oliver, and Woodhouse, 1999, "Contemporary Conflict Resolution", Cambridge: Polity. Quoted in National Human Rights Institutions, Conflict Management and Peace-building in Africa. Op.cit.

7 National Human Rights Institutions, Conflict Management and Peace-building in Africa. Op.cit

CHAPTER 3

3. CONTEXTUALIZING HUMAN RIGHTS AND CONFLICT IN THE EAC

3.1 THE EAST AFRICAN COMMUNITY

The EAC was revived on 7th, July, 2000 following the collapse of the first EAC in 1977. The Community is made up of five partner states: Burundi, Rwanda, Kenya, Tanzania and Uganda. Its population stood at 133.1 million as of 2011[8] and a land area of 1.85 million square kilometres. The EAC Treaty upholds the principles of the respect for human rights in accordance with the African Charter on Human and Peoples' Rights. Formed with the objective of creating an integrated society based on the fundamental principles of democracy, rule of law, accountability, social justice, equal opportunities, gender equality and the respect for human rights,[9] the EAC faces the big task of promoting and protecting human rights, and ensuring the promotion of peace, security and stability in the region. Presently, its legislative arm, the EALA has passed an EAC Human Rights Act which is awaiting assent by the EAC Summit. The EAC Treaty also makes provision for the extension of the jurisdiction of the East African Court of Justice (EACJ) to include matters of a human rights nature. There is however, currently a strong debate amongst some partner states, whether human rights jurisdiction should remain that of national courts and should not be conferred on the EACJ until the formation of an East African Political Federation.

The EAC has made some bold efforts towards conflict management in the region and has developed some common standards to that effect. The EAC Treaty obliges partner states to cooperate to ensure peace and security in the region. The EAC Regional Strategy on Peace and Security 2006 identifies key strategies for ensuring peace and security. A Conflict Prevention, Management and Resolution Framework exists which includes initiatives for managing conflicts and early warning mechanisms. A Peace and Security Unit was established in 2008 under the Department of Political Affairs of the EAC. Its focus is around challenges posed by transnational organised crimes, human and drug trafficking, money-laundering, environmental crimes including maritime security, disaster management and crisis response, proliferation of small arms, terrorism and combating cattle rustling. The Unit emulates the African Peace and Security Architecture. It will also establish a Panel of Eminent Persons who will serve as mediators and peace emissaries. Its programmes include conflict prevention, management and resolution and early warning mechanisms. The Unit is currently

[8] EAC facts - see website at www.eac.int
[9] Article 6(d) & 7(2) EAC Treaty

working on setting up an EAC Early Warning Centre that will be linked to the Early Warning Centres expected to be formed in all the member states. These programmes are tagged under the EAC Peace and Security Protocol which is waiting formal assent by the Summit. The EAC has also set up thematic institutions such as the Nyerere Centre for Peace, an institution with the objective of building capacity within the region for peace and conflict management.

Human rights as an issue of focus is also fairly well established in the EAC legal framework, underscored in Article 6 of the EAC Treaty. NHRIs in the EAC as a group have also been playing a role in the EAC. As early as 2004 the EAC NHRIs met in Arusha with the following objectives: forming a forum for dialogue and exchange of experiences; identifying common mechanisms and standards for achieving human rights in the region; and discussing possible common roles that they can play in the EAC. Since that first meeting the NHRIs have formed a formal association of NHRIs in EAC. One of its important successes so far was the NHRIs' active and joint participation in the discussion and drafting of a draft Bill of Rights for the EAC. The EAC has also since 2004 engaged with NHRIs, and in 2008 in an EAC convened meeting, the institutions identified key strategic intervention areas and activities that informed a plan of action for promoting human rights within the EAC. The EAC also involved the NHRIs in developing the Police Standing Operating Procedures in the EAC.

The EALA is the legislative organ of the Community,[10] and is mandated to exercise oversight function on all matters within the purview of the EAC. One of its committees, the Committee on Regional Affairs and Conflict Resolution, has broad functions which include investigation and review of implementation of Treaty provisions in these areas. It has conducted investigations and written reports on the progress of the harmonization of disaster management policies in the region, and natural resources based conflicts in East Africa. It held a conference on the Causes of Conflict in Bujumbura, in October 2008 and wrote a comprehensive report on its Goodwill Mission to Kenya following violence in the aftermath of the Kenya general elections of December 2007. The Assembly also participates in election monitoring in the EAC countries with a view to ensuring democracy and good governance. The Assembly has passed the EAC Elections Bill (awaiting Summit assent) which seeks to ensure free, fair and credible elections and processes in the region.

3.2. CONFLICT SITUATION IN EAC REGION

The causes of conflict within the EAC have been complex and diverse. Potential issues of conflict that resonate in most of the countries include inappropriate governance structures, power sharing concerns, mismanagement of elections, conflict over resources (e.g. water, land, minerals, forests, borders, pastures etc.), ethnic tensions and generally human rights violations. The conflicts in the region have not only been at national levels but have also had regional dimensions. There are for instance cross-border conflicts over pastoral lands and other natural resources, and the spillover effects of national conflicts in the form of refugees, internal displacements, disputes over border demarcations etc.

Within the region, Uganda has experienced a series of conflicts including armed conflicts

[10] Ibid, Article 49 (1)

spanning from the 1970s. The Lord's Resistance Army (LRA) rebellion, one of the most devastating and long drawn out conflict in the region lasted over two decades resulting in gross human rights violations. At the root of these conflicts have been ethnic and regional tensions, disputes over election results, bad governance and conflict over natural resources particularly over land, water and pastoral lands by pastoral communities. With the finding of oil there are already discernible signs of conflict over the sharing of its benefits and compensation of people displaced by the exploration and future extraction of the oil.

In Kenya, politically related violence in the aftermath of its elections is quite well known. Following its multiparty elections in 1992 and 1997, ethnic related violence over land with sharp political undertones broke out in several parts of the Rift Valley and Coastal areas. Most recently the 2007/2008 post election violence across the country caused massive property destruction, an estimated 1,000 people were killed and another 350,000 displaced.[11] As the elections of March 2013 approached, there were genuine fears of potential eruption of violence. Unrests in Mombasa was another phenomenon that was closely watched. The Mombasa Republican Council (MRC) is a formation by a section of coastal people demanding secession and independence of the Coast of Kenya to form an independent republic. In the run-up to the 2013 elections the group declared that the Kenyan elections would not be held in their region. Riots erupted on several occasions, people were killed, properties destroyed and police and other security forces were attacked.[12] Fortunately, the 2013 elections, held under the dark shadow of the 2007 elections were concluded peacefully. Disputes over the election results were, as it should be, peacefully resolved through the courts

Despite Kenya averting violence during and after the 2013 elections, many of the causes and consequences of the 2007 post-election violence like ethnic tensions, socio-economic iniquities and land disputes are yet to be completely addressed. The problem of internal displacements remained unresolved. Although some internally displaced persons (IDPs) have been resettled, many have yet to be compensated. Internal displacements and related conflict situations in northern Kenya are also possible time bombs which need to be addressed.

Uganda is facing a similar problem over land related issues between host communities and IDP returnees.

Burundi has emerged from conflict but remains a fragile state. It conducted its first post conflict elections in 2005 which were also marred by grenade attacks, political dissent and poor voter turn-out. A Human Rights Watch report documented political killings said to have peaked in mid-2011, stemming from the 2011 elections.[13] At the time of the survey, political tensions existed in Burundi following a boycott by opposition parties of the 2011 elections. Until recently, the two sides remained unwilling to have any political dialogue. Bureau des Nations Unies au Burundi (BNUB) had begun facilitating dialogue between the two sides. An initial meeting was held in March 2013 and a second meeting was scheduled for May 2013. For some, there is a lack of confidence

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11 Ted Dagne (2011), Kenya: Current Conditions and the Challenges Ahead; CRS Report for Congress

12 Mwongera, G. L, "Making Sense of Political-Related Violence in Kenya" September 11, 2011.

13 "You Will Not Have Peace While You Are Living" The Escalation of Political Violence in Burundi. Human Rights Watch, May 2012.

in the electoral commission - Commission Electorale Nationale Independante (CENI). On its part CENI asserts it has worked to ensure free and fair elections. CENI identifies the problem within the population as the limited understanding of the workings and dynamics of democracy and governance issues. Ethnic tensions were not considered a major problem in Burundi at the time. Yet there were concerns that if the process of setting up the Truth and Reconciliation Commission was not properly handled this could rekindle old memories and trigger ethnic related sentiments. But some non-state stakeholders assert that ethnic rivalry still exists, including subtle forms of unhealthy competition for power. Other potential conflict drivers were identified as follows: arbitrary arrests and detentions due to political tensions between the government and the opposition, lack of trust by the opposition in the electoral process, and limited political space for the opposition. Land conflicts in the country was described as "a boiling issue" attributed to scarcity of land, but majorly because of refugee returnees seeking to claim back their land distributed to new land users while the refugees were in exile. In a country that is largely rural and dependent on the land, and lacking clear land policies, land issues can translate into violent conflict.

In Rwanda there were no substantive incidents of violence during the most recent elections in 2010. However the question of adequate political space for dissenting views was raised. It is important though to contextualise this limited political space from Rwanda's tragic history of genocide and armed conflict. This is one issue that if not properly addressed will linger as an issue of discontent and can potentially continue to generate discontent that could lead to conflict. Citizen participation in Rwanda however is taking place through decentralized entities (from village to district levels), National Women's Council, National Juvenile Council and National Youth Summit and National Dialogue. Some concern was however raised about the limited nature of citizen involvement with the claim that participation is mostly effective in policy implementation but limited in the area of decision making processes.

Rwanda has mechanisms for addressing the questions of ethnicity and memories of conflict. Some respondents interviewed proffered opinions that suggest ethnicity issues in the country remain latent and should not be ignored because it could cause future conflicts. Government has however established the National Unity and Reconciliation Commission with a specific mandate to address the questions of ethnicity and the memories of conflict. Some issues over land were also cited as causing discontent arising from government expropriation of land for redevelopment or investment. There were claims that such expropriation was being done without adequate compensation to the owners or providing the owners with alternative land of similar value.

Tanzania was always considered a haven of peace and stability in the region but is now having important conflict issues that merit close attention. The tensions between Tanzania Mainland and Zanzibar which form the Union threaten to generate misunderstanding, and can affect the progress of the EAC integration. Zanzibaris are reported to feel a lack of genuine inclusive participation in the processes of the United Republic of Tanzania. Tanzania is undergoing a constitutional review process which is hoped will address some of the concerns being raised by Zanzibar and Tanzanians in general. Zanzibar experienced election violence in its 1995, 2000 and 2005 elections until the formation of a government of national unity prior to the 2012 elections. Some governance issues were also pointed out as potentials

for violent conflict. Concerns over abuse of office and lack of public accountability were raised. Cited were concerns over the conduct and management of elections in Tanzania which is claimed to disadvantage a now emerging strong opposition in a historically single party dominated system of governance. There are also social, economic and cultural related issues that have the potential to escalate into violent conflict. This is manifested in extra-judicial killings including killings of albinos and elderly women due to witchcraft related beliefs, and inter-clan related violence. Tanzania has in recent years experienced what has been termed religious conflicts between Muslims and Christians. It was reported that churches had been burnt in various parts of the country including in Zanzibar, Kigoma and parts of Dar-es-Salaam. But some of these conflicts are being cited as manifestations of undertones of political and economic discontent. An increased number of unemployed youth and increased levels of poverty are factors brewing discontent, a cross-cutting problem found also in Kenya, Uganda and Burundi. Mob justice was also widely reported. An act attributed to lack of confidence and low human rights and rule of law awareness amongst law enforcers and citizens.

Like in the other East African countries, natural resources especially land related conflicts were cited as becoming increasingly common in Tanzania. In most of the interviews, disputes over allocation and use of land and other natural resources were quoted as gaining prominence. Incidents of land disputes in Tanzania and Uganda are said to be triggered by improper investment policies governing competing interests between locals and investors over the acquisition and use of land and resources resulting in claims of unfair evictions, delayed and inadequate compensation, inappropriate reallocation of local communities, and generally the politicisation of land issues. In Tanzania, on several occasion local government officials and law enforcement are said to have taken advantage of loopholes in the land system for personal enrichment. Kenya, Uganda and Tanzania experience violent destructive conflict amongst pastoralists over grazing and water points. Cross border livestock rustling in these countries remains a potential generator of violent conflict. In Tanzania, Kenya, and Uganda the pastoral way of life is neither properly understood nor recognised by the government, leaving a situation which has not been well handled to continue to influence and drive violent conflicts.

The discovery of oil in Uganda and minerals in other parts of the EAC could also propel the region in either a direction of development or towards conflict over the minerals. Other resource related conflicts include the deep seated question of land in the wake of EAC integration that foresees an East African federation. The anxiety and fear by some partner states that citizens of other states are out to grab their land have been expressed.

There are simmering although hushed desires for secession and independence by some regions within EAC States, as is noted in discontent with the Tanzanian Union by Zanzibaris and the Coastal region of Kenya and the unresolved Buganda “federo” question in Uganda. All these are issues that can potentially lead to violent conflict within the member states concerned and can affect the EAC integration process.

Beyond these conflicts are organised crimes and the threat of terrorism that threatens peace and security in the region. In Kenya for instance are the gangs and vigilantes that have taken the law in their own hands. The Al-Shabaab and Al-Qaeda have launched grenade attacks in Uganda and Kenya resulting in massive death and destruction of property, and violations of people’s rights to

live in a secure environment etc. The likely result of such threats is a profiling of some communities, leading to drawn out conflicts and insecurity in the region. The threat of attack is unlikely to diminish with both Kenya and Uganda being major contributors to the troops fighting to restore peace in Somalia.

The threat of terrorism and insecurity in the region has influenced how interstate agencies address peace and security concerns. Concerns about ignoring the human rights of terrorist suspects and failure to adhere to due process have been raised in recent times. Some legally valid questions were raised in 2010 about the legality of transfer of four bomb suspects from Kenya to Uganda without recourse to the extradition procedures in the two countries.

The youth make up one of the largest populations in the EAC region, at approximately 70 percent of the total population. They therefore have the potential to contribute to a peaceful society or to drive violent conflict in the region. Historically, in all of the violent conflicts in the EAC countries, the youth have either directly participated in the conflict or have suffered the consequences. The LRA rebels for instance, abducted and largely recruited children and the youth into the rebellion. A cursory look at the Kenya PEV 2007/2008 and the Rwandan genocide reveal substantive youth involvement in those conflicts. Youth unemployment, poverty and political disenfranchisement are some of the main drivers of conflict amongst the youth. The youth have also complained of having a limited voice in policy and decision making.

In all the EAC countries, the continuous threat to peace and security is exacerbated by the cyclical nature of conflicts and the discontent with governance structures, democracy, transparency and accountability. From a review of potential for conflict in each of the countries, the biggest potential conflict triggers are political, characterized by disagreements over power and its use; social and economic related such as ethnic divisions; youth unemployment, poverty and inequitable distribution of resources; other disagreements related to natural resources; and the culutre of impunity among other factors. The management of conflict is thus pertinent in limiting the negative aspects of these conflicts. It is clear that most of the causes and consequences of violent conflict in the region are in fact a result of human rights violations. The promotion and protection of human rights would thus contribute towards prevention, resolution and management of these conflicts and their causes; a clear justification for the involvement of NHRIs in conflict management and peace building.

CHAPTER 4

4. NHRIs IN CONFLICT MANAGEMENT AND PEACEBUILDING: BEST PRACTICE & CHALLENGES BY THE NHRIs IN THE EAC COUNTRIES

4.1 BEST PRACTICE

NHRIs are key actors in securing the protection and promotion of human rights in their countries. They keep states accountable in upholding their responsibilities, strengthening democracy and governance, and facilitating the implementation of human rights standards.[14] All the five NHRIs in the EAC are guided by the United Nations approved Paris Principles on the establishment and functioning of independent national human rights institutions. All the five NHRIs in East Africa – Uganda Human Rights Commission (UHRC), Kenya National Commission on Human Rights (KNCHR), Tanzania's Commission for Human Rights and Good Governance (CHRAGG), Rwanda's National Commission for Human Rights (RNCHR) and most recently Burundi's *Commission Nationale Independent des Droit L'Homme* (CNIDH) – are accredited by the International Co-ordinating Committee of National Human Rights Institutions (ICC), as 'A status' institutions compliant with the Paris Principles.

Although there is no express provision in the laws requiring any of the NHRIs in the EAC region to play a role in conflict prevention, resolution and peace building, most of these institutions having realised that these issues fall within the ambit of human rights, have creatively used their mandate towards conflict management and peace building. The activities have included investigation, mediation, dialogue, conciliation, hearings, public enquiries, public education workshops, press briefings, periodic reporting to authorities and international bodies, lobbying, restorative justice and community peace building initiatives.[15]

There was general consensus amongst all the interviewed stakeholders that NHRIs have and should play a key role in conflict management and peace building, since human rights violations and conflict are linked.

4.2. UGANDA HUMAN RIGHTS COMMISSION

The UHRC was established in 1995 with a constitutional mandate of protecting and promoting human rights. Its legal mandate, functions and powers are established under Articles 51 to 53 of the Constitution

[14] http://www.nanhri.org/index.php?option=content&task=view&id=203

[15] National Human Rights Institutions, Conflict Management and Peace-building in Africa. Op.cit.

of Uganda and the Uganda Human Rights Commission Act, 1997 to promote and protect human rights. The decision to establish a permanent body to monitor the human rights situation in the country was largely influenced by Uganda's violent and turbulent history which resulted in grave human rights violations including loss of lives and property, torture and brutal repression by security organs. The UHRC was the first NHRI established in the EAC partner states. Recently in 2012 it was given an award as the best human rights commission in Africa by the African Commission on Human and Peoples Rights (ACHPR). By virtue of its experience it has also collaborated with and helped in setting up some of the NHRIs in the region.

The UHRC was established and began to operate in a situation of conflict. The country was experiencing conflicts in northern, north-eastern and western Uganda. Due to massive human rights violations, the Commission's response was to take deliberate action to try to address the human rights concerns arising as a consequence of the conflicts.

4.2.1 Establishment of Regional Offices

Responding to the conflict situations in northern, western and eastern Uganda, the UHRC established presence in the areas of conflict by creating regional offices in Gulu, Soroti and Fort Portal to be easily accessible to the people of the area, and to directly respond to the challenge of conflict and human rights violations. Other regional offices were subsequently established, with nine regional offices currently operating throughout the country.

4.2.2 LRA Conflict in Northern Uganda

Between 1986 and 2008, the LRA rebel activities in Acholi, Lango and Teso Sub regions resulted in gross human rights violations including massive displacement. The Commission took proactive steps to monitor and report on situations in the IDP camps and places of detention. Most importantly it took the lead in the development of the IDP Policy which became the policy framework for addressing challenges that the IDPs were facing. It conducted aggressive civic education on human rights for both state and non-state actors. Using its presence in these regions the Commission was able to receive and investigate complaints of human rights violations due to the conflict and provide remedies and make critical recommendations for government to address the factors that were causing the violations. It put in place programmes to conduct community awareness and conducted community dialogues within the camps to raise awareness on different human rights issues.

To address the human rights challenges in these areas the Commission recognized the necessity of working in collaboration with other stakeholders. It carried out activities with religious leaders and civil society to vigorously advocate for a peaceful resolution to the LRA conflict. This resulted in an Amnesty Law to encourage the LRA combatants to abandon rebellion. Ultimately, negotiations between the Government and the LRA was initiated with the Commission participating as advisor to the Government and as observers to ensure that human rights concerns were not excluded from the agenda of the mediation talks in Juba, Southern Sudan.

In 2005, the Commission established Civil Military Cooperation Centres (CMCCs). These Centres were formed to answer the need to

quickly and effectively address violations by soldiers against civilians. The members of CMCCs were drawn from the UHRC as the chair, the Uganda Peoples Defence Forces (UPDF), the Uganda Prisons, the Uganda Police Force (UPF), and Civil Society. The Office of the High Commissioner for Human Rights (OHCHR) in Uganda provided financial support that enabled the hiring of human resource, the purchasing of equipment and running costs for the Centre offices that were distributed in the main towns of Northern Uganda. The Centres were instrumental in bridging the gap in information and built confidence between security personnel and the civilian population. They received and expeditiously addressed complaints of human rights violations by security agencies. They made practical recommendations to government relating to concerns of civilians affected by the war.

4.2.3 Reintegration

Following the end of the LRA and Allied Defence Forces (ADF) rebellions in northern and western Uganda respectively, the UHRC continues to implement programmes of activities for rehabilitation and peace building in these areas. The Commission guided the process of IDP returnees with special focus on vulnerable groups. It advocated for rights-based policies and activities to guide the IDPs' return and resettlement. The Commission in July 2011 established in partnership with United Nations (UN) agencies and CSOs, a one year peace building project for former IDPs in the Acholi sub region in Northern Uganda to contribute towards peace recovery and development in the region. The activities included community public meetings, legal advisory and support services especially on land disputes, and police training in human rights and media campaigns. A report titled "Picking up the pieces in Acholi sub-region" presents findings by the Commission and other CSOs. A second phase of the project has been launched to continue with these programmes.

4.2.4 Karamoja – UHRC Intervention in Natural Resource Related Conflict

The UHRC instituted programmes to contribute to finding solutions to the long enduring armed violence in Karamoja and its neighbouring districts. The Karamojong are an ethnic group of pastoralists found in north-eastern Uganda. They are routinely engaged in violent cattle raids among themselves, and also against their neighbours within Uganda, in Kenya and South Sudan. They are well armed, and in 2001 had an estimated 40,000 small arms. In that year the UHRC decided to actively play the role of convincing them to disarm and abandon cattle rustling. The consequences of cattle rustling included loss of lives, loss of cattle and other property, mass displacements of populations and the breakdown of law and order within the region. The government had heavily deployed the military in the region to conduct a forceful disarmament strategy which however, was not quite successful but instead resulted in loss of life, property and internal displacement. The UHRC intervened, developed and recommended to government a comprehensive policy on Karamoja with strategies targeting peaceful disarmament and response to the causes of rustling. It then spearheaded extensive campaigns within the region and developed a system of rewarding those who voluntarily returned weapons, which resulted in about 10,000 guns being returned. From its area regional office the UHRC conducted extensive sensitization amongst the community, set up the CMCCs and auxiliary offices for monitoring and reporting on human rights situation in the process of disarmament.

4.2.5 Interventions to Prevent Conflict During and After General Elections

Disputes over elections and their results have been one of the causes of violent conflict in Uganda. The violent bush war in the 1980's which led to thousands of deaths and destruction of property, economic and social life in the country had its root in the claim that the 1980 general elections was rigged by the Uganda People's Congress party. Today disputes over election results still remain a great potential for conflict in the country.

Since its establishment in 1995, the Commission has been involved in civic education related to elections. It has also participated in monitoring and reporting on elections in the country. From its monitoring, the Commission has made recommendations for improving and ensuring free and fair elections. It actively participated in the preparations running up to 2011 elections, conducting civic education and also observing the elections. In July 2010 the Commission organised a workshop (supported by the OHCHR and the European Union's Deepening Democracy Programme) titled "Prevention of Conflict during the 2011 Elections and Beyond." The workshop was attended by key stakeholders including the President of Uganda, the Electoral Commission, representatives for the justice, law and order institutions, security agencies, CSOs, etc. The workshop which was high profile facilitated dialogue to promote peaceful election processes. Civic education sessions and workshops were also held throughout 2010 and in January 2011 in different parts of the country to promote an understanding of free, fair and peaceful elections among citizens and key players.

Following the 2011 General Elections, the Commission issued a special report on the Elections. The findings reflected in the report were included in the Commission's 2011 Annual report to parliament. Challenges relating to the elections such as voter bribery, inadequate protection for vulnerable groups, and dissatisfaction of political parties with the election process were spelt out for consideration of Parliament as issues to be addressed in future elections. The Commission in its recommendation pinpointed the need for government to promote dialogue with all stakeholders and to provide a forum for aggrieved persons to air their views regarding election-associated issues in the country.

Following the 2011 general elections, there were disturbing election related riots. The Commission in close collaboration with the Inter-religious Council and the OHCHR established a National Forum of Elders to assist in mediation and conflict transformation following the post-election disputes and disturbances. The Forum consists of senior citizens who represent a cross section of the national spectrum of leadership, who have retired from public service and do not hold any public office, people who have exemplary service record in their previous careers and professions, have depicted high ethical and public moral standards and appreciate the value of alternative dispute resolution mechanism and are able to mediate and assist in conflict management.

4.2.6 Civic Education

Also in fulfilling its human rights promotion mandate, the UHRC conducts peace education and general human rights education throughout the country. At the height of the conflicts in northern and eastern Uganda, peace education programmes targeted local leaders, ex-combatants, religious leaders, CSOs and

traditional leaders. The education is based on values and skills of mediation, negotiation and reconciliation. Human rights education is also extended to persons in positions of leadership and law enforcement and security agencies such as the UPF, UPDF and the Internal Security Officers. In 2011, the UHRC conducted several human rights education projects. Targeted training to law enforcement and security agencies were held. The military police were also for the first time included in the training held in Kampala. UPDF trainings targeted Karamoja region, a region with high livestock rustling. The trainings to security agencies covered their role in the promotion and protection of human rights.[16]

The UHRC has also established human rights and peace clubs in many secondary schools. Some schools were becoming violent with recurrent violent strikes, a clear indication that the youth were being negatively influenced by the culture of violence and revenge and non peaceful means to resolving conflicts, which they had experienced for many years. The Commission established Human Rights and Peace Clubs with committed and knowledgeable teachers as their patrons. The students clubs are trained and sensitized on basic human rights and how to handle and manage their conflicts peacefully without recourse to violence and strikes.

4.2.7 Monitoring Human Rights Violations

Through its Directorates of Monitoring and Inspections, the UHRC monitors human rights situations in conflict areas. The monitoring reports have informed the Commission's programmes, for instance the themes for its education programme, and the basis for advocacy with relevant stakeholders involved in the conflicts. The Commission's Monitoring Reports on conflict and post-conflict situation in Northern Uganda were always included in the Annual Reports to Parliament with clear recommendations on how to address the issues of conflict and its associated human rights violations.

4.2.8 Complaints handling and investigations

The UHRC receives and handles complaints involving disputes and conflicts over violation of rights. Some of these disputes over resources and discrimination have the potential of culminating into violence. Over the years the Commission has received and handled several complaints of human rights violations, and offered redress through its Tribunal. In 2011, 1,021 complaints were registered; the majority being against the Uganda police forces. The Commission also investigated 1,838 cases in 2011, handled mediations and made referrals of some cases to the appropriate institutions.[17]

4.2.9. Promotion of Transitional Justice

Since the end of active war in Northern Uganda, there has been demand for the country to address the question of reconciliation, truth telling and accountability for past human rights violations and possible war crimes committed during the conflict. To address these concerns Government has established a Transitional Working Group under the Government's Justice Law and Order Sector (JLOS). The Commission is an active member of the Working Group which is in the process of developing a Transitional

[16] UHRC Annual Report 2011
[17] Ibid.

Justice Policy. The Policy is expected to address issues of accountability, reparations, reconciliation, and reintegration of ex-combatants associated with the conflicts in Uganda.

4.2.10. Strategic Collaborations

The UHRC plays a key role in acting as a bridge between CSOs and the government. The Commission has engaged strategically with national and regional CSOs to promote and protect human rights. For example, it has worked in close collaboration with CSOs like the African Centre for the Treatment and Rehabilitation of Torture Victims (ACTV) and Human Rights Network (HURINET) to influence the content of the Torture Act. Other areas of collaboration with CSOs are civic education, mediation and arbitration. The Commission together with the other NHRIs within the EAC and the media worked very closely with Kituo Cha Katiba to promote the idea of a Bill of Rights for the EAC. Within its mandate the Commission has regular engagements with the Electoral Commission, ministries such as the ministry of disaster preparedness and with other government institutions in the justice, law and order sector on issues related to human rights and conflict. Its partnerships led to the establishment of human rights desks and directorates in the police and prisons. The Commission has conducted sensitisation workshops and trainings on several themes aimed at promoting human rights and specifically to ensure a peaceful society. It has also built collaborative linkages with international organisations such as e UN organisations and other development partners.

4.2.11 Challenges of the UHRC

The Commission faces specific challenges and some capacity weaknesses in handling conflict related situations. Below are some of the identified gaps and weaknesses:

1. Financial constraints mean conflict management and peace-building programmes cannot be carried out in a continuous and sustainable manner.

2. The Commission has limited capacity on conflict resolution, prevention and peace-building.

3. Limited expertise in handling conflict issues such as conflict related human rights issues.

4. Limited expertise on economic, social and cultural rights.

5. The Commission has limited strategic partnership for handling conflict.

6. Threats to staff working in insecurity prone areas e.g. insecurity in the Karamoja region, making it difficult to access some of these areas.

7. Poor infrastructure limits access to some areas.

8. Limited awareness amongst the population about human rights issues.

9. Limited coordination with other NHRIs despite the establishment of an EAC NHRIs Association

4.3 KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (KNCHR)

The KNCHR is an independent national human rights institution that was established by the Kenya National Commission on Human Rights Act, 2002 and operationalised in July 2003. It has since been entrenched under Article 59 of the Constitution of Kenya 2010 and the Kenya National Commission on Human Rights Act, 2011 and given the broad mandate of promoting and protecting human rights in Kenya. Specifically, its functions include the investigation of human rights violations, public education on human rights, visiting prisons and places of detention for purposes of monitoring adherence to human rights, making recommendations to Parliament on effective measures to promote human rights, monitoring government compliance with international human rights standards, and encouraging cooperation with other institutions working in the field of human rights.

The KNCHR has addressed conflict issues in the country. The Commission has established the Reform and Accountability department dedicated to conflict-related issues. The department has four main programmes namely: security sector reforms; transitional justice; peace building and national integration; and the judicial and penal reforms. The department also works to promote political accountability and the respect for human rights in the political processes.

The Kenya Commission has mainly engaged in prevention activities using its mandate to undertake research and monitor human rights situation in the country. Using the mandate it has monitored conflict hot spots and made recommendations to government. Some of its acknowledged interventions are described below.

4.3.1 The 2007/2008 Post Election Violence in Kenya

During the post-election violence, KNCHR working with other CSOs and other actors led the formation of Kenyans for Peace with Truth and Justice (KPTJ) a peace network of actors to address or deal with the conflict that engulfed parts of the country following the dispute over the elections. Its main contribution was to investigate and document human rights violations that were taking place with the objective of ensuring perpetrators of the post-election violence would be held to account. It was a bold move. These documentations ultimately provided crucial evidence which informed the findings of the Waki Commission set up to inquire into the causes and consequences of the post-election violence. The same findings also greatly assisted the investigations by the International Criminal Court that has now proffered charges against some of the alleged perpetrators. The KPTJ recommendations also resulted in the idea of the Kenya National Accountability Commission which is to be established.

The lessons learnt from the Post Election violence have helped inform some of KNCHR programmes. For example, the experience has emboldened the Commission to work on issues of accountability for the post-election violence with communities to build their understanding of the international justice framework and to secure protection of witnesses in collaboration with the International Criminal Court.

4.3.2 Peace-building and National Integration

Under its peace-building and national integration programme the KNCHR has tried to enhance the capacity of affected communities in peace-building and conflict management. During the 2010 Constitution Referendum it worked with communities in Eldoret and Nakuru (areas that had experienced serious post-election violence after 2007/2008 elections) to ensure peaceful voting in the referendum that was itself very contentious. It also continued to conduct activities in parts of the country with high incidents of electoral related violence, and an early warning mechanism to ensure peaceful elections in the March 2013 general election. [18]

The post-election violence and other conflict issues like ethnicity, violent land disputes and violent conflict over pastures and the attendant cattle rustling in parts of the country has generated the need for a peace infrastructure in the country. The Commission worked closely with the government to develop a national peace policy. It was an active participant in the National Steering Committee for Peace-building that designed the policy. The Commission continues to engage with the lower level peace structures set up under the policy using them to gather information, building their capacities in the area of human rights and peace-building and sitting in their meetings to contribute and influence the design of their interventions.

4.3.3 Engagement with District Peace Committees (DPC)

The Commission works with District Peace Committees to promote the peaceful coexistence amongst communities by promoting dialogue to prevent manage and resolve conflicts. It also has county peace forums, all of which have been useful in establishing the Commission's presence at grassroots level and gathering information. KNCHR provides training on conflict and human rights and rights based approaches to these committees. In the North Rift region for instance, the DPCs have held dialogue and reconciliation meetings between communities. Between 2010 and 2011 KNCHR facilitated meetings of the DPCs in Eldoret and Turkwel Gorge, convening some 80 peace actors in order to assess the peace situation in the region, increase understanding and capacity of the DPC members on the ongoing security sector reforms and increase their knowledge on early warning, monitoring and reporting on conflict.[19]

4.3.4 Investigations of Alleged Human Rights Violations in Conflict Situations

The KNCHR has conducted fact-finding missions in conflict prone areas with the purpose of dealing with the consequences of the conflicts. It has investigated and documented human rights violations and made recommendations to the authorities. For instance, it commissioned a fact-finding mission in 2008 in the Mt Elgon region to investigate human rights violations and

[18] KNCHR website at www.knchr.org
[19] KNCHR Annual Report 2010/2011 Financial year

understand the cause of the conflict. The conflict in Mt. Elgon region emerged as a result of violent conflict over land and with the government over resettlement following evictions. In 2005, in an attempt to resist government efforts to evict squatters from Chebyuk in Mt Elgon district, a militia group called the Sabot Land Defence Force (SLDF) formed in the region. The group however, committed several human rights violations including killings, torture and destruction of property etc. In 2008, the Kenyan army was deployed in the region to fight the SLDF, but the army too allegedly committed atrocities such as killings, rape and destruction of property. The KNCHR held dialogue with the different community leaders in the Mt Elgon region and following its investigations, completed a report with recommendation for action to the government of Kenya.

4.3.5 Interventions in Issues of Internal Displacement

The KNCHR has been quite active in dealing with mass displacements as a consequence of conflict. It participated in lobbying for an IDP policy, held capacity building forums on IDPs for state and non state actors, monitored and documented on the situation of IDPs and resettlement processes in Kenya and accordingly advised relevant institutions. As part of this process, the Kenyan government agreed and allocated funds for the resettlement of communities evicted from the Mau and other forests.[20] The Commission in collaboration with the OHCHR is also implementing an IDP Monitoring project aimed at strengthening the work of the Protection Working Group on Internal Displacement (PWGID) to which the KNCHR is a member. The project aims at contributing towards the realisation of durable solutions through protection monitoring, coordination, advocacy and capacity building.

4.3.6 Prevention and Early Warning Mechanisms

The KNCHR has a programme for monitoring conflict situations, and has developed some indicators for tracking early warning signs. It prepares reports and advisories and holds discussions with relevant government agencies to seek interventions when hotspots are indicated. The key indicators are based on structural risk factors such as inequality, discrimination, injustice, insecurity, historical injustices, displacements and the use of hate speech etc. Following lessons from the post election violence in 2007, the Commission set up an Election Monitoring project targeting peaceful, free and fair elections in March 2013. The programme includes sustained mapping and monitoring of hot spots and intervention, monitoring campaign processes on issues of hate speech, incitement etc. and conducting civic education and a scheme to observe the elections.

4.3.7 Complaints Handling and Investigations

The KNCHR handles complaints relating to human rights violations. It conducts investigations once it receives complaints or at its own initiative. It investigates human rights violations and where possible resolves matters through conciliation, mediation and negotiation. In addition to handling complaints brought before it, the Commission has also followed up on complaints by conducting further investigations arising from such complaints.

[20] Ibid.

Between 2010 and 2011 it conducted 38 field investigations and 11 rapid response missions on reported cases and self initiated cases in several parts of the country such as Nairobi, Garissa, Kajiado, Machakos, etc.[21] One such rapid response investigation was a case in Wajir. Following a complaint in the Wajir regional office over tensions between two communities over allegations of rape without any police intervention, the Commission investigated the matter to prevent its escalation into violence. The KNCHR immediately advised the National Cohesion and Integration Commission (NCIC) to conduct peace work in the region to de-escalate tensions among the communities.[22]

4.3.8 Counseling and Psycho-social Support

The KNCHR and the UHRC are the only Commissions of the five EAC NHRIs to have an in-house counselor. This is important because the Commission often deals with traumatized complainants who have experienced or witnessed human rights violations. NHRIs staff do not usually have the counseling or psycho-social expertise and yet they have to deal with traumatic experiences in the course of their work. The KNHRC counselor is used to handle complainants with traumatic experiences.

4.3.9 Civic Education

The Commission has conducted several human rights trainings and awareness raising activities through workshops, Information, Education and Communication (IEC) materials and media programmes for government institutions including the justice, law and order sector and non state actors such as CSOs, Community based organisations, faith based organisations and communities. It has also specifically embarked on teaching the community on Alternative Dispute Resolution (ADR) and the youth on the need for peaceful and ethnic cohesion. It has distributed booklets on IDP rights as an advocacy tool and on the prevention of torture to sensitise the population and government institutions on these topical issues.

4.3.10 Transitional Justice

The Commission was active in the process of the country establishing the Transitional Justice and Reconciliation Commission (TJRC) and participated in sensitizing communities on the role of the TJRC in building peace and good governance in Kenya. It worked with the TJRC to prepare victims and witnesses before they appeared before the TJRC and also monitored the TJRC process to ensure conformity with human rights standards. The Commission in collaboration with other stakeholders is working on a reparation policy for victims of post-election violence and for victims of other historical injustices. It also has plans to monitor the implementations of the TJRC's recommendations.

4.3.11 Strategic Collaborations

To work on peace and conflict related issues the KNCHR has collaborated with other national institutions such as the National Gender and Equality Commission, and the Independent Election and Boundaries Commission (IEBC). It sits on the National Council on Administration of Justice, and is a member of the National Steering Committee on National Peace building and Conflict Management. The Commission in partnership with other stakeholders

[21] KNCHR Annual Report for the 2010/2011. Op.cit
[22] Ibid.

is a member of various networks and committees that work on conflict related challenges in the country. It also hosts the National PWGID. The Commission played a model role when it mobilized CSOs to work with it to respond to grave human rights violations that were a consequence of the 2007/2008 post-election violence.

The CSOs in Kenya are very vibrant and have played a tremendous role in conflict prevention, resolution, management and peace building in the country. Although some expressed misgivings about the existing capacity of the KNHRC to deal with conflict, they all agree on the need for the Commission to play a leading role and to work together with CSOs in tackling some of the key conflict issues. Some of the key players are the Kenya Human Rights Commission and Refugee Consortium of Kenya who did a lot of work during and after the 2007/2008 post-election violence. Commendably the Commission has a good working relation with most of these organisations and institutions.

4.3.12 Challenges of the KNCHR

The Commission is faced with several challenges regarding work on conflict.

1. The Commission has faced some difficulty when working on conflict issues because of a difference in ideological thinking. There are those who view human rights and peace building as two divergent ideologies.

2. Although the Commission has done some commendable work in the area of conflict, it has limited expertise in the area.

3. Like all the other NHRIs, the Commission is financially constrained. Donor organisations approached do not have a clear understanding of the role of NHRIs in conflict management and peace building. As such, funding is usually tagged in the context of human rights, elections, humanitarian aid etc., yet with conflict issues, there is need for continuous funding for preventive measures, monitoring and investigation etc.

4. Over the years the government has not prioritised funding for the NHRI. However, there was optimism that the shortcoming would most likely be addressed with the introduction of the consolidated fund under the new constitution.

5. Much of the conflicts in Kenya are politically instigated and the culture of political impunity means that many persons in authorities are not brought to account.

4.4 TANZANIA COMMISSION for HUMAN RIGHTS AND GOOD GOVERNANCE (CHRAGG)

CHRAGG was established under Article 129(1) of the Constitution of the United Republic of Tanzania of 1977 as amended by Act No. 3 of 2000 and governed by the Commission for Human Rights and Good Governance Act No7 of 2001 as amended by Act No 16 of 2001 and Government Notice No. 311 of 8th June 2001. Its general mandate is the promotion and protection of human rights and good governance in Tanzania. Specifically its functions include handling complaints, conducting enquiries on human rights violations and contraventions of principles of administrative justice, conducting research and public education, instituting court proceedings in the area of its mandate, visiting places of detention, making recommendations to the government, the public and private sector, monitoring government compliance with national and international human rights

standards and good governance principles.[23]

The commission has its head office in the Capital Dar-es Salaam, which include several offices within the city. It has an office in Mwanza and a Zanzibar office which has national status.

Although, there is no explicit mention of conflict management or peace building in the functions of CHRAGG or in its strategic plan of 2010/2011-2014/2015, the Commission says it has made attempts to address some conflict issues through its mandate of protection and promotion of human rights. At the micro level it has resolved conflicts by handling human rights complaints. To some extent it has dealt with macro level conflicts through public inquiries, investigations, fact-finding missions, mediation, conciliation and court litigation. Part of the Commission's strategic plan is to collaborate and network with national, regional and international stakeholders, which is also another entry point for collaboration in areas of conflict management and peace building.

4.4.1 Training on Skills and Knowledge

The CHRAGG has since 2004 in collaboration with the Centre for Conflict Resolution of South Africa participated in trainings on conflict management for commissioners. The most recent trainings which also saw participants for the Burundi Human Rights Commission, was held in April 2012 in Dar es Salaam and included skills trainings on mediation and negotiation and gender and peace building. These trainings however lack institutional memory and enduring benefit to the Commission. Most of the trainees are commissioners who have either since left the commission or are about to leave as their tenure comes to an end. The Commission is attempting to curb this challenge by holding in-house training for its staff, although this was considered inadequate.

4.4.2 Land and Natural Resources Related Disputes

The Commission has played some role in intervening in land and other natural resources related disputes throughout Tanzania. It has conducted fact-finding missions and made recommendations to government, aimed at addressing these concerns. Between May and June 2011, the Commission conducted public enquiries on land and mining conflicts and held meetings in at least 15 districts. Some of these interventions resulted in compensation of local communities. In one particular case in Ulanga District in Morogoro region for example, the Commission conducted an inquiry and subsequently held mediation between investors and the community over disputed land and its attendant human rights violations. The Commission facilitated the mediation and the investors agreed to compensate the community, although the agreement was later repudiated. The Commission then submitted the report to the president and waited for the President to act on the recommendations. In another case, the Commission conducted a public inquiry in Tabora following allegations of human rights violations by law enforcers while conducting evictions from land reserves, allegedly illegally settled by peasants. It made recommendations to government.

Between January and February 2012, CHRAGG conducted a public inquiry on internal displacements in forty districts. The

[23] www.chragg.go.tz

Commission held stakeholder meetings with government to discuss the findings, during which the government agreed in principle to the findings of the report and agreed to implement some of the recommendations. The Commission is set to follow up the progress of implementation.

4.4.3 Elections

The Commission has been involved in monitoring campaigns during elections to ensure respect for human rights. It has also held regular meetings with the media to educate them on using appropriate language to avoid incitement through hate speech. It has conducted civic education before and during elections. Beyond monitoring its national elections, the Commission in collaboration with the other EAC NHRIs have participated in the observation of general elections in all the EAC countries.

4.4.4 Monitoring Human rights

In the wake of sporadic killings in some parts of the country and extra-judicial killings including the killing of journalists, CHRAGG has made bold statements against such brutality. The Commission was also lauded for playing an active role in the Universal Periodic Review (UPR) process.

4.4.5 Receiving and Handling Complaints

The Commission receives and handles complaints which it has resolved through several mechanisms including mediation and ADR, for example mediating in a conflict that involved tribal killings in the Mara Region of the country.

4.4.6 Public Education

The Commission has conducted several human rights education programmes on thematic issues, such as education on land rights and responsibilities, general human rights awareness to foster peaceful approaches to resolving conflict. The Commission in collaboration with relevant stakeholders have held several awareness and training of trainers workshops. It developed a guide which it has used in several of its trainings of law enforcement officers, the judiciary and CSOs. Ahead of 2010 elections, it trained police officers on human rights and monitored the situation of human rights in the country.

4.4.7 Strategic Collaboration

The CHRAGG has engaged with government institutions and CSOs to ensure effective implementation of its mandate. In 2005 for example it held security dialogues to bring together political parties, police, district directors managing elections in order to develop amicable relations in the period of elections. Likewise in 2009 it held meetings with the police to discuss equitable distribution of campaign schedules and areas. The Commission should be able to work with the National Electoral Commission on civic education, law enforcement institutions to train and inculcate a culture of peace and human rights etc.

The Commission has a memorandum of understanding signed with ten CSOs, eight from Tanzania Mainland and two from Zanzibar. In addition it has also done some human rights work with other CSOs such as the Legal and Human Rights Centre (LHRC).

4.4.8 Challenges of CHRAGG

1. The Commission has limited skills and expertise in conflict management and peace building.

2. There is hardly funding to support sustained work on conflict issues.

3. CHRAGG's recommendations to the government are not binding. While the Commission has the option of going to court to have their recommendations enforced, where the government fails to implement, precedence has shown that this is a long drawn out process with no guarantee of success.

4. While it is the Commission's mandate to submit its reports to parliament, the procedure has some tentative weaknesses. CHRAGG's annual reports which include special reports are submitted to the relevant Minister who then submits it to parliament. This however, gives the Minister the discretion on when to forward the report to parliament. There are possibilities of the Minister delaying the reports. CSOs were of the view that because of this procedure CHRAGG recommendations are not public documents until it goes through government, and that this affects the effectiveness of CHRAGG recommendations. CSOs feel that the failure to publicise recommendations in a timely manner means CSOs cannot network with the Commission to lobby for their implementation, and to monitor government response to the recommendations.

5. The understanding and magnitude of some of the natural resources related problems in Tanzania has not been fully appreciated. Without a proper appreciation of the extent of the problem, these problems cannot be properly identified and addressed.

4.5 NATIONAL COMMISSION ON HUMAN RIGHTS (RWANDA)

Rwanda's National Commission for Human Rights - La Commission Nationale des Droits de la personne (CNDP) - is governed Law N° 30/2007 of 06/07/2007. The Commission was established in the aftermath of genocide in the country in 1996. It has since played a key role in promoting and protecting human rights and played a big role in conflict management and peace building. Its functions include education and mobilisation of the population on human rights issues, which targets all communities in Rwanda through regular trainings and seminars, and media programmes. It investigates human rights violations, receives complaints and makes appropriate recommendations as part of resolving complaints. It also ensures implementation of its recommendations through regular follow up. At the time of reporting, three cases filed in court by the Commission were pending in court. Its other functions include filing complaints with courts, collaborating with other organs to develop structures to prevent human rights violations, preparing and disseminating reports on human rights conditions in Rwanda on a yearly basis and any time as deemed necessary, providing views on human rights related bills to parliament, visiting and monitoring human rights conditions in places of detention, collaboration with other human rights institutions in other countries, sensitizing relevant Government Institutions as regards ratification of International Conventions relating to human rights and integrating them in existing internal laws and sensitizing relevant government institutions as regards timely submission of reports relating to International Conventions on Human Rights ratified by Rwanda.

Below are some of the programmatic areas through which the CNDP has played a role in conflict prevention, resolution and peace building:

4.5.1 Gacaca Courts

The Commission participated in monitoring the respect for human rights in Gacaca court processes. It identified gaps in the Gacaca process and as part of its contribution the Gacaca law was amended twice to improve the fairness of the law.

4.5.2 Civic Education

As a preventive tool against conflict, the Commission conducts human rights education in schools, amongst women associations, religious congregations; cooperatives etc. through several mechanisms such as seminars, media programmes on TV and radio etc. It currently holds weekly thematic radio programmes called Uburenganzira iwacu" (The rights at our home). It was reported that the level of crime in the community had reduced compared to ten years ago, a realisation partly attributed to human rights education.

4.5.3 Sensitization of Former Rebels on Human Rights and Peace

The Commission is playing an active role in re-integrating former rebels into the community. The Commission through a process termed Ingando (Camps) educates former rebels on their rights and responsibilities and on peace-building. The aim is to ensure smooth integration into the community. Between July 2010 and June 2011, on the invitation of the Rwanda Demobilization and Reintegration Commission, the National Commission for Human Rights held seminars on the principles of human rights, International Conventions and Rwandan Laws on the crime of genocide, crimes against humanity and war crimes, discrimination and sectarianism. These seminars targeted ex-combatants returning from the Democratic Republic of Congo to Mutobo, Musanze District.[24]

4.5.4. Consultative Meetings

The Commission and CSOs in Rwanda hold meetings (General Assembly) twice a year to discuss human rights concerns. The objective is to identify areas of concern and develop appropriate solutions. For instance, through the Consultative Meeting a road map for the implementation of the UPR recommendations on Rwanda was developed. The Consultative Meeting has also been used as a platform to discuss the roles and responsibilities of the Commission and of civil society in Rwanda.

4.5.5 Organising International Peace Day

The Commission organises events for the annual international peace day and holds several thematic programmes on radio and TV, and competitions between schools on the theme of peace.

4.5.6 Monitoring Elections

The Commission monitors the conduct of elections in Rwanda including monitoring respect for the rights of candidates, the opposition, voters etc. Additionally, the

[24] Annual Activity Report, July 2010-July 2011, Rwanda Human Rights Commission

Commission has worked with other organs and institutions such as the electoral commission, relevant ministries such as the Ministry of Local Government regarding the proper conduct of elections, as a tool for preventing conflict in elections. The Commission has also jointly with the other NHRIs in East Africa monitored general elections in all the other EAC countries.

4.5.7 Human Rights Volunteers

The Commission has commissioned volunteers as its focal points in all sectors[25] and districts. These volunteers are trained on human rights issues which they can then impart to their communities. They monitor the respect for human rights in their areas, and give advice to individuals regarding rights. The volunteers file reports to the Commission, upon which the commission conducts further investigations and responds on a case by case basis.

4.5.8 Annual Reports

As part of its mandate the Commission prepares and submits annual reports to Parliament with a copy to the Supreme Court and to the President. The Commission makes a presentation in both chambers of the assembly and to the commission in charge of human rights in Assembly & the Senate. In keeping with the spirit of collaboration, the Commission also shares its reports with the OHCHR and the ACHPR. They have also made periodic thematic reports e.g. on conditions of prisons, on the right to shelter of historically marginalised communities etc.

4.5.9 Challenges of CNDP

1. Although some Commissioners and staff have been trained on human rights, there has been very little training in conflict management and peace building. Training in mediation has been sporadic.

2. The Commission has limited funding to undertake sustained work on peace-building initiatives.

3. Low awareness on matters of human rights amongst the population means that the Commission has to come up with creative but effective ways of reaching out to the population.

4.5.10 Strategic Collaboration

Rwanda has several key institutions working in the area of conflict management and peace building, mostly because of the country's history of conflict. The key institutions include the *Commission Nationale de Lutte Contre le Genocide* (CNLG) – National Commission for the Fight Against Genocide (CNLG), National Unity and Reconciliation Commission (NURC), the Rwanda Governance Board, the Centre for Conflict Management affiliated to the National University of Rwanda, and other civil society organisations like the Institute for Research and Development for Peace (IRDP) and the Rwanda Civil Society Platform who have a wealth of reliable information and connect with the community. The NURC for instance fosters the promotion of a culture of tolerance, unity and reconciliation through community dialogue and civic education activities. It does these through

[25] Sectors are the third level administrative subdivision. In countries like Uganda, they are referred to as counties.

media programmes, seminars, and home grown approaches like the Ingando (camping programme) on thematic issues. It monitors institutions, activities of political parties, leaders and events in the population. It also observes and monitors the implementation of policies and practices on national unity and reconciliation, and mediation efforts on conflicts for promoting unity and reconciliation. It works in collaboration with other stakeholders including those at the community level and trains them on conflict management and peace building methods and approaches. The Rwanda Governance Board conducts mobile school of governance programmes in the communities. The CNDP therefore has several entry points through which it can work in the area of conflict prevention, resolution and peace building.

4.6 COMISSION NATIONALE INDEPENDANTE DES DROITS DE L'HOMME (BURUNDI) (CNIDH)

The CNIDH is the youngest independent NHRI amongst the other EAC NHRIs. It was established by Loi no 1/04 on January 5, 2011 and became operational in July 2011. Its general mandate is the protection, defense and promotion of human rights. It has an advisory role to national institutions and government on human rights issues. Other functions include handling complaints, investigating human rights related issues, visiting places of detention and monitoring the observance of human rights in these places, providing and facilitating assistance to victims of human rights, conducting public education on human rights, conducting studies on human rights, and monitoring government compliance with international human rights standards.

4.6.1 Mediation

Given that the Commission is still quite young it has not done much in the area of its mandate, especially in the area of conflict management and peace building. However, in the short period of its existence it has managed to gain the trust of the population when it intervened in some conflict situations. In one particular case the Commission successfully mediated in a conflict involving the government and some youths of the FNL Party. Following threats of arrest and detention of the youths, the youths fled and sought refuge at the CNIDH premises, where they camped for six months until the Commission mediated and resolved the matter with the authorities. The Commission also mediated conflict that brewed between security forces and a journalist detained on terrorism charges because of his reporting.

4.6.2 Investigations

The Commission in June 2011 conducted an investigation of the death of a Burundian national under unclear circumstances in Gihanga commune in Bubanza Province. Following the investigation it directed the matter to the relevant prosecutor for further investigation and court process. Its aim was to end impunity and promote human rights in the community.

4.6.3 Capacity Building Trainings

Commendably, the Commission has realized the role it can play in conflict management and peace building and has embarked on seeking training in these areas. At least one commissioner and three members of staff have benefited from such training with the South African Centre for Conflict Resolution. The Commission wishes to build the

capacity of all its staff and commissioners trained in the same area. With the planned establishment of a Truth and Reconciliation Commission (TRC), the Commission wants to play a key role in ensuring that the process is rights based. However, they would need the relevant skills to intervene.

4.6.4 Public Education

Under its public education mandate, the Commission hopes to extend its human rights education to include security officers, the police etc.

In Burundi, there is a disconnect between the government and CSOs on some matters. During the survey, it emerged that CSOs are considered to be the opposition, compelling some institutions to distance themselves from them. Because of this there is a general failure by CSOs to influence policy. The CNIDH has the challenge of building the bridge between government and CSOs and training them on using calmer yet more effective ways of engaging with government.

4.6.5 Challenges of CNIDH

1. CNIDH's recommendations to government are not binding.

2. Limited knowledge and skills in the area of conflict prevention, management and peace building.

3. The Commission is still quite young and therefore still grappling with institutional development.

4. The Commission has limited presence in the countryside, although it has begun to set up regional offices in some areas.

5. Limited funding for programmes.

4.6.6 Strategic Collaborations

There are certain key national and private institutions and CSOs which the Commission should be able to work with in the area of conflict prevention, resolution management and peace building. It can work with the *Commission Nationale Terre et Autres Biens (CNTB), Commission Electorale Nationale Indépendante (CENI), Centre des Recherche et Formation pour la Paix (CERFOPAX), Conflict Alert and Prevention Centre (CENAP), Forum Pour le Renforcement de la Société Civile (FORSC) and other CSOs.*

CHAPTER 5

5. REGIONAL AND INTERNATIONAL CAPACITY DEVELOPMENT PROGRAMMES

International and regional organisations in Africa have developed some concrete frameworks for conflict management and peace building. The AU has a comprehensive peace and security architecture with four main divisions i.e. the Peace and Security Council; the Peace and Support Division; the Defence and Security Division handling matters of small arms and light weapons, weapons of mass destruction, security sector reform, disarmament, demobilisation and reintegration etc; and the Conflict Management Division (CMD) supporting and coordinating conflict management and post conflict reconstruction and development in the region. The CMD has four units, namely the AU Border Programme which aims to prevent and resolve border related issues, the Continental Early Warning Systems, the Panel of the Wise and the Post Conflict Reconstruction and Development programme.[26]

The focus of these divisions should therefore be of particular relevance to the NHRIs. They can take advantage of available data and information, and benefit from strategies, polices and overall best practices.

The Intergovernmental Authority on Development (IGAD) has a peace and security division with a strategic programme on conflict prevention, management and resolution. Amongst its programme are the development of a conflict prevention, management and resolution strategy for the IGAD region; a programme for the control of illicit small arms and light weapons in the region; and a Conflict Early Warning and Response Mechanism (CEWARN) programme. The goal of the CEWARN programme is to mitigate and prevent conflicts.[27] Its particular focus has been on cross-border pastoralist and related conflicts. It has also conducted a mapping of conflict areas and documented studies of such conflict. Such documentation can be used by NHRIs and the regional organizations can share experiences with NHRIs to improve NHRIs knowledge in handling conflict issues.

The EAC has a unit on Peace and Security, and is working towards developing programmes for cooperation with stakeholders in the partner states. The NHRIs in the region can use this as a strategic entry point for cooperation at the EAC level in its work on conflict prevention, resolution, management and peace building.

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[26] For details see http://www.peaceau.org/en/

[27] CEWARN undertakes its conflict early warning and response function in three clusters or pilot areas i.e. the Karamoja Cluster (covering the cross-border areas of Ethiopia, Kenya, Sudan and Uganda); the Somali Cluster (covering the cross-border areas of Ethiopia, Kenya and Somalia) and Dikhil Cluster (covering the cross-border areas of Djibouti and Ethiopia). For details see www. http://www.cewarn.org/index.php?option=com_content&view=article&id=51&Itemid=53

Some international institutions whose concentration are human rights, conflict and peace building have also worked in partnership with human rights institutions in the region especially targeting capacity building. The Folke Bernadotte Academy, a Swedish agency for peace, security and development has provided some training on conflict prevention and management and security sector reform to the Burundi Commission.

The International Peace Support Training Centre is an East African research, education and training institution that offers training to government law enforcement and other institutions including civilian organisations. It is currently offering a course in which one of the staff of KNCHR is participating. The course prepares participants to meet current and future challenges in regional governance, diplomacy, peace and security, and will also strengthen their ability to improve the impact of systematic analysis, effective communication, dialogue and communication.

The UN Office in Burundi, BNUB has a capacity building unit which aims at building the capacity of institutions. CNIDH has benefited from human rights trainings from this unit. The Unit hopes to continue to provide thematic trainings to the Commission. In addition, BNUB programme targeting the ICGLR is another area of possible collaboration with NHRIs. The programme provides technical support especially implementation of the human rights dimensions of the ICGLR PACT and its protocols, such as prevention of genocide and crimes against humanity, illegal exploitation of natural resources and rights of IDPs. It has worked with some NHRIs including Uganda and Burundi. It has established an early warning mechanism that constitutes human rights organisations and journalists although NHRIs are not part of it. It has worked with some NHRIs on the prevention of electoral violence, where some NHRIs act as focal points for networking with human rights actors during electoral processes.

The South Africa Centre for Conflict Resolution (CCR) has been one of the main training provider and public dialogue platform for conflict management and mediation skills to NHRIs in Africa. Some staff and Commissioners of NHRIs in Africa have benefited from trainings offered by the Centre.

CHAPTER 6

6. PERSPECTIVES FROM STAKEHOLDERS ON EAC NHRIs' ROLE ON CONFLICT MANAGEMENT AND PEACE BUILDING

Following discussions with other stakeholders, it was largely undisputed that NHRIs should actively engage in conflict resolution, management and peace building. Although many perceived this role as possible, there were complaints that the impact of NHRIs was not being effectively felt in some of the countries. Many challenges and capacity gaps were identified amongst all the NHRIs. Across the board the issues of limited resources both human and financial were identified. With the exception of Uganda and Rwanda, the limited ability to reach all parts of the country was highlighted. Uganda has the most number of regional offices spread throughout the country, while Kenya and Tanzania have two and Burundi has three. Rwanda has no regional office. According to one stakeholder in Burundi, most of the human rights violations are in the country side where a majority of the country's population live, yet lack of resources limit the presence of the commission there.

Most stakeholders pointed out that NHRIs and CSOs lack adequate knowledge and skills on conflict management and peace building and thus recommended training for both NHRIs and CSOs. It was also recommended that the NHRIs should involve CSOs in their training and education programmes. The absence of a sustained programme on conflict management and peace building was noted as one of the capacity gaps for the NHRIs. It repetitively emerged that most of the NHRIs were employing reactionary methods of dealing with conflict issues, and a lack of a clear early warning mechanism which the Commissions could take a lead in developing. For instance, according to some stakeholders, the Commission's work on conflict has mainly been reactive with limited comprehensive programmes. However, following the lessons from PEV 2007, the Commission has since developed several comprehensive programmes to try and address this shortcoming.

CSOs and other relevant institutions expressed willingness to work with NHRIs. The consensus was that NHRIs should work with these groups. Indeed, several examples of collaborative work were cited in most of the countries. In Kenya for instance, in the aftermath of post election violence in 2007/2008, CSOs, FBOs and the KNCHR worked together to intervene in the conflict situation in the country. Yet there were complaints of a recent lack of coordination amongst CSOs and the Commission. For instance it was pointed out that there were several uncoordinated and yet similar programmes by the different stakeholders. In Kenya, one CSO stressed that in order for the KNCHR to have effective interventions in conflict management and peace-building, there should be definitive clarity and coordination of roles of the KNCHR and the other institutions and commissions

in Kenya with related functions. This is a recommendation that can be adopted by all the other NHRIs.

While the need for stakeholders to take initiative in working with NHRIs was suggested, it was recommended that NHRIs should take the lead role in coordinating efforts towards dealing with conflict. In Rwanda, it was noted that although there had been collaboration with some stakeholders, the Commission needed to do more, to make the engagements more effective.

NHRIs were seen as a bridge between government and civil society. In Uganda, the Commission was lauded for its history of playing this role, considered generally as a neutral party trusted by the community and the government. Some CSOs however felt the that UHRC had become less "vocal" and has softened its approach to handling human rights issues and does not handle "conflicts where government has vested interests." But in Burundi, there seems to be a lack of confidence on whether the CNIDH can effectively take on that role. In a country where the State is said to view CSOs as partisan and sympathetic of the political opposition, stakeholders were overly cautious in dealing with them. As such, there was doubt as to whether CNIDH could take the risk of effectively engaging with CSOs at the expense of being considered partial by the state.

Lack of visibility of the work and influence of some of the NHRIs was another identified challenge. For example the CNIDH was said not to be well known among the people but this was partly attributed to their being a young Commission. Despite this, the community in Burundi was said to have trust in the Commission and great expectations of what it can do. In Rwanda, some stakeholders complained of a lack of visibility of CNDP. CSOs complained that Tanzania's CHRAGG was not robust in addressing certain conflict related issues. Despite having a role to play in conflict issues, some stakeholders did not believe that CHRAGG had done much in the area except in mediation. In Kenya, there were mixed views about KNCHR's visibility. While some attested to its popularity there were some voices of disappointment with complaints of a progressive lack of vibrancy by the Commission in recent years.

The question of partiality and willingness to work in conflict issues also arose. Some stakeholders noted that some NHRIs may not be very autonomous given their lack of transparent and independent appointment procedures and their financial reliance on governments and donors. In these circumstances there were strong assertions that some of the EAC NHRIs are not fully independent and strong enough to effectively carry out their mandates. This it was noted may influence the kinds of interventions or lack of interventions by NHRIs in conflict issues particularly those in which government has vested interest.

CHAPTER 7

7. EXISTING CAPACITY GAPS AND CHALLENGES OF THE EAC NHRIs IN CONFLICT MANAGEMENT AND PEACE BUILDING

Capacity Gaps and Challenges

The survey overall revealed a number of capacity gaps of the NHRIs in the area of conflict prevention, management and peace-building. The NHRIs in the circumstances made recommendations proposing actions to resolve the challenges and gaps. The following challenges and gaps and recommendations are based on a synthesis of interviews from NHRIs, CSOs and other stakeholders:

1. There is no strong coordination amongst NHRIs in human rights work in East Africa including synergy in addressing conflict issues. The need to identify specific conflict problems in the region was expressed. The association of NHRIs in the region should develop a proper structure which they can collectively use to address conflicts in the region in a rights based manner.
2. The lack of a common cross border approach to resolving cross-border conflicts. Individual countries have in place different strategies without any coordination amongst the countries which affect the effectiveness of solutions.
3. Although NHRIs have one way or the other worked in conflict management and peace building, the work typically has not been conceived in terms of conflict management or peace building. Rather, it has been *ad hoc* and reactive and viewed within the realm of addressing human rights violations. There is therefore need for a specifically dedicated approach to the very important subject of handling both micro and macro conflicts.
4. Limited skills and expertise in conflict management and peace building was consistently acknowledged by all the NHRIs. There is lack of adequate formal training in conflict prevention, resolution and peace building.
5. Budgetary constraints. All the NHRIs identified financial constraints as a major challenge. Limited funding affects the effectiveness and sustainability of conflict management and peace building interventions, even for those NHRIs that have recognized their responsibility in this area.
6. Some of the NHRIs did not view work on conflict as work within the purview of their mandate, insisting there is no express inclusion of conflict prevention, resolution and peace building in their mandate. A change of perception through training would therefore help improve interventions in conflict management and peace building.
7. The NHRIs lack adequate research and analysis on conflict issues in the region including the capacity to carry out such research and analysis.
8. The NHRIs have not been able to mainstream conflict sensitivity in human rights work. The NHRIs that have been

working on conflict issues have done so in an *ad hoc* and reactionary manner to respond particularly to the human rights aspects of conflict, and placing less focus on the very important aspect of dealing with the vital prevention and peace-building component of conflict.

9. There is limited collaboration amongst NHRIs and other national stakeholders in their work generally, but especially in conflict prevention, resolution and peace-building.

Recommendations from Uganda

1. Skills and knowledge training for both staff and commissioners on conflict management, peace building and early warning systems.
2. Train the Commission on economic, social and cultural rights and their link to conflict issues.
3. The Commission should strengthen partnerships with stakeholders for improved collaboration.
4. Sharing of information amongst the NHRIs in the EAC including the building of synergy between them to respond collectively on sensitive conflict issues.
5. In developing strategies for conflict management, resolution and peace-building NHRIs should have specific approaches to address the needs of vulnerable groups such as women, children and persons with disabilities.
6. Rehabilitation and reintegration programmes should include former government soldiers.

Recommendations from Kenya

1. Trainings on conflict management and peace building for both staff and commissioners.
2. Prioritise financial and human resource allocations for the Commission.
3. NHRIs should strengthen collaboration with other stakeholders.
4. The NHRIs should strengthen the EAC NHRIs association and work together towards a common strategy for conflict management and peace building in the region.

Recommendations from Tanzania

1. CHRAGG should be trained on key areas such as land rights and evictions, land policies, business and human rights, conflict management and peace building. For sustainability and efficiency, these trainings should target both commissioners and staff. Also gender considerations should be taken into account.
2. Train CHRAGG on religious tolerance to equip the staff with skills and knowledge to conduct public education in this area.
3. Support concrete collaborative activities between CHRAGG and key stakeholders including CSOs working in the area of conflict management and human rights, NHRIs in the region through for instance facilitating sharing of experiences and best practice, regular meetings and office attachment etc.
4. Establishment of a peace building fund for the EAC NHRIs.

Recommendations from Rwanda

1. Skills and knowledge training for both staff and commissioners of RNCHR and other Commissions on conflict management and peace building, early warning systems.
2. The Commission should benefit from training in the area of good governance

and democracy and their role in conflict management and peace building.
3. Train the Commission and CSOs on proper report writing, analysis and professional documentation of human rights abuses. Provide them with skills on producing evidence based research and recommendations.
4. The Commission should be equipped with proper skills for monitoring human rights from institutions to community level.
5. Strengthen networking between NHRIs and stakeholders to ensure better information flow and collaboration.
6. NHRIs in the EAC should share information and collaboratively build synergies to respond collectively to sensitive conflict issues.
7. NHRIs should encourage all the EAC countries to ratify the African Charter on Democracy, Elections & Good Governance to ensure the promotion and adherence to democracy, good governance and the rule of law in the EAC region.
8. Find durable solutions for land related issues, which is a potential area of conflict.

Recommendations from Burundi

1. NHRIs have a legally defined relationship with government which gives them authority to promote and protect human rights and monitor compliance. The Commission can therefore work with CSOs and government to bridge the animosity between the two sides. Financial support would facilitate collaborative work with the CSOs.
2. The Commission requires training on conflict in order to build its capacity in handling conflict issues.
3. Build capacity of the Commission specifically on issues of conflict
4. The Commission requires financial support to carry out peace-building activities especially in the countryside through peace campaigns, promoting community dialogue and civic education.

CHAPTER 8

8. THREE-YEAR ACTION PLAN

Based on the outcomes of the baseline survey, it emerged that NHRIs have a role and have been making some interventions in the area of conflict management and peace building. These roles include: influencing policy, early warning, participating in reintegration and resettlement processes, civic education, investigation and monitoring and generally participating in dealing with the consequences of conflict.

There are however capacity gaps identified which included limited funding, lack of requisite expertise, skills and knowledge in conflict prevention, management and peace building, and reactive nature of dealing with conflict issues. The major areas of conflict or potential conflict issues identified included conflict over politics and elections, limited knowledge and practice about democracy and governance, land and other natural resources, and ethnic related issues. On the basis of these findings the action plan below is recommended. The objectives in the plan revolve around building capacities for understanding the concepts of conflict prevention, management and peace building; gaining expertise in this field; developing tools to work in this area; and how to work inclusively with governments, civil society and other institutions to achieve the goals in this thematic area. Although the primary beneficiaries are the NHRIs, the plan endeavours to include other strategic stakeholders.

THE ACTIVITY PLAN

Objective	Strategy	Activity	Timeline	Output /Results	Target Groups
1. To develop the capacities of key stakeholders including institutions, and East Africans on conflict management and peace building: a) Specifically develop skills and knowledge of key stakeholders including NHRIs in the region in the processes of dialogue and mediation b) To develop the capacities of NHRIs to support reconciliation	Training NHRIs and other stakeholders on conflict management and peace building.	1. **Develop contextualised courses** in the area of conflict in collaboration with NHRIs and other stakeholders to tailor the courses to the needs of East Africa. The courses shall include both theory and practice & sharing of experiences and lessons learned. 2. **Conduct thematic trainings** in conflict management and peace building which will include: a) Peace building, Dialogue and Mediation b) Transitional Justice, Reconciliation and Reintegration c) Business and human rights in the context of conflict prevention and management d) Training on conflict and human rights reporting e) Trainings on the rights of displaced persons including refugees and returnees, and other vulnerable groups	Within the **first six months** of the start of the programme - January – June 2014 **First year – one training in July 2014 & Bi-annual trainings** in the next two years of action plan – (2015/2016)	A contextualized training module NHRIs & other stakeholders acquire knowledge & skills in the various thematic areas	**The NHRIs** a) NHRIs, CSOs FBOs, security & law enforcement agencies e.g. police, prisons, Members of Parliament/Senate **b)** Community leaders, policy makers

amongst communities & groups affected by conflict and to build relations in divided societies		f) Training on early warning and response programmes 3. Develop a **strategic work plan to specifically focus on conflict management and peace building**. This will ensure sustainable well planned activities in the area, and help in obtaining funding for such projects. 4. **Design monitoring and evaluation mechanism** to monitor human rights violations and train NHRIS on effective monitoring skills. 5. **Community Dialogue Programmes** a) Support/strengthen human rights and peace volunteers at selected community levels in hot spots areas. - b) Train the volunteers and conduct regular peace forums in the communities.	**First six months** of start of programme January – June 2014 **First six months** of start of programme January-June 2014 The **entire** programme period	Completed work plan on conflict management & peace building Monitoring and evaluation mechanism developed Peace & human rights volunteers receive support & training on peace & conflict issues; Peace programmes. Communities dialogue on peace & conflict issues	NHRIs NHRIs CSOs, Communities

2. To foster a culture of peace, respect for democracy and good governance in society including peaceful elections in the region.	Thematic trainings and peace education	6. **Conduct trainings for NHRIs and key stakeholders** on the fundamentals of **elections in peace processes** and on international and regional election standards which include the AU standards on elections, ICGLR protocols on elections etc.	**Bi-annual trainings** in each year of action plan (2014 - 2016)	NHRIs & stakeholders acquire knowledge & skills on elections in peace processes	NHRIs, CSOs, media, law enforcement agencies e.g. police prisons
		7. NANHRI in collaboration with NHRIs to develop an **annual good governance barometer** to facilitate the monitoring of democracy and good governance in the region. – standardised - this barometer will be applied by all NHRIs	**Annually** in each year of the action plan (2014 - 2016)	Standardized annual good governance barometer developed Monitoring Reports	NHRIs
		8. NANHRI in collaboration with NHRIs to publish an **annual consolidated report on the state of human rights and conflict in the region,** outlining, best practices, cross-cutting themes, and challenges. –	**Annually** in each year of the annual plan (2014 - 2016)	Consolidated information on state of human rights & conflict in the region produced	NHRIs
		9. NHRIs to conduct **civic education/awareness creation** on peace, human rights and good governance. - Use print media, radio programmes, develop IEC	**Continuous** activities during the three year period(2014-2016)	Communities, civil society etc. gain knowledge on peace, human	Civil society, communities, school children

		materials etc. - Develop "peace spaces" in communities & in schools – e.g. school to community peace outreach programmes – to create a forum where children share with communities about a culture of peace and respect for human rights 10. **Each NHRI to set up specific country early warning Systems** which should include; - developing indicators for tracking potential conflict - monitoring hotspots/issues - Design early response mechanisms etc.	Within the **first year** of the programme (2014)	rights and good governance. An early warning system developed by each of the NHRIs	NHRIs
3.To foster collaboration amongst NHRIs to work in conflict prevention, resolutions, management and peace building	Networking and partnership with stakeholders including government institutions, civil society organisations, regional institutions	11. **NANHRI** to facilitate the **periodic meeting of NHRIs** to improve coordination and collaboration to aid the effective intervention in conflict management and peace building. 12. **NANHRI to facilitate periodic regional meetings between NHRIs and CSOs** to identify areas of possible	**Bi-annual** meetings in each year of the programme (2014 - 2016) **Bi-annual meeting** in each year of the programme (2014-	Coordination & collaborations amongst NHRIs & with CSOs in the area of conflict management & peace-building Dialogue	NHRIs CSOs

		collaboration on issues of conflict. This would provide space for communities and CSOs to dialogue on issues of conflict and peace building and to develop strategies for intervention. 13. Develop **rights based conflict management and peace building guidelines** to ensure uniform standards in dealing with conflict issues. The approach would involve identifying the key conflict thematic areas that cut across the EAC countries. – in collaboration with key stakeholders.	2016) Within **the first year** of the start of the project (2014)	platform created for discussions between CSOs & NHRIs on conflict & peace building issues Standardized guidelines on rights based conflict management & peace building developed	NHRIs

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ANNEX I
LIST OF PERSONS/ORGANISATIONS BY THE ORDER OF INTERVIEWS

	UGANDA
1.	Uganda Human Rights Commission
2.	Foundation for Human Rights Initiative
3.	Bishop Zac Niringiye, scholar, & member, African Peer Review Mechanism for Uganda
4.	Hon Dan Ogalo, Advocate, former EALA Member
5.	Human Rights and Peace Centre, Makerere University
	KENYA
6.	Network of African National Human Rights Institutions
7.	Kenya National Commission on Human Rights
8.	Kenya Human Rights Commission
9.	National Gender & Equality Commission
10.	Refugee Consortium of Kenya
11.	Independent Electoral and Boundaries Commission
	TANZANIA
12.	Pan African Lawyers Union
13.	East African Law Society
14.	Commission of Human Rights and Good Governance
15.	East African Civil Society Forum
16.	Legal and Human Rights Centre
17.	Didus Kaguta, EAC Peace & Security Officer/Expert
18.	Tom Bahame Nyanduga, Advocate & former member of the ACHPR
19.	Chris Maina Peter, Professor University of Dar es Salaam, Tanzania
	RWANDA
20.	Rwanda Platform for Civil Society
21.	National Commission for Human Rights
22.	National Unity and Reconciliation Commission
23.	Rwanda Governance Board
24.	*Commission Nationale de Lutte Contre le Genocide*
25.	Rwanda Governance Board
26.	Institute of Research and Dialogue for Peace
27.	Centre for Conflict Management

	BURUNDI
28.	*Commission Nationale Indépendante des Droit L'Homme*
29.	*Commission Electorale Nationale Independante*
30.	*Bureau des Nations Unies au Burundi*
31.	*Centre de Recherche et de Formation pour la Paix*
32.	*Centre Nationale d'Alert et de Prevention des Conflits*
33.	*Forum Pour le Renforcement de la Société Civile*

Notes

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NETWORK OF AFRICAN NATIONAL HUMAN RIGHTS INSTITUTIONS