



EAST AND
HORN OF
AFRICA
HUMAN RIGHTS
DEFENDERS
PROJECT
(EHAHRDP)

“Only the Brave Talk About Oil”

Human Rights Defenders and the Resource
Extraction Industries in Uganda and Tanzania



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Uganda and Tanzania
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“It takes more than courage to engage in this, because when you suffer, it’s not only you. You put all of your family through that who do not have somebody else to rely on.”

Tanzanian Human Rights Defender

“Who is ready to die? Who is ready to risk his life? Sometimes if you don’t have human rights blood, you can’t do it. Some find it’s not worth it and some of them don’t want to. It takes heart, it takes courage.”

Tanzanian Human Rights Defender

“It’s only the brave that are going to remain in NGOs, if you begin observing the attitude towards the work by NGO actors, it is varying... it becomes difficult, because only the brave will talk about oil.”

Ugandan Human Rights Defender

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Foreword

Exploiting the natural resources of a country is a powerful method for growing a nation's economy and building the human, physical, and social capital needed for real national development. However if the sector is mismanaged and exploitation proceeds carelessly, natural resource extraction can be accompanied by increased corruption and reduced transparency, sow national disharmony, fuel economic inequality, and lead to irreparable environmental damage which poisons the source of peoples' livelihoods for generations.

The challenges faced by a nation engaged in large-scale natural resource extraction can only be met with the support of a strong civil society engaged in the legislative process, monitoring compliance and environmental management practices, and promoting transparency. Without strong and committed human rights defenders filling this role, the resource blessing threatens to become a resource curse.

However, human rights defenders engaging with the extractive industries sectors frequently face harassment and intimidation and are blocked from accessing the information and physical locations necessary for them to fulfil their monitoring and advocacy roles.

As one Ugandan human rights defender working in a rural area undergoing development for oil extraction told us, "only the brave talk about oil". While the East and Horn of Africa Human Rights Defenders Project recognizes that space for debate, input, and contestation exists and significant discussion has been generated by civil society around resource extraction issues, the use of this quote in the title underlines the imperative need to address the causes of the palpable fear expressed by many activists, especially outside of the urban capitals, to engage too strongly in the sector.

The East and Horn of Africa Human Rights Defenders Project is the secretariat of EHAHRD-Net, a network of human rights defends committed to defending the space for human rights defenders to carry out their work in the 11 countries of this sub-region. Since 2005 we have worked for the protection and promotion of human rights defenders in Djibouti, Eritrea, Ethiopia, Kenya, Somalia (including Somaliland), South Sudan, Sudan, Tanzania, and Uganda, and in Burundi and Rwanda since 2008.

EHAHRDP has prepared this report in order to bring attention to violations of the **right to defend human rights** and to call upon governments and corporations to provide the necessary access and support to human rights defenders. We recall in particular States' obligations as provided in the UN Declaration on Human Rights Defenders¹, and the recommendations made to both States and corporations in the Guiding Principles on Business and Human Rights produced by the UN Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises.²

1 UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998), available at <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

2 OHCHR, Guiding Principles on Business and Human Rights - Implementing the united Nations "Protect, Respect and Remedy" Framework, available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

I wish to take this opportunity to thank all those individual human rights defenders and organizations that contributed to these research findings and told their stories to our research team. Thanks are especially due to Devin Holterman for his work on the project. We dedicate this report to the communities affected by intensive resource extraction and who seek for sustainable and just management for current and future generations.

A handwritten signature in black ink, appearing to read 'Hassan Shire Sheikh', with a stylized, flowing script.

Hassan Shire Sheikh
Executive Director/Chairperson
East and Horn of Africa Human Rights Defenders Project/Network

Introduction

The resource extraction industries [‘extractives sector’], comprising the oil, gas, and mining sectors, is growing exponentially across East Africa. After initial discoveries in 2006, Uganda alone is estimated to control some 2.5 billion barrels of oil, which would make it one of the top 50 oil producing-countries on the planet.³ In neighbouring Kenya, oil has been discovered in the Turkana region of the country,⁴ and offshore exploration has commenced and continues to offer potential for large discoveries.⁵ Tanzania, Africa’s third largest gold producer, has been a mining hot-spot for decades. With recent announcements that extraction of uranium is to begin following the alteration of the boundaries of the Selous Game Reserve, a UNESCO World Heritage Site,⁶ the mining industry is set to maintain its importance in the Tanzanian economy. In addition, East Africa’s coastal region is sitting on large deposits of natural gas, some 441.1 trillion cubic feet of it, holding the potential for billions of dollars in investment.⁷

The enormous economic opportunity presented by these natural resource endowments has raised proportionally large concerns for sustainable environmental governance, revenue management, public health, community compensation, and intergenerational justice.

Human rights defenders (HRDs) have organized around these sectors to fulfil a crucial advocacy and monitoring role. In those regards HRDs in East Africa seek to influence both the regulatory frameworks governing the extractive sector as well as the public discourse which itself further influences policy-making, while raising the alarm when actors diverge from their responsibilities or when abuses go unaddressed.

Despite their critical role, HRDs have found the extractive sector to be resistant to monitoring and hostile to criticism, and HRDs who consistently engage these economies have found themselves under attack by both State and non-State actors. This observation in East Africa is echoed in international research. A recent report by Global Witness, an international natural resource watchdog, finds that those: “*defending their human rights or the human rights of others related to the environment, specifically land and forests,*” face increasing risks, including death. The report finds that 711 such individuals were reported killed globally between the years 2002 – 2011. This shocking death toll of more than one environmental HRD per week offers an indication of the extreme risks faced by these HRDs. Most significantly, the risks continue to increase: the same report states the death toll in 2011 nearly doubled from that in 2009 to 106 people – more than two deaths per week.⁸ Furthermore these statistics are only from reported cases.

Death is the most severe risk faced by HRDs, but it is far from the only risk. “In every region of the world, defenders, including women human rights defenders – and often their beloved ones – continue to be subjected to intimidation, threats, killings, disappearances, torture and ill-treatment, arbitrary detention, surveillance, administrative and judicial harassment and more generally, stigmatization by State authorities and non-State actors,” writes the UN Special Rapporteur on Human Rights Defenders, Margaret Sekaggya.⁹

- 3 York, G. (2011). For Uganda, oil industry is more curse than cure. The Globe and Mail. Retrieved 9 May, 2012, from <http://www.theglobeandmail.com/report-on-business/international-news/african-and-mideast/for-uganda-oil-industry-is-more-curse-than-cure/article2228481/>
- 4 BBC. (2012). *Kenya oil discovery after Tullow Oil drilling*. BBC News Africa. Retrieved 15 August, 2012, from <http://www.bbc.co.uk/news/world-africa-17513488>
- 5 Kiriimi, Solomon. (2012). *East Africa: Oil search in the Indian Ocean gets underway*. All Africa. Retrieved 15 August, 2012, from <http://allafrica.com/stories/201208150095.html>
- 6 Conservation News. (2012). *Tanzania Selous Game Reserve under threat from 60 million tons of radioactive waste as World Heritage Committee agrees boundary change*. African Conservation Foundation. Retrieved 15 August, 2012, from <http://www.africanconservation.org/201208082680/conservation-news-section/tanzania-selous-game-reserve-under-threat-from-60-million-tons-of-radioactive-waste-as-world-heritage-committee-agrees-boundary-change>
- 7 The International News. (2012). *Natural gas discoveries put East Africa on world energy map*. The International News. Retrieved 15 August, 2012, from <http://www.thenews.com.pk/Todays-News-3-115627-Natural-gas-discoveries-put-East-Africa-on-world-energy-map>

- 8 Global Witness. (2012). *A Hidden Crisis? Increase in killings as tensions rise over land and forest*. Available at http://www.globalwitness.org/sites/default/files/library/A_hidden_crisis.pdf
- 9 UN Special Rapporteur on the Situation of Human Rights Defenders. (2011). *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote*

This report by the East and Horn of Africa Human Rights Defenders Project examines the situation of human rights defenders engaging with the mining sector of Tanzania and the oil and gas sectors of Uganda. It has been produced with the objective of improving understanding of the capacity, risks faced, and needs of human rights defenders engaging on this important sector, and to subsequently promote an improved working environment for those HRDs.

Background

The rights of HRDs – that is, the right to defend human rights – have been recognized through the adoption of key international human rights instruments. These rights were compiled and restated in the 1998 United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. A 2011 commentary to the UN Declaration presented by the UN Special Rapporteur on Human Rights highlights that the *“State’s duty to protect the rights of defenders from violations committed by States and non-State actors is derived from each State’s primary responsibility and duty to protect all human rights as enshrined in article 2 of the International Covenant on Civil and Political Rights.”*¹⁰

Importantly, the commentary points to the State’s additional responsibility for the actions of non-State actors, which include private corporations, and the responsibility of the non-State actors themselves: *“It is necessary to recall that the Declaration on Human Rights Defenders is addressed not only to States and human rights defenders, but to everyone.”*¹¹ John Ruggie, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, has also outlined a specific framework regarding the relationship between business entities and human rights.

The Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework of 2011 lays out a three pillared framework for businesses and corporate entities to follow in order to maintain a human rights-based approach to their operations:

*“The first is the State duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication. The second is the corporate responsibility to protect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved. The third is the need for greater access by victims to effective remedy, both judicial and non-judicial.”*¹²

These reports, and others, offer frameworks and processes necessary for all stakeholders to develop a strong and shared approach to human rights. However, they also provide insight into the difficulties and challenges faced by HRDs when dealing specifically with key economic sectors.

Methodology

This report focuses on two countries within East Africa – Tanzania and its mining sector and Uganda with its burgeoning oil and gas sector – each at different stages of resource development. Uganda, with recent discoveries, remains in the exploration and pre-production stage, including the tabling of petroleum legislation and development of infrastructure, and commercial production has yet to commence.

and Protect Universally Recognized Human Rights and Fundamental Freedoms (pg. 15). Available at <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersjuly2011.pdf>

10 Commentary to the HRD Declaration pg. 9

11 Commentary to the HRD Declaration pg. 11

12 Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (pg. 4), (2011) A/HRC/17/31, available at http://ec.europa.eu/enterprise/policies/sustainable-business/files/business-human-rights/guiding_principles_business_and_hhrr_en.pdf

On the other hand, Tanzania, where production has been going on for decades, has become Africa's third largest gold-producing State and has advanced further through the legislative process including with the most recent Mining Act of 2010.

Nearly 40 interviews were conducted with key stakeholders and HRDs between the months of May and August 2012. As the extractive industry deals directly with point resources, those that have a geographically fixed location, the distribution of stakeholders can be found across a vast area.

Interviews were conducted in Uganda in Hoima, Masindi, Kampala, and one community neighbouring future oil production and in Tanzania, in Dar es Salaam, Musoma, and two communities near a gold mine.

The research was conducted around the following concerns: (1) right to security/integrity of the person, (2) freedoms of association, and assembly, (3) Freedom of expression, (4) access to information, and (5) space for participation.

Large-scale gold mining in Tanzania began production in 1998 and since then the country has grown into the third largest gold producer on the continent, after Ghana and South Africa. With the global price of gold well over \$1,700 per ounce,¹³ gold mining is the most prominent sector of the Tanzanian mineral economy. However that economy is diverse and includes also diamonds, tanzanite, and uranium, among many other minerals.

Gold mining has been the epicentre of controversy since it began in Tanzania. A number of reports have been published focusing on the gross human rights violations taking place in and around mining sites in the country. One such report entitled *A Golden Opportunity? How Tanzania is Failing to Benefit from Gold Mining* estimates that large-scale gold mining has potentially pushed 400,000 small-scale miners out of work.¹⁴ A June 2012 report, entitled *The One Billion Dollar Question: How can Tanzania Stop Losing so Much Tax Revenue*, illustrates the significant financial implications the mining industry has across the greater Tanzanian economy. The report states tax incentives and exemptions alone accounted for the loss of over \$285 million per year between 2008 and 2011. The detailed report also brings to light the implications of illicit capital flight and tax evasion.¹⁵ In addition, photojournalist Allan Lissner has produced a photo essay attempting to tell the stories of Tanzanians directly facing the plethora of issues owing to large-scale mining.¹⁶

Uranium is the newest addition to the mineral economy of Tanzania. As of July 2012, the United Nations Educational, Scientific and Cultural Organization (UNESCO) approved the plans for the building of a uranium mine within the – now former – borders of the Selous Game Reserve,

a World Heritage site.¹⁷ As this report will show, these developments and the growing mining sector are of great concern to HRDs working in Tanzania. Although significant human rights abuses associated to the mining industry have taken place throughout the history of the mining industries, this report deals more specifically with the difficulties faced by HRDs attempting to engage with this industry.

Situation of Human Rights Defenders

Tanzanian HRDs engaging with the extractive industries have faced threats and attacks on their personal integrity for many years, in the form of both direct actions such as unlawful detainment and intimidation, as well as more structural forms of violence such as the unresponsiveness of duty-bearers.

There is a long history of antagonism, including cases of violence, between the mining industry and Tanzanian citizens, especially in the North Mara region of the country. It was here that in May 2011 between 4 and 7 Tanzanians (reported figures vary)¹⁸ were shot and killed and many others wounded by private mine security officers in an incident at the North Mara mine owned and operated by African Barrick Gold (AGB), a subsidiary of Canadian mining giant, Barrick Gold Corp.¹⁹ Following up on the shootings, the Lawyers Environmental Action Team (LEAT), an organization working around mining, environmental, and human rights issues, mobilized staff members to conduct a fact-finding mission.

13 As of 25 October, 2012: <http://www.reuters.com>

14 Curtis, M., & Lissu, T. (2008). *A golden opportunity? How Tanzania is failing to benefit from gold mining* (pp. 1–56). Dar es Salaam. Retrieved from <http://www.pambazuka.org/images/articles/407/goldenopp.pdf>

15 Interfaith Committee. (2012). *The one billion dollar question: How can Tanzania stop losing so much tax revenue*.

16 Lissner, Allan. (2008). *Someone else's treasure*. Retrieved 25 October, 2012, from <http://allan.lissner.net/someone-elses-treasure-tanzania/>

17 Tanzania gets UN nod for uranium mine in game park (2012). *Reuters*. Retrieved 20 September, 2012, from <http://af.reuters.com/article/tanzaniaNews/idAFL6E8I57YN20120705>

18 Interviewees stated between 4-5 deaths, while other reports highlight the deaths of seven individuals.

19 Wright, L., & Edwards, J. (2011). *Mines and Communities: Tanzania: Murders at North Mara*. *Toronto Star*. Retrieved 24 October, 2012, from <http://www.minesandcommunities.org/10914>

While attempting to conduct this work, a lawyer working with LEAT was arrested and detained, along with Mr. Tundu Lissu, the official opposition party's whip.^{20, 21} The group was arrested while attempting to obtain a copy of the post-mortem report from the hospital conducting the autopsy on the victims, in an attempt to understand if the gunshots had been fired with the intention to kill, wound, or disperse. Emmanuel Massawe, Executive Director of LEAT, told EHAHRDP:

"They were trying to get the post-mortem report while it was still fresh because probably the government and its machineries, even security people, could tamper with the report and at the end of the day the evidence would be watered down. So they wanted to see the process being done fairly and [to ensure hospital staff was] following legal procedures and medical ethics."²²

The Government of Tanzania pressed charges against the detained activists and politicians, as a Tanzanian newspaper reported on 25 May, 2011, in order to *"answer charges of illegal entry into a mortuary and holding an unlawful meeting. They were also charged with obstructing post-mortem on the dead bodies. They were denied bail and remanded in custody."²³* To date there have been no further court hearings on these charges.

One prominent HRD working on issues of mining explained to EHAHRDP the different forms of intimidation and harassment that take place both from an official and unofficial standpoint:

"There are a lot of questions, you're questioned. If you're going to do video and pictorial documentation your camera and memory card can be confiscated... confiscated by the police."

Just to put it well, I think the mine and the police are married, they share everything... When we are at the mining area that is where the harassment occurs. Outside of the mine, we just get harassments from outside. This can be done through a third party. For instance, one time I got information from one of the journalists who said: 'well, you're young and you're against this thing and you can lose your life easily, why can't you leave these issues?'"²⁴

Another HRD voiced similar concerns to EHAHRDP regarding a particular advocacy campaign attempting to illustrate the effects of mining on the Tanzanian population:

"There was an advocacy [campaign] which aimed to publicize what [African Barrick Gold] is doing here. At that point, all that process, finding a passport, looking for a visa, it was like we were trying to transport drugs. Police were harassing us, 'where are you going? Why?' We received some phone calls to threaten. 'Don't do this. Don't do that, it's dangerous to your life.' It is one of the challenging areas activists are having in this area."²⁵

In the course of this research, EHAHRDP heard numerous statements such as the above which clearly point to threats faced by Tanzanian HRDs engaging with the extractive industries. For some HRDs these risks have included anonymous and threatening phone calls directly related to their work.²⁶ These risks can also include anonymous threats from unidentified individuals. For example, one HRD described receiving indirect threats verbally in public places on two different occasions which included specific information regarding the HRD's work.²⁷

20 Mr. Tundu Lissu was also involved in other instances of unlawful arrests prior to becoming a Member of Parliament as far back as the mid 1990's, as well as reports of intimidation from authorities for a period of up to six years./

21 Read more at <http://protestbarrick.net/article.php?id=753>

22 Interview 17 July, 2012 Dar es Salaam Tanzania

23 The Guardian, (2011). Tanzania: Lissu, six others in court. *IPP Media*. Retrieved 24 October, 2012, from <http://www.ippmedia.com/frontend/index.php?l=29450>

24 Interview 21 July, 2012 Mwanza Tanzania

25 Interview 17 July,, 2012 Dar es Salaam

26 Interview 17 July, 2012 Dar es Salaam; July 18, 2012 Dar es Salaam; July 24, 2012 Dar es Salaam; July 24, 2012 Dar es Salaam

27 Interview 20 July, 2012 Dar es Salaam

Another HRD explained being followed home from Dar es Salaam international airport for more than 20 kilometres after returning from Nairobi on a work visit related to victims of human rights abuses associated with the effects of mining.²⁸

All these instances point to the normalization of an atmosphere of fear centred on HRDs attempting to engage with the extractive industry in Tanzania. This fear is also propelled as many of the HRDs interviewed expressed uncertainty about their own safety and a feeling that nobody was able to protect them:

“I’ve reached the point of saying: there is nothing I can do about myself. If I die tomorrow, fine. I know I cannot protect myself anyway, I believe God will protect me if anything happens. Now the fear goes even higher when we see people being abducted and beaten, you ask yourself whether you’re safe or you’re not?”

“What I am trying to say is it’s very difficult to protect HRDs in a situation where those who are supposed to be protecting the human rights are not even protected – they’re less powerful than those who don’t have any power. We can be playing that role of protecting ourselves, and protecting our colleagues who are more vulnerable, but we are equally not protected. We don’t know what will happen next to us.”²⁹

As noted in the introduction to this report, gold is not the only mineral being mined in Tanzania. With the recent announcement UNESCO has given its approval to the Government of Tanzania to alter the borders of the Selous Game Reserve – a UNESCO World Heritage site – which will allow for a uranium mining project to begin, fears in the southern regions of Tanzania are also growing. A number of HRDs cited their fears associated with the development of the uranium sector, especially around the many uncertainties that remain, such as impacts on health and environment, and the possibility of

mismanagement exacerbated by legal gaps.³⁰

The atmosphere of fear is also contributing to the availability and access to information regarding the extractive industries in Tanzania. One HRD who conducts research specifically focused on mining and human rights issues told EHAHRDP that in many cases across different regions those affected by human rights violations are terrified of speaking and insist that meetings and interviews take place in secret places, late at night and into the early hours of the morning:

“Some of them [HRDs] we met at midnight, some were hidden... some said don’t take us on video. Most of them are scared for their lives. Some of the HRDs are really scared because they’re not sure of their protection, they’re not sure they’re going to survive the next day.”³¹

Freedom of Expression

The free flow of information emerging from mining areas is crucial to inform public debate and public policy. Yet journalists and human rights defenders have at times been aggressively received and turned away from conducting monitoring and reporting.

Following the shootings at the North Mara African Barrick Gold mine, Canadian freelance journalist Jocelyn Edwards was also arrested in Tarime on 26 May, 2011. Upon her arrival, Edwards reported being followed for days by security operatives. Edwards visited the district commissioner’s office in an attempt to gain permission to visit the communities around the North Mara mine. However at the offices she was arrested, after which her hotel room was searched and her camera, laptop, and recorder were confiscated and searched throughout the night. She was taken to court, paid fees and was subsequently deported via the nearby border with Kenya.

Edwards was not the only journalist arrested during the incident at North Mara mine. The Guardian (Tanzania) also reported that four

28 Interview 17 July, 2012 Dar es Salaam

29 Interview 20 July, 2012 Dar es Salaam

30 Interviews 21 July, 2012 Mwanza; July 18, 2012 Dar es Salaam; July 18, 2012 Dar es Salaam; July 17, 2012 Dar es Salaam; 24 July, 2012 Dar es Salaam

31 Interview 17 July, 2012 Dar es Salaam

journalists were arrested while following-up on reports that bodies of four of the deceased were dumped near the mine site.³² The arrests illustrate the difficulties facing journalists operating within Tanzania, especially those who focus their work on sensitive issues and human rights. The 30 July, 2012 indefinite ban placed upon the Tanzanian newspaper Mwanahalisi following the publishing of allegations regarding the abduction and severe beating of a doctor negotiating on behalf of striking colleagues further illustrates the difficulties journalists face in Tanzania.³³

The clampdown on freedom of expression has even surpassed the borders of Tanzania. At the 2012 annual general meeting (AGM) of Barrick Gold Corp in Toronto, Canada, Amani Mhinda who had travelled from Tanzania to attend the AGM to speak for the Tanzanian communities affected by Barrick's operations in the country, was denied access to the meeting, despite having been appointed as a proxy by a shareholder to enter and contribute.³⁴

Freedom of Association and Assembly

There are significant concerns regarding freedom of association and assembly in Tanzania. These concerns are mainly centred on the ability for Tanzanians to join and function within a union, to speak out regarding concerns attached to the mining industry, and express their views through activism.

In 2011, two leaders of the Tanzanian Mining and Construction Workers Union (TAMICO) were suspended by the management of Geita Gold Mine, operated by Anglo Gold Ashanti (AGA), for organizing a community demonstration at the gates of the mine. The General Secretary of TAMICO, Hassan Khamis Ameir, told EHAHRDP that the union leaders had secured permission from both the police and mine management prior to the demonstration.

The demonstration was organized around the union's legal rights to organize and began in Geita town, not on mine property. The community, also unhappy with the mines management, joined the demonstration with the union members, which took place from the community up to the gate of the mine. Ameir explained to EHAHRDP: *"The community joined the demonstration because you know those guys of Geita Gold Mine have a lot of problems in the community also... what they say is they don't help the community."*

The suspension lasted for nearly three months and was lifted due to TAMICO's ability to engage through their international labour partners and negotiate an agreement with AGA. The International Federation of Chemical, Energy, Mine and General Workers Union (ICEM) negotiated with AGA to reinstate the union leaders after conducting an investigation into the incident at Geita Gold Mine,³⁵ and as of October 2012, an independent audit had confirmed the right of TAMICO to represent all workers at the mine.³⁶

Wrongful termination has also been cited in a plethora of cases concerning unionizing of the mining industry. Not long after one HRD was approached and bribed to stop his work by members of the mining industry, he was forced to file a wrongful termination case against his employer who sent him a notice of termination. The proceedings of the case were completed in November 2011, but as of July 2012 a judgment had yet to be released.³⁷ TAMICO is also involved in a number of unfair termination cases for members, as Ameir explained further:

"Right now in our union, in the mining sector only, we have around 200 cases in court. Most of them are unfair termination and they keep coming and coming... we finish the cases and others come."

32 Ibid.

33 Tanzania Human Rights Defenders Coalition. (2012). A joint Statement on the banning of Mwanahalisi weekly investigative newspaper. Press release. Dar es Salaam.

34 Saunders, S. (2012). Protest Barrick : Tanzanian Representative Illegally denied Entry into Barrick Gold AGM. *Protest Barrick*. Retrieved 28 October, 2012, from <http://protestbarrick.net/article.php?id=809>

35 Wa Simbeye, F. (2012). Tanzania: Geita Mine Seeks to Verify Tamico Members. *Tanzanian Daily News*. Retrieved 27 October, 2012, from <http://allafrica.com/stories/201209281092.html>

36 Wa, S., Finnigan. (2012). Tanzania: Audit Report Vindicates Geita Mine Tamico Branch. *Tanzanian Daily News*. Retrieved 27 October, 2012, from <http://allafrica.com/stories/201210190166.html>

37 Interview 18 July, 2012 Dar es Salaam

So we have almost 200 cases and we are operating in about six mines only.”³⁸

Employees who join TAMICO also face difficulties receiving promotions, especially those union members who take leadership roles. Ameir informed EHAHRDP of four union chairpersons who were forced to resign in order to receive a promotion, which normally encompasses higher pay and benefits. Such incidents were in particular cited at AGA’s Geita Gold Mine and ABG’s Buzwagi Gold Mine.³⁹

Access to Information

In tracking the resource extraction sector, with its enormous investments and revenues, wide-ranging and complex environmental impacts, and rigorous regulatory needs, access to information is paramount for human rights defenders to work effectively. In Tanzania access to financial information has improved thanks to the Tanzania Extractive Industries Transparency Initiative (TEITI), as part of an international transparency standards initiative in which resource company payments and government receipts are publically compared and reconciled.^{40,41} Yet significant information remains unavailable.

After the broadcast of a documentary on the environmental and health effects of the chemicals used in the process of gold mining in Tanzania which spurred a public outcry, a government task force was sent to investigate the claims made by the documentary. Yet the resultant report by the National Environment Management Council (NEMC) was never released to the public. A representative of the Interfaith Standing Committee on Economic Justice and the Integrity of Creation told EHAHRDP they made a specific access claim to NEMC for the report to compare its findings with their own research, only to be denied the report.

Another concern regarding information centres on contracts signed between the government and mining corporations. Mining contracts in Tanzania were originally confidential but

following advocacy by civil society activists access is now possible through the Library of Parliament. However, as explained by Silas Olan’g, the African Senior Regional Associate for the Revenue Watch Institute, this process is restricted in itself. Anyone wishing to analyze the bills must first obtain permission, and once permission is granted they are not allowed to photocopy or remove the contracts from the premises of the Library of Parliament. According to Olan’g this process is prohibitive in nature and limits the ability of Parliament to analyze and have a constructive debate around the contents of the mining contracts.⁴² Contract disclosure is crucial when stakeholders are involved in particularly problematic issues for example environmental concerns⁴³ such as a chemical spill in 2009 at an African Barrick Gold mine.⁴⁴ Olan’g explained the seriousness of these restrictions on accessing the contracts to EHAHRDP:

“You can see what is happening in North Mara, with environmental issues, we don’t know what is in the contract, what is the obligation of the company in terms of environmental management, so sometimes you can make a lot of noise, but probably the contract allows them not to [pay]. The law says clearly, polluter pay, but you wonder why they’re not paying for polluting, so something might be in the contract. If the contract is clear, activists could take the issue to the court with clear evidence... but now you don’t have the contract to do that.”⁴⁵

Other access to information concerns are centred on the reporting of financial information such as corporate social responsibility (CSR) payments.

38 Interview 25 July, 2012 Dar es Salaam

39 25 July, 2012 Dar es Salaam

40 Interview 17 July, 2012 Dar es Salaam; 18 July, 2012 Dar es Salaam

41 Interview 24 July, 2012 Dar es Salaam; 18 July, 2012 Dar es Salaam

42 Interview 17 July, 2012 Dar es Salaam

43 Rubara, E. (2008). Mining and colonial practices in Tanzania. *Pambazuka News*. Retrieved 9 May, 2012, from <http://www.pambazuka.org/en/category/comment/52093>

44 F Bitala, M., Kweyunga, C., & LK Manoko, M. (2009). Report reveals North Mara Gold Mine pollution. *Pambazuka News*. Retrieved October 27, 2012, from <http://pambazuka.org/en/category/features/59161>; Bariyo, N. (2012). Tanzania Government Probes North Mara Gold Mine Over River Pollution. *Dow Jones Newswire*. Retrieved October 27, 2012, from <http://protestbarrick.net/article.php?id=474>

45 Interview 17 July, 2012 Dar es Salaam

A representative of TEITI explained to EHAHRDP that these CSR payments are difficult to quantify as most projects are done by the corporation themselves, and specific project funding is not disclosed. According to Policy Forum, disclosure on a project-to-project basis is restricted as CSR payments have, to this point, been published as lump sums, thereby limiting the ability to understand CSR payments in a clear manner. Reportedly lump sum payments have also been negotiated between corporations and local governments, whereby each operating company pays annually.⁴⁶ *“We don’t know what happens with this money, we don’t know if it’s paid or not, no clue. Try to get that information and it’s almost impossible.”*⁴⁷

Access to information regarding the prospects of uranium development is particularly concerning for HRDs in the country. Policy Forum explained the lack of expertise on the side of both civil society and the government as one of the main areas of concern.⁴⁸ HRDs also explained that there is a lack of general information regarding plans on the upcoming production of uranium in Tanzania, and the public have not been involved in debate on the dangers of uranium production.⁴⁹ Again, information in this regard is necessary for HRDs to be effective in their work and the public to remain informed:

*“Don’t expect Tanzania to all of a sudden have expertise, at least civil society and other activists to have expertise overnight on how to manage these resources or rather how to advocate for the better management of these resources.”*⁵⁰

Space for Participation

On April 16, 2010 the energy and minerals minister of Tanzania tabled a new mining law under a certificate of urgency. This procedure, which requires the President’s direct approval, often comes under criticism as public debate and consultation are greatly curtailed.

The certificate of urgency removes the second reading of the bill altogether, significantly reducing the amount of time allocated for debate and public consultations. In the case of the 2010 mining law, the review and approval process took place over less than 10 days.⁵¹ Civil society organizations and individual HRDs had to collaborate quickly to organize recommendations on the new mining law. Policy Forum estimates positively that over half of the recommendations put forth by civil society organizations were accepted into the Mining Act 2010.⁵² Other HRDs and civil society organizations also expressed a general sense of success with the consultation and the acceptance of proposed recommendations, despite the limited timeframe provided under the certificate of urgency.⁵³

Gaps within the Mining Act 2010 remain, however, and civil society organizations and HRDs are now attempting to fill these gaps during the Constitutional Reform process currently taking place in Tanzania.⁵⁴ Although the Mining Act 2010 had many positive aspects, there remain significant issues regarding implementation, as one HRD told EHAHRDP:

*“What I can say is that we’ve been totally airbrushed out of the formulation of the regulations to operationalize the law, we just hear they’re already out. I think the Ministry of Energy and Minerals is one of the most closed ministries we have. The only reason we were able to engage with the mining bill is because by law they’re required, before you put legislation to Parliament it should go through public hearings.”*⁵⁵

46 Interview 24 July, 2012 Dar es Salaam
 47 Interview 18 July, 2012 Dar es Salaam
 48 Interview 18 July, 2012 Dar es Salaam
 49 Interview 18 July, 2012; July 17, 2012 Dar es Salaam
 50 Interview 18 July, 2012 Dar es Salaam

51 Olan’g, S. (2010). Tanzania passes a new mining law and builds new capacity for informed policy debate. Retrieved 27 October, 2012, from http://archive-2011.revenuewatch.org/files/RW1_Case_Study_Tanzania_Mining_Bill.pdf
 52 Interview 18 July, 2012 Dar es Salaam
 53 Interview 17 July, 2012 Dar es Salaam; July 17, 2012 Dar es Salaam
 54 Interview 17 July, 2012 Dar es Salaam; July 17, 2012 Dar es Salaam; Massawe, E. (n.d.). Environmental rights, protection and management in Tanzania: Justification for their inclusion in the would-be new constitution. Dar es Salaam. Retrieved from <http://www.policyforum-tz.org/files/EnvironmentalRights.pdf>
 55 Interview 18 July, 2012 Dar es Salaam

The Constitutional Reform process offers an opportunity for HRDs and civil society organizations to contribute to a lengthier process of consultation and review, and provides an opportunity for the gaps within the current legal apparatus of the mining industry to be filled.

One of the recommendations left out of the Mining Act 2010 was an obligation for mining corporations to enact CSR projects and policies, Emmanuel Massawe of LEAT explained to EHAHRDP. Without a legal obligation, CSR is placed entirely in the hands of the corporation, and this appears to be having serious implications on the types of projects put forth, and the response from the communities involved. Massawe further elaborated:

“If you go [to the mining communities] you can realize that the companies and the surrounding communities are always in conflict. One, this is because the community doesn’t see the benefits of the company being there.”⁵⁶

Spaces for participation for HRDs working at the national level appear to be growing. However, on the local level, consultation appears more difficult. One community-level HRD expressed his concerns regarding the local community’s means to consult. The information regarding the rights of the communities and where to take their complaints is of serious concern:

“The people [don’t] know their rights, they don’t know where to star ... demanding their rights from the company... For example, you see the road is very bad, but the people they don’t know where they can force the government to make sure profits or the money which they get from the mining activity might be remaining here.”⁵⁷

The particular results from consultation processes that have taken place are also hard to locate. Government ministers, committees, and NGOs undertake research projects and mandates in an attempt to understand how the mining industry is operating within the communities directly affected, but one HRD has expressed his discomfort with this process as those consulted are left out of hearing the final results, and do not see any results from the work:

“They [the local communities] fail to understand where to start because the government itself keeps on coming here with the committees, also the different organizations keep on coming here collecting information and then they deliver no information... up to now they don’t see the effect.”⁵⁸

56 Interview 17 July, 2012 Dar es Salaam
57 Interview 22 July, 2012 North Mara Mine: Interview through translation

58 Interview 22 July, 2012 North Mara Mine: Interview through translation

In 2006, Uganda announced that Tullow Oil Inc. and other corporations had discovered oil and gas deposits of commercial viability for the first time in the country. Since the announced discoveries, the sector has seen significant developments, with the commercial production commencement dates most recently set for 2014-2015. Two petroleum bills are currently tabled before Parliament: The Petroleum (Exploration, Development and Production) Bill, 2012 (also known as the Downstream Bill) and The Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Bill, 2012 (also known as the Midstream Bill). As of late November 2012, the two bills were undergoing debate in Parliament. Many civil society organizations (CSOs) submitted reports to the Parliamentary Committee on Natural Resources with their comments on the tabled bills;⁵⁹ and other organizations have also published independent analyses of the bills, including Global Witness⁶⁰ and UN Office of the High Commissioner for Human Rights.⁶¹ A Public Finance Bill, with specific provisions on oil and gas revenue management, was tabled in September 2012 and initial analysis has mixed praise for transparency and financial management provisions with criticism of strong ministerial power and weak parliamentary oversight.⁶²

With the progress on these bills and other developments, Uganda is moving rapidly towards being able to carry out commercial oil production. Recently, the construction

of a road from Hoima to the location of a proposed oil refinery in Kabaale district was commissioned. Land for the refinery project had also been demarcated as of August 2012. High expectations for the economic potential of oil exploitation are tempered by fears over resource mismanagement and corruption in the sector. In addition, human rights defenders engaged in advocacy and monitoring of these developments have found themselves facing undue restrictions and threats in the course of their work.

Situation of Human Rights Defenders

In Uganda's oil and gas sector, EHAHRDP has recognized that HRDs working within this sector face significant risks, particularly those HRDs operating in more remote and rural locations near oil installations, wells, and exploration sites, and those who are removed from protective mechanisms such as diplomatic missions and international and national organizations.

On the weekend of 19 May 2012 a group of HRDs containing both a journalist and researchers from a local organization were unlawfully arrested and detained while they attempted to administer a questionnaire to local communities in Buliisa district on the relationship between land rights and oil. While the team was en route to the district security officer's headquarters (DSO), to inform the office of their planned activities, the team of three was arrested and hurriedly taken to the DSO's office:

"They had a worry that we were having... discussions related to oil and yet they had said no more discussions on oil."

The team's computers, digital cameras and recorders were confiscated. After refusing to write police statements, the district police chief questioned the group on their intentions in the area. The HRDs were told they required a letter from the Ministry of Energy and Mineral Resources granting permission to hold discussions, as well as the signing of a Memorandum of Understanding with the Ministry, among other requirements, in order to receive permission to administer their questionnaire. As the team responded that the questionnaire was simply a preliminary document, set to inform their future

59 Civil Society Coalition on Oil and Gas in Uganda. (2012). Analysis of petroleum bills: The petroleum (exploration, development and production) bill, 2012 and the petroleum (refining, gas processing and conversion, transportation and storage) bill, 2012 (pp. 1–20).

60 Global Witness. (2012). *Uganda's petroleum legislation: Safeguarding the sector*. Retrieved from [http://www.globalwitness.org/sites/default/files/library/Ugandas petroleum legislation - Safeguarding the sector.pdf](http://www.globalwitness.org/sites/default/files/library/Ugandas%20petroleum%20legislation%20-%20Safeguarding%20the%20sector.pdf)

61 United Nations Office of the High Commissioner for Human Rights. (2012). *Analysis of the petroleum (exploration, development and production) bill, 2012 and the petroleum (refining, gas processing and conversion, transportation and storage) bill, 2012* (pp. 1–42).

62 Ssekika, E. (2012). Oil: Activists fault Public Finance Bill. *The Observer*. http://www.observer.ug/index.php?option=com_content&view=article&id=20900:oil-activists-fault-public-finance-bill&catid=38:business&Itemid=68

projects, they were shown documents received from the Ministry instructing them to not allow any discussions or debates to be held which focused on the topics of land and oil. After being questioned by both the DSO and the Resident District Commissioner (RDC), the group was detained for a further two hours, before being released. Upon being released, the team was allowed to administer their questionnaire, but a police escort was required to assist them in the field.

Upon returning from the field, the data was confiscated:

“They wanted to know what we are asking the people and what we are writing. When we came back from the field, they took our documents, and our questionnaires. They slept with them and gave them to us the next morning. They read through them over night and made photocopies.”

In early 2011, the coordinator of Publish What You Pay Uganda (PWYP-U), Issac Nkuba, was arrested and held for nearly five hours after organizing a community meeting focused on how Uganda could learn from other resource rich States. Nkuba had organized a community meeting in Buliisa, showing a copy of Publish What You Pay’s documentary focused on the resource-rich States of Nigeria and Botswana and the possible lessons a new resource-producing State could learn from these previous examples. NGOs involved in the community meeting, including PWYP-U, were reported by a local newspaper to have said that Nkuba had been given a “serious warning never to participate in meetings on oil again” and that the arrest order came directly from the local RDC.⁶³

“The point that we have always insisted on has been that it is our right to assemble, that one is our constitutional right, the right to express our concerns and we have the right to access information and

63 Oil activist arrested as British lobbying for Tullow is revealed | Uganda Talks. (2011). *The Independent*. Retrieved 14 August, 2012, from <http://www.independent.co.ug/ugandatalks/2011/02/oil-activist-arrested-as-british-lobbying-for-tullow-is-revealed/>

*organize any meeting, because our point was to first of all make our objectives clear to security agencies, for us we are not against government, our intention is to consult the communities, share information and we see the way moving forward.”*⁶⁴

PWYP-U also experienced difficulties with further arrests in Amuru, Northern Uganda. Three members of the organization were arrested and detained for roughly two hours. They too, were attempting to screen the same documentary as Nkuba. Upon the arrest of these PWYP-U members, their equipment was confiscated for nearly two months. The arrests and confiscated equipment halted the screening and associated community meeting from taking place.⁶⁵

In November 2010, just months prior to the most recent presidential elections in Uganda, Kangula Lawrence, the Executive-Director of the Masindi-based NGO Mid Western Region Centre for Democracy and Human Rights (MICOD), was arrested and detained for nearly seven hours. MICOD was taking part in a project focused on informing local communities about the oil and gas sector through “citizen consultations,” with the hope that citizens would be more informed in their expectations of the sector as they went to the polls. Lawrence told EHAHRDP that they were detained and questioned for nearly seven hours by both the RDC and the District Police Chief (DPC) and were asked questions such as: “What do you want and why are you doing this work? Who is BAPANECO? [Bunyoro Albertine Petroleum Network on Environmental Conservation – a loose network of CSOs working on oil, gas, and environmental issues] Who are the sponsors? Why are you talking about oil?” Lawrence elaborated:

“People thought we were doing it because we were supporting a certain politician and we were inciting the community. We tried to explain to them what exactly we are trying to do, but they said we should not go back to inform the communities.”

64 Interview 5 August, 2012 Skype conversation with Kampala NGO

65 Interview 5 August, 2012 Skype conversation with Kampala NGO

Responding to the arrest of the leader of their organization, another member of MICOD told EHAHRDP that once the arrest took place, the project was forced to stop. The citizens consultations could not continue: *“For me, once they took him I was done, I could not say we push on. We gave up our materials.”*

The stigmatization of HRDs and their work appears to be a growing trend in Uganda’s oil and gas sector. A large number of HRDs interviewed told EHAHRDP that they had at some point been accused in one way or the other of “inciting the community” through their work, by government representatives, security personnel and members of the media.

In particular, one women’s rights group based in Western Uganda told EHAHRDP they had been confronted by political leaders and told that their work is inciting communities: *“The security threats we get are from the members of [the Internal Security Organisation]. Some of them threaten us that this [work] is very bad, is anti-government, is inciting the community. So when a security member speaks like that to a friend, it is kind of threatening.”*

Despite efforts by the African Institute for Energy Governance (AFIEGO) to quell the trumped-up accusations about their work, the CEO of the organization, Dickens Kamugisha told EHAHRDP that one of the most significant security risks faced by HRDs working in the oil and gas sector are media reports claiming HRDs are *“mobilizing the people to overthrow the government.”* These claims become dangerous as misinformation regarding the work of HRDs spreads throughout the country. *“The government has powers, has a lot of resources to put that information everywhere and then you appear in the public as if you’re a dangerous person, as if you don’t like your country,”* Kamugisha told EHAHRDP.

The Advocates Coalition for Development and Environment (ACODE), another leading organization working on the oil and gas sector in Uganda, has also expressed their concerns with the growing stigmatization of their work. ACODE told EHAHRDP that government officials have made statements labeling CSOs as an “enemy of the state” and that their work has

frustrated efforts to exploit the resources of the country. These statements and the increased militarization of the oil-bearing region has provided for an insecure working environment. One HRD elaborated:

“At times you’re not very sure whether it’s you they’re talking about and therefore you don’t walk with your head raised, feeling comfortable you’re doing good work for the country, because you don’t know whether you’re the one which government is perceiving as an organization or as an individual that is trying to sabotage a government program.”

While presenting at a workshop regarding the petroleum bills in Arua, Northern Uganda, an employee of HURINET was approached by the RDC of the area who proclaimed the discussion around oil and gas would make citizens “hate the government” and make citizens uncomfortable, and therefore the employee shouldn’t “say too much.”

In another instance, Uganda’s First Lady Janet Museveni delivered a speech on 11th June 2012, on behalf of the President of Uganda, which called on the Bunyoro Kingdom to halt discussions about oil and gas and instead focus on “farming and other activities.”⁶⁶ This message has been reiterated in a number of ways across the oil and gas region. These examples of stigmatization demonstrate the various attempts to delegitimize the work of HRDs and stifle debate and civil society engagement in the oil and gas sector in Uganda.

Access to Information

Accessing information regarding the oil and gas industry in Uganda is a significant challenge for HRDs. This information is vital for HRDs to do their work effectively. HRDs operating in rural areas in particular face difficulties in accessing the necessary information and in many cases are obtaining their information from national-level

⁶⁶ Empagi za Bunyoro reacts to Museveni’s speech with anger. (2012). *UG Pulse*. Retrieved 11 July, 2012, from <http://www.ugpulse.com/uganda-news/heritage/empagi-za-bunyoro-reacts-to-museveni-s-speech-with-anger/25766.aspx>

NGOs based in Kampala, not the government or corporate entities involved.⁶⁷ Important information concerning the oil and gas industry is not readily available to HRDs and is significantly constraining the effectiveness of their work.

For example, in August 2012 an arbitration case between the Government of Uganda and Heritage Oil PLC concerning a tax dispute in which Uganda was seeking over \$400 million was being “held in camera,” or more simply, kept confidential. A number of HRDs came together and released a joint statement pleading for the proceedings of the case, worth nearly 10 percent of Uganda’s 2012 public expenditure, to be made public allowing the citizens of Uganda the opportunity to monitor the case and its outcome.⁶⁸ The dealings of this arbitration case are a prime example of the secrecy that has plagued the oil and gas sector in Uganda. Two HRDs told EHAHRDP, on separate occasions, that they believe the secrecy surrounding the oil and gas sector is actually working against the government and corporations by creating tensions that would not exist if the appropriate information was released and the communities were properly informed to manage expectations.⁶⁹ It is also clear the secrecy and control of information is hindering the ability of HRDs to provide their input and oversight to the process.

As of November 2012, production sharing agreements (PSAs) between the government of Uganda and private oil and gas corporations had not been publicly disclosed in full. In July 2012, particular royalty details were disclosed to some members of Parliament, but a statement from civil society pointed to the fact that significant details remained secret.⁷⁰ Numerous HRDs have explained to EHAHRDP that the PSAs are not accessible for their work, to the public, or even to Parliamentarians.

Newly signed PSAs have also not been seen by HRDs or civil society organizations.⁷¹

Other important documents such as Environmental Impact Assessments (EIAs) are reportedly available for access at the district level. According to some HRDs, however, the EIAs are simply not available at the district offices.⁷² Even after the submission of formal access to information claims, certain information concerning the oil and gas sector in Uganda remains secret and difficult to access for HRDs:

“We’ve been asking about monitoring reports, because NEMA [the National Environment Management Authority] and the ministry, they do joint monitoring of these activities and we’ve been asking, can we access these monitoring reports because NEMA has [been] monitoring all the industries in this country. All these other projects that are here normally do audits of their environmental compliance and those reports are available, you go there and you’re able to access them. So we have been asking, why is it those that are in the oil and gas industry are not available? You cannot easily find them and when you write you do not get a response... you rarely get that information from those formal channels.”⁷³

The formal channels of access to information are also seen as a burden to journalists. As the head of one media organization told EHAHRDP, according to the access to information legislation, claims are seriously delayed for up to 21 days and come at a fee - two significant hurdles for journalists, many of whom are working as freelancers.⁷⁴ Another journalist reiterated these claims, saying that the Access to Information Act: “drags you back to go through such things.”⁷⁵ In one instance a claim to access particular PSAs by journalists was denied and the magistrate ruled that these documents could not be released for security reasons.

67 Interview 9 July, 2012 Masindi

68 Civil Society Coalition on Oil and Gas in Uganda. (2012). Press Release. Heritage Oil arbitration case in London deprives Ugandan citizens of right to information.

69 Interview 12 June, 2012 Kampala;

70 Global Witness. (2012). Civil society groups challenge Ugandan government over oil transparency. Retrieved July 11, 2012, from <http://www.globalwitness.org/library/civil-society-groups-challenge-ugandan-government-over-oil-transparency>

71 Interviews: 3 July, 2012 Kampala; Interview July 5, 2012 Hoima; 14 June, 2012 Kampala; 15 June, 2012 Kampala; 25 June, 2012 Kampala

72 Interview 15 June, 2012 Kampala; 5 July, 2012 Hoima

73 Interview 15 June, 2012 Kampala

74 Interview 15 June, 2012 Kampala

75 Interview 13 June, 2012 Kampala

The Access to Information Act allows for this refusal under Section 5 (1): “Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State...”⁷⁶

Another serious concern is the issue of access to the communities directly affected by oil and gas activities. Throughout this research, EHAHRDP has received varying viewpoints on how accessible the communities are to HRDs. The trend appears to be that HRDs located within or near the affected communities have gained better access, but HRDs coming from outside the region are experiencing problems while attempting to access the communities. Frank Muramzi, the Executive Director of the National Association of Professional Environmentalists (NAPE) told EHAHRDP they were persistent in their attempts to access affected communities, despite threats of arrests, and have since been able to interact with said communities. However he expressed concerns with the fact other groups have been stopped and face challenges.⁷⁷ Such challenges include unlawful arrests, with members of one community expressing their concerns over the potential for being arrested by the local RDC if they were discovered speaking to a HURINET employee from Kampala.⁷⁸

It is worth noting that some HRDs have explained to EHAHRDP that over time there have been improvements in accessing information.⁷⁹ However, as the aforementioned examples highlight, serious hurdles remain. These instances are clear attempts not only to control the flow of information regarding the oil and gas sector, but also the ability of HRDs to operate. The clampdown on access to information and freedom of assembly and association are the most blatant examples of the narrowing space offered to HRDs. One HRD summed up the interconnectedness of this issue:

“If you say you want to organize a community meeting and invite people from Kampala and then you have to do these [bureaucratic] steps, they’re saying you shouldn’t access information. There are very many NGOs who may wish to come here [Buliisa] and give us information but they fear that restriction. You find them going to Hoima, where there are no restrictions, you find them going to other areas where there are no restrictions, and you find people here are very ignorant with that information because this is a new industry. It means there is a lot we need to learn from each other, those people who are a bit ahead of us can come and give us information.”⁸⁰

Freedom of Association and Assembly

Under Section 29 of the 1995 Constitution of the Republic of Uganda, all Ugandans shall have the (1d) “freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and (1e) freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations.”⁸¹ Uganda has also ratified both the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights, which both establish the rights to freedom of association and assembly.⁸² Despite these obligations, the right to freedom of association and assembly has been violated in the case of those HRDs working on Uganda’s oil and gas sector. As highlighted above, there have been numerous accounts of the obstruction of community meetings and unlawful detainments and arrests of organizers. Specifically, the accounts of Publish What You Pay Uganda and MICOD cited above, are direct violations of the right to assembly and association.

Several HRDs told EHAHRDP that the Ministry of Energy and Mineral Development had issued a directive to the effect that if one is going to research or work in the oil region, they must first be granted permission.⁸³

76 Act 6 Access to Information Act 2005 (2005). Entebbe, Uganda. Retrieved from http://www.freedominfo.org/documents/uganda_ati_act_2005.pdf

77 Interview 3 July, 2012 Kampala

78 Interview 12 June, 2012 Kampala

79 Interview 5 July, 2012 Hoima; June 14, 2012 Kampala

80 Interview 6 July, 2012 Community near oil exploration

81 Constitution of the Republic of Uganda, 1995, Section 29 (1995).

82 Human Rights Watch. (2012). Curtailing criticism. Retrieved from <http://www.hrw.org/reports/2012/08/21/curtailing-criticism>

83 Interviews: 5 July, 2012 Hoima; 5 July, 2012 Hoima; 6

Human Rights Watch also reported “a clear understanding among members of civil society working on oil issues that they must receive written permission each time they seek to visit the region from the permanent secretary of the Ministry of Energy and Mineral Development, despite this not being in law or even print anywhere.”⁸⁴

This directive, in writing or not, gives incredible power and oversight to the permanent secretary of the Ministry and could easily be used as a means to disallow any critical research from taking place. It severely undermines the effectiveness of the work of HRDs in the oil and gas region of Uganda.

In an attempt to bypass such restrictions, one NGO has taken the steps to invite the RDC to all meetings they hold in order to quell any rumours that the group is spreading misinformation and/or inciting the communities, as they have been accused of doing in the past.⁸⁵ This is a creative way of both communicating with the RDC and ensuring the NGO’s ability to continue informing communities across the oil region.

Space for Participation

The Government of Uganda, in February 2012, tabled two petroleum bills before Parliament: The Petroleum (Exploration, Development, and Production) Bill 2012 and The Petroleum (Refining, Gas Conversion, and Transportation and Storage) Bill 2012. Both international groups and Ugandan civil society drafted reports making specific recommendations on the two bills.⁸⁶ Generally, this process has been seen as a positive one, and the bills a good attempt at properly legislating the sector. However, analysis of the bills highlights significant concerns, including regarding human rights:

“Currently the Bills as they stand emphasize economic imperatives without sufficient consideration or safeguards

being included for human rights, social and environmental issues. Similarly the Bills are meant to benefit all Ugandans, this means that any of the communities surrounding oil exploration and production sites should not suffer from that process but actually be able to see real benefits accruing to them as well – in line with the notion of human-centred development.”⁸⁷

In other analyses, recommendations have been given to lessen the powers of the Ministry and Minister overseeing the petroleum sector, to give Parliament more oversight powers, especially regarding major natural resource contracts, and to make financial management of the sector more transparent and accountable.⁸⁸ Here EHAHRDP is concerned with the extent to which HRDs have been able to participate within the decision-making process throughout the extractive sector, including contribution to both the legislative process and community re-investment plans.

HRDs and civil society more generally have had a relatively positive role in the analysis and discussion of the tabled Bills. In July 2012, the Civil Society Coalition on Oil and Gas in Uganda (CSCO) released their analysis and commentary on the Petroleum Bills. This report is a detailed description of the overall legislative framework of the sector and also offers a number of recommendations for the government to take into account.⁸⁹

One HRD raised concerns regarding the government’s lack of clarity on joining the Extractive Industries Transparency Initiative (EITI), despite previously-stated intentions of doing so.⁹⁰

Of particular concern are the comments of one Masindi-based organization operating across the Albertine Graben who mentioned their

July, 2012 Community near oil exploration; 14 June, 2012 Kampala; 15 June, 2012 Kampala
84 Human Rights Watch. (2012).
85 Interview 15 June, 2012 Kampala
86 United Nations Office of the High Commissioner for Human Rights. (2012); Global Witness. (2012); Civil Society Coalition on Oil and Gas in Uganda. (2012).

87 United Nations Office of the High Commissioner for Human Rights. (2012).
88 Global Witness. (2012). Uganda’s petroleum legislation : Safeguarding the sector. Retrieved from [http://www.globalwitness.org/sites/default/files/library/Ugandas petroleum legislation - Safeguarding the sector.pdf](http://www.globalwitness.org/sites/default/files/library/Ugandas%20petroleum%20legislation%20-%20Safeguarding%20the%20sector.pdf)
89 Civil Society Coalition on Oil and Gas in Uganda. (2012).
90 Interview 12 June, 2012 Kampala

lack of participation within the process, citing participation in only one workshop and the drastic differences between the consultation processes taken in previous instances:

“Soon they will be debating the different submissions of different stakeholders of the Bills, but if you ask the level of consultation of the entire Albertine [oil-bearing region], it is little. For us, we feel it is still lacking. We participated in only one workshop. Ideally, I remember when we were reviewing the NGO Act, we held different meetings, each of us received an email containing proposals so you could put in some input... now according to us, that is how consultation should be, that you give people [the ability to] submit from an informed point of view... if it wasn't for our national partners, our little input would not have been heard.”⁹¹

This comment highlights the similar issues facing rural HRDs regarding access to information and speaks to the notion that participation in the Bills takes place through large, national groups, and the viewpoints of locally affected Ugandans are not necessarily being taken into account.

A similar process to that of the Petroleum Bills consultation appears to be taking place concerning community re-investment and corporate social responsibility (CSR) programs. One Hoima based HRD expressed concerns that most community engagement meetings have been taking place in the nice hotels of Hoima and Kampala, and these meetings are targeting people that may not be directly affected by the oil and gas sector. The HRD also explained recent plans to take the information discussed in these meetings to the sub-county level, to those more directly involved.⁹² It has been claimed that CSR programs and initiatives have been improving in their consultation with the affected communities and the practicality of projects for the betterment of the community.⁹³ However many HRDs have told EHAHRDP this process is far from perfect and that the corporations are leading the way, with in some cases, limited community consultation

91 Interview 9 July, 2012 Masindi

92 Interview 5 July, 2012 Hoima

93 Interview 14 June, 2012 Kampala

and a focus on the district development plans.⁹⁴ One HRD operating in Hoima spoke bluntly of her opinion on the lack of consultation with CSR projects:

“Consultation is not so. If they were involving the local communities from prioritizing the needs that one would be considering our real felt needs and they would benefit us so much, but they just decide, we don't know where they decide from, but we see them putting up some roads, we see them putting up some hospitals, maybe where they are putting hospitals is not where we needed it, we needed it settled somewhere else.”⁹⁵

It remains important to understand though that CSR projects are not an obligation of the corporation operating within a particular State and often these programs are not written in law or resource contracts,⁹⁶ rather CSR is seen as a global best practice amongst the extractives industry.

That said, Uganda is not without CSR projects; however, after explaining the benefits of these projects such as the building of a health centre and the plans to tarmac roads and electrify particular communities, Nkuba, and others,⁹⁷ expressed concerns about leaving the communities out of the planning stage and what this could mean for the CSR projects future:

“So these projects are good but the only element that is missing out is involving the communities, asking them what they need, so that they can own it, because if they're not properly involved you will find at the end of the day they will say this is Tullow's hospital... they will not own it, but if they're properly consulted, properly

94 Interview 14 July, 2012 Kampala; 16 June, 2012 Kampala; 5 July, 2012 Hoima; 5 July, 2012 Hoima; 6 July, 2012 Community near oil exploration; 7 July, 2012 Hoima

95 Interview 5 July, 2012 Hoima

96 Otoa, T. J. (2012). East Africa: civil society and the oil sector. African Arguments. Retrieved 12 September, 2012, from <http://africanarguments.org/2012/08/16/east-africa-civil-society-and-the-oil-sector-by-tony-otoa-jr/>

97 Interview 5 July, 2012 Hoima

mobilized and then they are asked for the projects they're needing to have, I think it will work better.”⁹⁸

Again, instances of improvement within CSR mandates and projects have been highlighted and one HRD has informed EHAHRDP that during a consultation meeting civil society received an apology when particular examples of CSR projects that had gone wrong had been raised. Regardless of the improvements, many HRDs have expressed to EHAHRDP that CSR initiatives are mainly spearheaded by the corporations.⁹⁹ One particularly vivid example of the state of community re-investment and CSR projects taking place around the Albertine Graben was provided to EHAHRDP by a local journalist working for the Daily Monitor, who travelled to the communities around the region with the Natural Resources Committee of Parliament in June, 2012:

“It is not sensible to say as much as we need the oil industry, we have to destroy these simple communities. They need our help, they need our support, but increasingly I don't see them being uplifted. Although in theory, oil companies will tell you they are building schools and doing roads, but if you see the lifestyle of those communities, you hardly see changes. Actually I travelled to these communities recently... with the Parliamentary Natural Resources Committee. The MPs were shocked by the level of poor infrastructure, they also told me they barely see any vibrant economic activity in the area, they practically saw nothing uplifting... for these people, and they were shocked... for the MPs to also be shocked, it was amazing.”¹⁰⁰

98 Interview 6 July, 2012 Community near oil exploration

99 Interview 15 June, 2012 Kampala

100 Interview 5 July, 2012 Hoima

Conclusions and Recommendations

In regards to the resource extractive industries, human rights defenders play multiple roles through their work. These activists represent the views of their communities when they engage in consultative forums on the drafting of national legislative frameworks; they blow the whistle when private interests stand to divert the public interest; they monitor developments on-the-ground for impact on local environments and livelihoods; and they promote a higher level of discourse and engagement from the public on matters of significant importance. In spite of these important functions, or perhaps because of them, human rights defenders in this sector have faced direct and indirect threats to their personal integrity, and otherwise faced structural constrictions upon their rights to defend human rights.

Numerous protection mechanisms exist to support human rights defenders at-risk. Since 2005 the East and Horn of Africa Human Rights Defenders Project has operated an internationally-recognized protection program for HRDs in need of emergency support.

EHAHRDP is joined by other international organizations fulfilling a similar mandate. More recently national coalitions of human rights defenders have been formed in partnership with EHAHRDP to make protection measures available at the national-level and to work with national authorities to ensure follow-up on threats against HRDs. In this regard we recognize the work of the Tanzania National Coalition of Human Rights Defenders, as well as similar coalitions in Kenya, Burundi, Rwanda, South Sudan, Sudan, and Somalia.

However civil society action to support human rights defenders is necessarily insufficient to realize full respect for the right to defend human rights. State and non-State actors must fulfil their legal obligations to respect human rights including those of human rights defenders. In pursuit of this objective the East and Horn of Africa Human Rights Defenders Project makes the following recommendations:

Recommendations to States

EHAHRDP calls on States in the sub-region to implement the recommendations¹⁰¹ of the United Nations Special Rapporteur on the situation of human rights defenders to:

- ***Ensure prompt and independent investigation of all violations of the rights of defenders, the prosecution of alleged perpetrators regardless of their status, and provide victims of violations with access to justice and just and effective remedies, including appropriate compensation.***
- ***Engage with national and transnational corporations operating under their respective jurisdictions to disseminate the Declaration on Human Rights Defenders and ensure that prevention and accountability mechanisms for human rights violations against human rights defenders are established.***

Recommendations to corporations engaging in resource extraction activities

EHAHRDP calls on all corporations engaged in natural resource extraction to implement the recommendations¹⁰² of the Special Rapporteur on the Situation of Human Rights Defenders to:

- ***Involve and consult with human rights defenders when carrying out country assessments.***
- ***Develop national human rights policies in cooperation with defenders, including monitoring and accountability mechanisms for violations of the rights of defenders.***
- ***Fully implement the recommendations of the Special Representative of the Secretary-General on business and human rights on the corporate responsibility to respect.***
- ***Act with due diligence and ensure that their activities will not infringe the rights of others, including human rights defenders.***
- ***Promote the role and activities of human rights defenders***

101 Report of the Special Rapporteur on Human Rights Defenders (2010) (A/65/223), available at <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/65/223&Lang=E>

102 Ibid.

Notes

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The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) seeks to strengthen the work of human rights defenders (HRDs) throughout the sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

EHAHRDP is the secretariat of EHAHRD-Net, a network of over 75 human rights organizations in the eleven countries of the sub-region: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.



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