



Peace Brigades International
making space for peace

**Enhancing Support for Exiled
Human Rights Defenders in Nairobi**
Kenya Project

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“Enhancing Support for Exiled Human Rights Defenders in Nairobi”

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Report by Shannon Orcutt with contributions from PBI Kenya.

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We don't turn our backs on conflict.

About

Peace Brigades International

PBI works to open a space for peace in which conflicts can be dealt with non-violently. We use a strategy of international presence and concern that supports local initiatives and contributes to developing a culture of peace and justice.

PBI Mission Statement as approved by the General Assembly in 1998

Since 1981, Peace Brigades International (PBI) has brought together thousands of activists from all over the world to build solidarity, develop and practice strategies of non-violence that enable civil society to defend human rights, address grievances, enhance respect for the rule of law and promote political participation, while working against incredible odds. Multi-layered advocacy with national authorities, foreign diplomats and international institutions, and participation in policy-making processes means that PBI's work has an impact that extends beyond the activists we directly work with. We facilitate safe spaces for multi-actor engagement and dialogue and design innovative capacity building initiatives that build upon our rich experiences from the past three decades. PBI's Kenya project began in 2013 and provides protection, capacity building, and advocacy support to human rights defenders at risk.

Acronyms

EHRD - Exiled Human Rights Defender

HRD - Human Rights Defender

NGO - Non-Governmental Organization

PBI - Peace Brigades International

RAS - Refugee Affairs Secretariat

RSD - Refugee Status Determination

UNHCR - United Nations High Commission for Refugees

Purpose of the research

In early 2016 PBI began receiving requests from a different group of HRDs, those in exile (referred to as exiled HRDs or EHRDs in this report) from countries in the region, who were referred to us by Kenyan HRDs and other civil society organizations.

As a relatively stable country in the region, Kenya has played host to a vast number of refugees for decades. There are significant numbers of refugees and asylum seekers from Somalia, Burundi, Democratic Republic of the Congo, Ethiopia, Eritrea, South Sudan, Sudan and Uganda in Kenya, both in the refugee camps (particularly Kakuma) and in the urban centers of Nairobi, Mombasa, Eldoret and Kisumu. Thus, it became clear that PBI's role would be to explore ways in which our international presence and accompaniment model could contribute to the safety of this growing group of HRDs.

Recognizing the many challenges facing Exiled Human Rights Defenders (EHRDs), Peace Brigades International's Kenya Project organized a series of four workshops between November 2016 and March 2017. The aim was to further explore the situation of defenders in exile in Nairobi and to consider mechanisms through which various organizations and institutions providing assistance could improve their means of support for EHRDs.

Tailoring our strategy to this group implied exploring a set of questions, such as: What types of violence and risks are they and their families exposed to and which factors increase their vulnerability? Who bears the duty of protection for HRDs in exile? Which security strategies do they develop and how can these be supported? How do they continue to defend human rights, and what would help them to sustain their activism? What are their needs with regards to health and psycho-social well-being? What financial means do they have, considering many of them find it difficult

– if not outright impossible – to find employment in the Kenyan labor market? To what extent can they access the services that different organizations and institutions in Nairobi provide to refugees on the one hand, and HRDs at risk on the other? Which other actors can improve their safety and how can they be mobilized? How can all persons and organizations working with EHRDs coordinate better to facilitate synergy, cooperation and greater impact?

The workshop series provided an opportunity for various stakeholders to discuss the challenges they experience as well as ways forward. Participants included EHRDs as well as a number of 'service providers', i.e. human rights and refugee NGOs, diplomatic missions, UNHCR, and representatives from the Kenyan government. They also included a range of participants including EHRDs, human rights and refugee NGOs, diplomatic missions, UNHCR, and representatives from the Kenyan government. This report attempts to provide answers to some of these questions. By providing an overview of the findings of the workshops as well as recommendations for stakeholders to better address the needs of EHRDs in Nairobi, this report has been written with the hope of sparking more debate among duty bearers, protection organizations and the EHRDs themselves as to how to increase their security and capacity to continue with their human rights work. Enabling them to continue their activism in exile has great potential, as diasporas have shown over the course of history that they can make important contributions to human rights and peace by systematizing and disseminating data that can be used to make perpetrators accountable. They also contribute by supporting colleagues that are still in the country and by campaigning and advocating to end violent conflicts, as well as by contributing to humanitarian assistance and investment in post-conflict reconstruction.

"Today I am not a [refugee] number. Today you have allowed me to claim back my identity, to present myself as a human being."

Burundian EHRD

¹ Shannon Orcutt, DefendDefenders (East and Horn of Africa Human Rights Defenders Project), "Exiled and in Limbo: Support Mechanisms for HRDs in Kenya, Rwanda, and Uganda," 20 June 2016, <https://www.defenddefenders.org/2016/06/exiled-limbo-support-mechanisms-human-rights-defenders-exile-kenya-uganda-rwanda/>

Challenges faced by HRDs in exile in Nairobi

EHRDs face a series of challenges while living as refugees in Nairobi including security and protection threats, issues related to seeking asylum, resettlement and documentation, access to resources and services, difficulty continuing their human rights activities, and psychosocial struggles. While some of their difficulties are also experienced by the general refugee and displaced communities, there are many challenges that are unique or heightened for EHRDs.

Security and protection issues

Leaving one's country and becoming a refugee is usually one's last resort; HRDs most commonly become refugees due to insecurity. The scope of threats to security varies. At times threats are specific to an individual EHRD, though there have been instances where entire organizations and even civil society at-large have been at risk, such as the mass exodus of Burundian civil society after election-related instability in 2015. Many HRDs fear that the security threats they faced in their home countries could follow them into exile and raised concerns about surveillance, harassment, kidnapping, and extrajudicial killings.

Nearly all the EHRDs that attended the PBI workshops indicated that they had received threats through phone calls, SMS, or social media while in exile.² EHRDs reported that they believe these threats predominantly come from individuals aligned with or working for authorities from their home countries delivered from both within and outside of Kenya. Others have had individuals issue threats to them in person. EHRDs cited incidents where other civil society members from their country have been attacked, such as the murder of Jean de Dieu Kabura, a member of the Burundian opposition party *Mouvement pour la Solidarité et le Développement* (MSD), on January 1st 2016.³ In January of 2017, two South Sudanese refugees, Dong Samuel Luak, a human rights activist, and Aggrey Idri Ezibon, Chair of the Sudan Peoples'



Liberation Movement- In Opposition (SPML-IO) Humanitarian Affairs Committee, were reportedly abducted in Nairobi by members of Kenyan and South Sudanese security forces.⁴ At the time of writing this report, there has been no news of their whereabouts. These security incidents sent shock waves through EHRD circles and resulted in many isolating themselves from their communities. EHRDs also raised security challenges from Kenyan authorities. Many noted they had been threatened with arrest or being sent to the refugee camps if they did not pay bribes to police. There were also fears of political violence during the upcoming August 2017 elections that could extend to their communities. Due to a lack of income, many EHRDs reside in areas that may be more vulnerable to violence and, due to lack of alternatives and restrictions on refugee movement, they cannot as easily relocate to more secure areas, as many Kenyan nationals can.

While there is some limited emergency assistance for EHRDs, protection and financial assistance for their family members is even further restricted, despite the very real risks they may face. Somali and Burundian family members of EHRDs have reportedly been killed in suspected retaliation from the ongoing activities of HRDs in exile.⁵

² Approximately 25 EHRDs (from Sudan, South Sudan, Ethiopia, Somalia and Burundi) attended the PBI workshops.

³ Elsa Buchanan, IBI Times, "Burundi: Activists warn of a 'death squad' in Kenya after exiled politician is 'executed'," 13 January 2016, <http://www.ibitimes.co.uk/burundi-activists-warn-death-squad-kenya-after-exiled-politician-executed-1535896>

⁴ UN Office of the High Commissioner for Human Rights (OHCHR), "Kenya and South Sudan must reveal fate and whereabouts of two abducted South Sudanese," 17 February 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21193&LangID=E>

⁵ FIDH, "Burundi: Assassination of Mr. WelliNzitonda, son of Mr. Pierre ClaverMbonimpa," 6 November 2015, <https://www.fidh.org/en/issues/human-rights-defenders/burundi-assassination-of-mr-welli-nzitonda-son-of-mr-pierre-claver>



Sub-groups of EHRDs such as women, sexual minorities, and people with disabilities face their own series of protection challenges. For example, Ugandan sexual minority activists in exile in Kenya could be impacted by Kenyan law, which criminalizes homosexual acts. For EHRDs with physical disabilities, being able to afford secure accommodation that is suitable for their mobility needs while living as a refugee without an income is an additional barrier.

Issues with seeking asylum, resettlement and with documentation

“We are defending others but who is defending us?”
Sudanese EHRD

A major frustration raised by EHRDs was with the processes of seeking asylum and resettlement as well as obtaining documentation allowing them to legally live, work, access services, and travel in Kenya.

While the majority of EHRDs register as asylum seekers and attempt to obtain refugee status, small portions avoid registration. Some stay in the country under tourist or student visas, which can be an expensive alternative. Those that chose not to register cited freedom of movement, lack of information on the registration

process, trust in the system, and hopes that they could soon return to their homes as major motivators in their decision.

As previously noted, many EHRDs opt to live in Nairobi and urban areas rather than in refugee camps due to protection concerns. In Kenya, this has become increasingly problematic due to the country’s repeated attempts to enforce a strict encampment policy, and there have been a number of attempts by the Kenyan government to discourage refugees from residing in urban areas. Until recently, refugees could register to live in urban areas, however, in February 2017 the Refugee Affairs Secretariat (RAS) informed UNHCR that urban registration would be suspended, though at the time of this writing, a mechanism is being developed to permit exemptions. While the shift would not impact urban refugees who have already registered, it could pose a significant security threat for any EHRDs who arrive in Kenya in the future.

For those that have been granted asylum, traveling within Kenya or outside of the country is limited, and refugees seeking to travel must obtain permits from the Kenyan government. While refugees are eligible for Conventional Travel Documents (CTDs), asylum seekers are not and do not have a pathway for obtaining permission to travel abroad if their passports are no longer valid and they are not able to obtain documentation from their country of origin. Protection organizations noted that countries such as Burundi and Ethiopia have issued arrest warrants for HRDs and used agencies such as INTERPOL to seek the arrest and deportation of EHRDs.

Currently the ability of EHRDs and other refugees to obtain documents such as CTDs has been suspended since the Department of Refugee Affairs (DRA) was suspended in May 2016 and later replaced with RAS. The suspension is currently being challenged in court, but in the meantime, it means that there is no Commissioner for Refugees in place to sign and authorize refugee documents including work permits, CTDs, and refugee status documents.

EHRDs noted that there are often serious delays in obtaining documentation, most notably their refugee status, which prevents them from traveling to access education or employment opportunities or to participate in advocacy activities at sessions of regional and international human rights mechanisms, or capacity building trainings conducted outside of Kenya. The serious backlog in the Refugee Status Determination (RSD) process can create protection risks, and EHRDs expressed

strong frustration with UNHCR and RAS over the long wait times even for their initial interviews, which for some refugees is many years away. Until EHRDs obtain their RSD, not only are their work and travel options limited, but some NGOs and government entities providing services for urban refugees only support individuals with refugee mandates.

As earlier noted, many EHRDs reported that police harassment is a major issue, even if they have refugee or asylum seeker documentation. Additionally, at times authorities demand money for documents or deny the authenticity of documents in an attempt to extort bribes.

In terms of resettlement, the process is highly unpredictable and very few refugees successfully achieve resettlement in a third country. There are increasingly small quotas, and host countries willing to take refugees especially in light of the shift in policy under the new United States administration and refugee crisis in Europe.



Access to resources and services

As of March 2017, there are at least 67,267 registered urban refugees living in Nairobi.⁶ EHRDs tend to live in urban areas due to fears that they are more recognizable in refugee camps and less able to hide. Additionally, living in urban areas is more conducive to continuing human rights work. While there are organizations in place to assist urban refugees, they are expected to be self-sufficient and have more difficulty accessing services and resources compared to those living in the refugee camps where services are more readily available.

EHRDs tend to fall into a gap. Refugee organizations are focused on the general urban refugee population without consideration of the particular needs of EHRDs, and the mandates of many human rights organizations are limited to Kenyan HRDs and do not extend to EHRDs living in the country.

Financial costs for rent, food, communications, school fees, and transport are serious challenges for EHRDs living in Nairobi that have little to no income upon going into exile. Though there are networks of refugee organizations that provide services to urban refugees, many EHRDs have difficulty paying for transport to access these services and wait in substantial lines. Going to the offices of service providers can also expose EHRDs to potential risks of being recognized and either threatened and/or followed. Many EHRDs attempt to keep a low profile and their whereabouts unknown as a security precaution and have expressed fears of going to locations where other refugees from their country may gather, which creates a major barrier for EHRDs accessing services.

In addition to worries about recognition by other refugees, EHRDs also expressed concern about engaging with Kenyan police or the Refugee Affairs Secretariat, fearing that if the Kenyan government is allied with their home government, they could be deported or targeted.

Many EHRDs are not proficient in English or Swahili when first arriving in Nairobi and have difficulty knowing what services may be available to them. While refugees often gather information from fellow refugees from their countries, the fact that many EHRDs isolate themselves makes it more challenging for them to know what is available.

When engaging with service providers, many HRDs have high expectations and become frustrated when service providers are non-responsive or slow to respond to their needs. EHRDs shared numerous stories of being denied support or never receiving a response when requests were submitted.

“While a refugee may need a phone and mobile credit to call home, as HRDs we will need additional resources to collect, verify, and share information.”

Burundian EHRD

Challenges to continuing work

HRDs in the region face heightened security risks as a result of the critical work they undertake to promote and protect human rights. While some HRDs forced out of their countries cease their work due to security risks, many others have persevered.

⁶ UNHCR, “Figures at a glance,” 31 March 2017, <http://www.unhcr.org/ke/figures-at-a-glance>

Continuing work as an HRD in exile involves a series of difficulties. Addressing basic needs and personal financial challenges such as not being able to afford rent, food, or transport can take priority over continuing human rights activities. Often HRDs that may have been part of an NGO or media house are on their own once they go into exile and lack institutional support or the capacity to continue their work. Additionally, resources such as office space, equipment, and communications resources are often absent.

Many EHRDs need capacity building trainings to give them the additional skills necessary to build and manage an organization of their own, rather than just be a part of one, as most were in their home countries. EHRDs requested education grants and trainings in areas such as website design and management, physical and digital security, fundraising, and advocacy that would enable them to continue to work while in exile. Many refugee organizations in Nairobi offer skills trainings for urban refugees; however, they are generally focused on small-scale income generating activities and entrepreneurship, and there is a need to identify which programs exist or could be adapted to address the capacity needs of EHRDs.

For EHRDs seeking employment, there are many barriers. While legally, refugees have the right to seek Class M work permits for free, in practice less than 2% of Kenyan refugees have been able to gain them.⁷ The process is further complicated since obtaining documents from their country of origin, such as diplomas or certificates needed to obtain work, can be difficult if not impossible due to security risks. EHRDs that have been able to obtain work without permits noted that they are often taken advantage of and paid substantially less than Kenyan nationals or those with legal permits. Some feared that even if they found employment working on human rights issues, it could jeopardize their resettlement process or security. However, many more expressed the desire to work or volunteer with human rights organizations or media houses so that they could continue to use and build upon their skills to promote and protect human rights but did not know where to find opportunities.

EHRDs often fall into a funding gap where embassies in their country of origin can no longer fund their activities in exile, but those in their host country reserve

funds for national NGOs rather than those of refugees. While some HRDs have been able to register NGOs in Nairobi, it is a time consuming process that many have difficulty navigating. Without official registration, HRDs are not able to open bank accounts in their organizations' names, making it nearly impossible to obtain funding from donors. For journalists in exile, accessing information, attending press conferences, and interviewing Kenyan authorities can be a challenge, and EHRDs raised fears that they could not only be denied, but also potentially arrested.

Psychosocial challenges

"I feel like I am living in a desert and have abandoned myself. It makes me depressed; like I am in prison."

Ethiopian EHRD

As a result of the trauma many defenders faced prior to going into exile and the difficulties of adjusting to a new reality as refugees, EHRDs experience a range of psychosocial challenges. Many EHRDs expressed severe feelings of loss and isolation, but despite the overwhelming challenges, very few had sought or obtained psychosocial support.

There are major language, cultural, and communications barriers that refugees experience, which for EHRDs are magnified by the fears they harbor of security threats. While many refugees reside in similar areas and have community support networks, many EHRDs are isolated from these support mechanisms. The difficulty of this isolation and the fear of security threats cannot be overstated and makes life for EHRDs tremendously stressful and lonely.

Even as refugees, many HRDs are still looked to by their communities as leaders and asked for assistance even when they are no longer in a position to offer much in terms of help. This can create frustration at their lack of ability to assist.

EHRDs discussed creating a network of defenders, which could offer support and solidarity to EHRDs as a possible way of alleviating some of the isolation. Also suggested was for EHRDs to engage in counseling, meditation, and social activities if their security permits.

⁷ Shannon Orcutt, DefendDefenders (East and Horn of Africa Human Rights Defenders Project), "Exiled and in Limbo: Support Mechanisms for HRDs in Kenya, Rwanda, and Uganda," 20 June 2016, <https://www.defenddefenders.org/2016/06/exiled-limbo-support-mechanisms-human-rights-defenders-exile-kenya-uganda-rwanda/>

Challenges in providing services to EHRDs

Service providers that engage with EHRDs include a range of human rights and refugee organizations as well as UNHCR and RAS. While some service providers engage with EHRDs based on their human rights activities, others respond to their needs solely as refugees and do not necessarily distinguish them from other urban refugees even though their status as HRDs can be associated with unique risks and circumstances.

While human rights service providers and refugee service providers engage among themselves, there is often very little interaction between the two fields and understanding on what each can offer EHRDs.⁸ Though some human rights organizations have engaged with UNHCR, few did so regularly, and engagement between RAS and human rights NGOs was even less common. As a result, human rights organizations had little knowledge of the asylum and refugee resettlement process and what services refugee organizations provide or how to best raise cases of HRDs with Kenyan authorities and UNHCR. In addition, RAS has not been made aware of the full scope of challenges facing HRDs and informed about which defenders are in most need of support.

For refugee organizations, many did not have full understanding of the unique circumstances of EHRDs,

how to identify or verify if an individual is an HRD, or what support human rights organizations can offer. Refugee service providers noted that a major challenge is assessing the credibility of EHRDs and knowing which human rights organizations could assist in verifying their cases. In some instances, defenders do not even recognize that they are HRDs, while other individuals claim to be HRDs to obtain additional support or speed their relocation process.

Many human rights and media NGOs offer emergency protection grants for EHRDs; yet these are nearly always non-renewable, short-term assistance due to the high demand for support. EHRDs may remain in exile for a longer duration than grants can accommodate. The majority of EHRDs did not anticipate how long their period in exile would last and did not adequately save or allocate their financial assistance, as they expected additional future support. This can create animosity towards NGOs from EHRDs who feel abandoned. In terms of financial provision, service providers raised the issues of obtaining accountability from HRDs given protection grants, as well as how to disperse funds for EHRDs since many cannot or do not know how to register for mobile banking services such as M-Pesa or bank accounts.



⁸ "Exiled and in Limbo" by DefendDefenders provides a resources guide on what resources refugee organizations provide as well as details on emergency grants offered by media and human rights NGOs <https://www.defenddefenders.org/2016/06/exiled-limbo-support-mechanisms-human-rights-defenders-exile-kenya-uganda-rwanda/>

Conclusion and ways forward

As civic space in the region becomes increasingly restricted, human rights defenders will continue to face risks that could force them into exile. In order to ensure that these individuals can live and, when possible, continue their work securely, it is essential for the range of service providers to connect with EHRD communities to understand and address the difficulties they encounter.

There is a serious need to improve networking among human rights and refugee service providers to address the situation of EHRDs in Nairobi and ensure that the challenges they face are considered by existing mechanisms. There are already several service provider coordination bodies focused on areas where issues concerning EHRDs could be addressed, such as working groups on urban refugees and the protection of human rights defenders. Service providers should ensure that subjects relevant to EHRDs are raised at such venues and increase coordination between their organizations.

It is critical to bolster the ability of EHRDs to continue their efforts in exile by adapting programming to address their needs. This may include flexible arrangements for meetings and counseling sessions outside of locations or during times when they will be less likely to encounter other refugees from their home areas. It

also includes evaluating the capacity gaps and areas in which training could be adapted to address the needs of EHRDs seeking to gain skills to continue work in exile as well as utilizing the skills of EHRDs through providing employment and volunteer opportunities. For example, NGOs offering trainings in small-scale income generating activities for refugees could adapt their trainings to provide skills for EHRDs to continue their work and develop their own organizations. For organizations offering support and training programs for Kenyan HRDs, it may be beneficial to consider opening participation for EHRDs living in the country when possible.

Donors must develop flexible funding capabilities that allow EHRDs to access granting mechanisms in order to build organizations capable of operating with EHRDs in exile. This not only makes EHRDs self-sufficient but also ensures that their critical human rights work does not cease once they are forced from their home countries.

Human rights defenders in the region play an essential role in the protection and promotion of human rights, and it is critical for service providers to adapt their programming and increase coordination to better address their challenges and support their crucial efforts.







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