ON GENDER AND LGBTI RIGHTS IN SADC AND EAST AFRICA

A REPORT

A WORKSHOP HOSTED BY CIVICUS AND GENDER LINKS AND FACILITATED BY IRISH AID

CIVICUS: World Alliance for Citizen Participation
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CIVICUS: World Alliance for Citizen Participation is an international alliance of civil society organisations and activists working to strengthen citizen action and civil society throughout the world, especially in areas where participatory democracy and citizens’ freedom of association are challenged.

CIVICUS has a vision of a global community of active, engaged citizens committed to the creation of a more just and equitable world. This is based on the belief that the health of societies exists in direct proportion to the degree of balance between the state, the private sector and civil society, and that governance is improved when there are multiple means for people to have a say in decision-making. CIVICUS seeks to amplify the voices and opinions of people and their organisations, share knowledge about and promote the value and contribution of citizen participation and civil society, and help give expression to the enormous creative energy of a diverse civil society.

CIVICUS, with its numerous partners, works by bringing together and connecting different civil society actors and other stakeholders in civil society; researching into and publishing on the health, state and challenges of civil society; and developing policy positions and advocating for the greater inclusion of and a more enabling environment for civil society. CIVICUS was founded in 1993 and is headquartered in Johannesburg, South Africa.

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GENDER AND LGBTI RIGHTS IN SADC AND EAST AFRICA

NOVEMBER 13, 2013

RAPPORTEUR: CHARLOTTE ALLAN
WITH ASSISTANCE FROM TOR HODENFIELD
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Abbreviations and acronyms

ACHPR – African Commission on Human and People’s Rights

AU - African Union

CIVICUS - CIVICUS: World Alliance for Citizen Participation

CSO - Civil Society Organisation

HRD – Human Rights Defender

INGO - International Non-governmental Organisation

LGBTI - Lesbian, Gay, Bisexual, Transgender and Intersex

NGO - Non-Governmental Organisation
INTRODUCTION

On 13 November 2013, CIVICUS and Gender Links convened a workshop at the Gender Links Cottages in Johannesburg, to discuss challenges faced by Gender and LGBTI activists in East and Southern Africa and identify ways in which activists can work together to address these challenges. The workshop brought together 40 Gender and LGBTI activists from Burundi, Kenya, Malawi, Namibia, Somaliland, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe and included representatives from the facilitating organizations, CIVICUS and Gender Links. This report summarises the discussions, key concerns raised and recommendations made during the workshop.

Background

The primary focus of the Gender and LGBTI Workshop was to create a space where activists from both the Gender and LGBTI sectors in the region could come together and discuss synergies for their work in a safe and non-judgemental space. The deliberations were premised on the fact that civil society focusing on Gender is better funded and better established in Africa because it often has a less contentious mandate, and is therefore well positioned to assist and advise the LGBTI movement on strategy, and on projects that may be mutually beneficial to each sector. This report centres on the practical discussions held during the Workshop which focused on cooperation and understanding of the shared goals of the two sectors, and on methods to publicise and campaign for change at regional and international platforms.

The Workshop provided a platform for the participants to network and form bonds of solidarity in what is often a region where homophobic attitudes prevail. The agenda was designed to share CIVICUS’ knowledge of UN processes and to explain to the participants how they may engage with these processes to report rights abuses. These processes are also important for activists to campaign for legislative changes and substantive enforcement of legal protections. The workshop was also designed to explain the grant making functions CIVICUS has through the Lifeline Fund which is structured to support the campaigns of embattled Civil Society Organizations against encroachments on their rights to freedom of speech, assembly and association.

KEY CONCERNS

At the outset of the Workshop it was apparent that many of the activists present did not know one another and had limited regional networks in place to support their causes. It also became apparent that participants outside of Tanzania, South Africa and Zimbabwe were not utilising UN procedures to drive their advocacy forward, and that shortage of funding and repression of human rights defenders inhibited the work of a number of those present.

Positive experiences

• A sense of solidarity between the Gender and LGBTI activists present.

• A deeper understanding of how sexuality and gender are intrinsically linked and how full commitment to Gender activism cannot occur without an understanding of LGBTI concerns.

• Increased knowledge on the accessibility of UN human rights mechanisms through use of the Universal Periodic Review procedure and through contact with the Special Rapporteurs.

• An explanation of the workings of the African Union and African Commission on Human and People’s Rights and how best to pitch LGBTI concerns within these fora.

• An awareness of the different grant making mechanisms available through CIVICUS’ Lifeline Fund and through Freedom House’s LGBTI specific fund - ‘Dignity’.

• An overview of some of the research and statistics compiled by Gender Links in the region on sex and gender based violence.

Principal Concerns in ensuring support for Gender and LGBTI related issues

• Security concerns for human rights defenders in the region in general, and increased risk for LGBTI practitioners specifically.
• The threat of legislation that curtails foreign funding to CSOs.
• Restrictive legislation that criminalises gay sex.
• Legal protections for the LGBTI community that the police service do not adhere to.
• Lack of funding.
• Questions relating to how impactful international and regional mechanisms for investigating human rights abuses actually are.

SECTION 1: KEYNOTE ADDRESS

This session included:

A presentation by Jenni Williams, Human Rights Activist and Founder of Women of Zimbabwe Arise (WOZA) on her experiences as an activist in the region.

“*The right to protest is sacrosanct. African people must fight for the right to protest.*”
– Jenni Williams, Founder of WOZA

_Jenni Williams talking of non-violent direct action._

**About Women of Zimbabwe Arise (WOZA)**

Based on the principles of strategic nonviolence and through their members’ actions, WOZA creates space to allow Zimbabweans to articulate issues they may be too fearful to raise alone. WOZA has conducted hundreds of protests since 2003 and over 3,000 women and men have spent time in police custody in Zimbabwe. Most of them have been detained more than once and for 48 hours or more. These frontline Human Rights Defenders (HRDs) are willing to suffer beatings and unbearable conditions in prison cells to exercise their constitutional rights and fundamental freedoms.

WOZA was formed to be a litmus test proving that the power of love can conquer the love of power. WOZA’s mission statement is that ‘Tough Love’ is the secret weapon of mass mobilisation. ‘Tough Love’ is the disciplining love of a parent and that women practice it to press for and to bring dignity back to Zimbabweans. WOZA believes that Tough Love is a ‘people power’ tool that any community can use to press for better governance and social justice, especially for Zimbabweans.
WOZA was founded by human rights activist Jenni Williams in 2001. A prominent critic of President Robert Mugabe’s government who has been arrested for her activism 57 times, The Guardian described Jenni in 2009 as “one of the most troublesome thorns in Mugabe’s side”.

**Jenni William’s Address**

Jenni opened the day with a rousing call to action to all those present to fight against gender based violence. She painted a picture of the need for human rights defenders to be part of a collective world. She pointed out that currently, society is polarized, and people around the world want the opportunity to talk about different issues in a way that is not co-opted by government and politics.

“We must adopt a mandate of peaceful protest, of placard engagement” said Jenni. “To be effective we need to be a mass movement which is non-partisan, a collective project.”

WOZA now has 80,000 members, all of which are women HRDs and are trained on UN human rights mechanisms. Their actions are to create non-violent, non-passive peace with non-violent direct action.

Jenni’s theory of change is implemented through collective action with constant training. She wants participants at WOZA to be people who have qualified at the college of life rather than just to be academics. She considers that Women HRDs must lead by example. Jenni, by way of example, has spent over three months in prison, having been denied bail while campaigning and protesting for various causes. Women must “feel the way a shoe pinches” and then act on it.

She considers WOZA to have been a success as an organization because the members listen and then push forward issues that affect all women together.

She noted that patriarchy is still entrenched in most societies and that civil society activists have to fight to be equal within civil society.

Jenni ended her presentation by stating that across the world the right to protest is replacing the ballot and that this seems to signify a lack of confidence in fair elections, or perhaps the system itself, to bring about real change.

“The right to protest is sacrosanct” she said. “African people must fight for the right to protest.”
SESSION 2: AN INTRODUCTION AND A PRESENTATION OF THE CIVICUS GENDER STUDY

Presenter: Charlotte Allan (Policy & Advocacy Officer - CIVICUS)

This session included:

An introduction of all participants (see annex 2 of this document).
An overview of the challenges faced by Women Human Rights Defenders in the CIVICUS Gender Study.

Research by CIVICUS on the Challenges Faced in Africa by Female Human Rights Defenders

Charlotte explained that CIVICUS had examined the challenges faced by civil society in Egypt, Uganda and Zimbabwe among WHRDs in 2011.

This research had highlighted the need for a continent wide study for WHRDs, and recognised that although problematic, civil society must think of ways to conduct the same study for LGBTI HRDs.

Further legal research on the subject of WHRDS is important for:

1. Legal reform which can press for the:
   - Establishment of institutions eg. Women’s Commissions, LGBTI Commissions, Equal opportunities in the work place.
   - Amendment of restrictive or discriminatory legislation.

2. New Government Policies
   - the mainstreaming of non-discrimination against women

3. Recommendations to AU Special Rapporteurs, UN Special Rapporteurs, SADC Gender Unit

4. Campaigning, media to change public opinion etc.

So what are the findings in the study?

Women and LGBTI activists are more than on a par with male heterosexual HRDs in terms of frontline bravery, but Women and LGBTI HRDs face a myriad of additional problems resulting from defiance of religious, cultural and societal norms.

1. Problems faced by women in African civil society
   - They are more visible than their male counterparts and are therefore more easily targeted.
   - Harassment takes gender-specific forms, ranging from verbal abuse directed exclusively at women because of their gender, to sexual harassment and rape.
   - Deeply entrenched patriarchy and hetero “norms” even exist within the human rights defenders sector.

2. Problems with legal instruments

Regional legal instruments such as the Resolution on the Protection of Human Rights Defenders in Africa (2004), created by the Special Rapporteur on HRDs in Africa, and women specific legal instruments such as the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo 2002) are definitely required but very loosely applied.

LGBTI legal instruments addressing specific concerns of the LGBTI community are still very much needed.
Conclusions:

1. Sexual Harassment and GBV

“Most WHRDs contacted in the study reported either themselves being victims of sexual harassment or gender based violence or being privy to their colleagues or close associates experiencing the same.”

Violators in Egypt, Uganda and Zimbabwe have been the police, military, government, community, church according to the report. They have all used sexual harassment and GBV for the following purposes:

- As intimidation tools
- As a means of defamation

(i) Spurious charges against a WHRD → destruction of credibility
(ii) Sexuality baiting against a WHRD → denigration of reputation
(iii) Character assassinations of the activist and friends and family too

2. Shrinking space for civil society

Since 9/11 and the Arab Spring, new laws have been popping up to impede Civil society and dissenters in general. There are increasing reports of prosecutions, judicial harassment, physical abuse and threats to HRDs, and WHRDs particularly in the context of Egypt, for challenging power structures.

Key remarks:

“Civil society has played a major role in generating sensitivity to the plight of women [and the LGBTI Community]. However, coordination and collaboration on addressing their plights is still lacking. Advocacy programmes have broadly targeted Human Rights Defenders, but the issues specific to women human rights defenders are deeply rooted and attitudinal and therefore need specific attention. The report’s findings point to a need for work at the grassroots level to gather additional, concrete information of what affects women on the ground.”

• “regional networks to address the political participation, economic emancipation and social uplifting of women must be created.”

The full report is available at the following link: http://www.civicus.org/view/media/Challenges_Faced_by_Women_in_Civil_Society_in_Africa.pdf
SESSION 3: PRACTITIONERS’ PERSPECTIVES ON ENGAGING THE AFRICAN UNION ON GENDER & LGBTI ISSUES

Chair: Tiseke Kasambala (Human Rights Watch)
Presenters: Corlett Letlojane (HURISA); Ian Southey-Swartz (OSISA)

This session included:

- Overview of HURISA functions at the ACHPR, particularly on the report of the Special Rapporteur on Human Rights Defenders on the situation of women in Africa and with the Special Rapporteur on the Rights of Women in Africa.

- How the sessions of the African Commission work, and how civil society can better engage with the Commission to support the work of Gender activists, and how the work of LGBTI activists can be better placed on the agenda.

- Strategising on engagement with the African Union.

PART 1: CORLETT LETLOJANE OF HURISA DISCUSSES THE REFERENCE GROUP ON WOMEN’S HUMAN RIGHTS ESTABLISHED BY THE AFRICAN COMMISSION ON HUMAN AND PEOPLE’S RIGHTS.

About HURISA

The function of the Human Rights Institute of South Africa is to strengthen the African systems of human rights through a range of interventions, including capacity building workshops, monitoring enforcement of human rights mechanisms at domestic level, advocacy interventions, use of mechanisms in advocacy
activities, ensuring complainants receive redress and perpetrators of rights abuses are held accountable, and participation in sessions of the African Commission on Human and People’s Rights.

The Reference Group on Women’s Human Rights

The African Commission on Human and People’s Rights (ACHPR) adopted Resolution 230 at its 52nd ordinary session held in October 2012 which identified the need for a study to be conducted on the situation of women human rights defenders in Africa.

HURISA is a member of the reference group established by the Special Rapporteur on Human Rights Defender’s - Reine Alapini-Gansou, under the mandate of the African Commission on Human and People’s Rights and is designed to assist on the drafting of a report on the situation of women human rights defenders. The reference group was established in November 2012 and women human rights defenders from the five sub regions of the continent, including international affiliates enjoying observer status with the African Commission, play vital roles in the write up of the report. Since LGBTI human rights defenders are not acknowledged by the Commission and cannot speak on behalf of their organisations to raise human rights issues of their constituencies, the Reference Group has used this drafting process as an opportunity to include LGBTI human rights defenders in among listed groups of women HRDs defenders to highlight the dilemma they face in Africa.

The reference group collected data from a total of 28 respondents from 16 African countries: including Central Africa (Rwanda, Cameroon), North Africa (Egypt, Libya, Sudan, Algeria), West Africa (Nigeria, Togo, Mali, Niger, Ivory Coast), East Africa (Kenya, Uganda, Ethiopia) and Southern Africa (Malawi, Tanzania, South Africa).

The areas included by the review included national legislation, constitutions, international and regional treatise promoting and protecting women.

The reference group worked on the report until its validation process was conducted in July 2013 and was then subsequently presented by the Special Rapporteur during the 54th Session of the African Commission which was held from 22 October – 5 November 2013.

The Rationale for the resolution

During 2012, the office of the Special Rapporteur on Human Rights Defenders in Africa received 50 urgent appeals for protection from violations of human rights, 14 were from women human rights defenders and 9 were from other female petitioners. The appeals highlighted the arbitrary arrest and detention of women human rights defenders including 2 cases of threatened rape and assassination and 2 cases of intimidation and ‘legal harassment’. The appeals particularly concerned women who are heads of NGOs, defenders of LGBTI human rights, members of women’s organizations, human rights activists and journalists.

The Reference Group aims to highlight the plight faced by defenders who work in Africa on rights surrounding sexual orientation and gender identity and how they work under hostile environments intolerant to their gender identity. Those consulted reported frequent discrimination, violence and most operate under cover or illegally since many states implementing repressive legislations preclude them from operating legally.

Legislation in different countries shows that there is a range of realities: violations against women human rights defenders may occur where there is a legal vacuum as is the case in countries in transition in North Africa, or in conflict or post conflict situations such as in the DRC, Sierra Leone, or where there have been efforts to promulgate draconian bills such as in Nigeria, Uganda and in places where the LGBTI community have been persecuted, such as in The Gambia, the seat of the Secretariat of the ACHPR. It may also take place in the presence of laws that themselves sanction or enable the violations to take place or in spite of laws that are geared towards preventing the violations.

Another trend noted is a total absence of laws, programmes or policies in some states which are specifically designed for the protection and defence of human rights defenders in keeping with the UN Declaration on Human Rights Defenders.

Data collected by the reference group also revealed that attacks on life, bodily and mental integrity are common and include killing and attempted killing, forced disappearance, acts of torture, cruel, inhumane and degrading treatment, rape, sexual assault and abuse, domestic violence (including emotional and physical violence) and the excessive use of force.
Attacks on reputation are common and reported by many women human rights defenders in diverse contexts and throughout the continent. These sorts of attacks include threats, warnings and ultimatums, psychological harassment, blackmail and extortion, sexual harassment, sexuality-baiting, slander, vilification, labelling and smear campaigns, hate speech, stigmatisation, segregation and ostracism.

One respondent to the questionnaire stated that as we work for ‘a women’s rights organization, we have been labelled as divorced and bitter women out to destroy the institution of marriage with no respect for culture and the place of women in society.’

In conclusion

At the time of writing, the report prepared by the reference group for the Special Rapporteur was not adopted and an extension of time was granted until the 55th Ordinary Session of the African Commission which would be held in Angola in April 2014. The Commission made extensive comments on the report and the Reference Group is designing a work plan to attend to 41 comments made during the 54th session.

PART 2: IAN SOUTHEY-SWARTZ OF OSISA DISCUSSES THE FUNCTIONING OF THE AFRICAN UNION AND THE OPPORTUNITIES FOR ADVOCACY AND ENGAGEMENT BY CIVIL SOCIETY.

About OSISA

The Open Society Initiative for Southern Africa (OSISA) is an African institution committed to deepening democracy, protecting human rights and enhancing good governance in the region. OSISA’s vision is to promote and sustain the ideals, values, institutions and practices of open society, with the aim of establishing vibrant and tolerant southern African democracies in which people, free from material and other deprivation, understand their rights and responsibilities and participate actively in all spheres of life. OSISA’s mission is to initiate and support programmes working towards open society ideals, and to advocate for these ideals in southern Africa.

Engaging with the African Union

Ian Southey-Swatrz of OSISA advised those at the workshop not to engage with the African Union if they are not well prepared saying that the “AU is a big unwieldy body that can feel impenetrable and unapproachable.”

However, he assured those present that there are parts that can be engaged with.

He stated that a starting point should be that the African Union does not operate in human rights language, but seeks to address colonialism, apartheid, international cooperation and development with dialogue from these spheres. If you go you will therefore have “very limited impact if you use human rights language.”

Ian feels that there is little political will at the AU to involve civil society or to create a more integrated continent. The atmosphere seems to be one of “we will keep our diamonds to ourselves and you can keep your poverty to yourselves.” OSISA as a result does not have a permanent presence at the African Union.

Ian’s strategic tips included making money part of your argument for change by emphasising that adherence to rights will cost a government less e.g. Access to health services in early stages of an illness will cost less than saving people later on.

When OSISA have showed the AU budgets in the past, when they explained what “the bottom line” was in financial terms, the AU was more likely to listen.

So when viewing the different organs of the Africa Union, the question to ask is: where do I want to spend my money? Ian recommends the following: -

- The Assembly: because when it makes a decision it moves the continent
- Pan-African Parliament: “a bulldog that can make a lot of noise”
- Peace and Security Council : a good opportunity for the Gender and LGBTI community
The 7 specialized technical committee: these are the most accessible ways of getting access to the African Union and consist of the following -

a) The Committee on Rural Economy and Agricultural Matters
b) The Committee on Monetary and Financial Affairs
c) The Committee on Trade, Customs and Immigration Matters: (a good starting point to discuss LGBTI immigration)
d) The Committee on Industry, Science and Technology, Energy, Natural Resources and Environment
e) The Committee on Transport, Communications and Tourism
f) The Committee on Health, Labour and Social Affairs: (this is Key for LGBTI issues as it covers access to health care)
g) The Committee on Education, Culture and Human Resources: – (this is also key for LGBTI issues as it lets us redefine African Culture and decide who should have a seat at the table).

In Conclusion:

Ian concludes: “If we are going to win at the African Union, we have to put aside our differences - this is the main weakness of civil society on the continent. Civil society needs strength in numbers because small movements go nowhere. This might require us to put our own issue on the backburner for a while. We must all appeal to the interests of our target audience.”

Tisseke Kasambala added the necessity of presenting a “unified front” with the African Union and its different organs. “You must tailor your arguments to your audience” she emphasised again.

Comments from participants:

The participants reflected that “The African Union can work in all its complexity” and that “It is up to us to make the African Charter work”.
SESSION 4: HOW TO UTILISE UN MECHANISMS TO SPREAD GENDER & LGBTI CONCERNS

Presenters: Tor Hoddenfield and David Kode (CIVICUS Policy & Advocacy Officers)

This session included:

An explanation of the function of UN Special Procedures focusing on UN Special Rapporteurs and Independent Experts.

A step-by-step guide to the Universal Periodic Review at the UN Human Rights Council

“UN Special Rapporteurs are independent unlike any other UN Human Rights organ. .. But they need information from civil society to effectively carry out their mandate and monitor and report on pressing human rights issues.”
- Tor Hodenfield, CIVICUS Policy & Advocacy Officer

CIVICUS Policy & Advocacy Officer Tor Hodenfield

A. UN Special Rapporteurs

Tor Hodenfield explained that the special procedures of the Human Rights Council are in fact independent human rights experts known as rapporteurs or independent experts with mandates to report and advice on human rights from a thematic or country-specific perspective. He pointed out that they are easy to engage with as the rapporteurs are ‘one of us’ i.e. from the human rights defender community. Most special procedures receive information on specific allegations of human rights violations and send urgent appeals or letters of allegation to States asking for clarification. Mandate holders can also send letters to States seeking information about new developments, submitting observations, or following-up on recommendations.

The system of Special Procedures is a central element of UN human rights tools and covers all human rights: civil, cultural, economic, political, and social. As of 1 October 2013 there were 37 thematic and 14 country mandates.

With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), special procedures undertake country visits; act on individual cases and concerns of a broader, nature by sending communications to States and others in which they bring alleged violations or abuses to their attention; they conduct thematic studies and convene expert consultations, contribute to the development of international human rights standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation. Special procedures report annually to the Human Rights Council, the majority of the mandates also reports to the General Assembly. Their tasks are defined in the resolutions creating their mandates.

Special procedures are either an individual or a working group composed of five members, one from each of the five UN regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the
Western group. The Special Rapporteurs, Independent Experts and members of the Working Groups are appointed by the Human Rights Council and serve in their personal capacities. They are not UN staff and do not receive financial remuneration. The independent status of the mandate holders is essential so that they are able to fulfil their functions with complete impartiality.

“UN Special Rapporteurs are independent unlike any other UN Human Rights organ” Tor said. “They can be a great ally in the international community to amplify your voice and concerns. But they need information from civil society to effectively carry out their mandate and monitor and report on pressing human rights issues.”

A detailed CIVICUS Hand-out on the UN Special Procedures is available at the below link entitled: Reporting human rights violations to UN Special Procedures

http://eurasiaideanetwork.net/files/library/documents/c2c5534ebf03f9456c70fb6e05dafac6.pdf

B. Civil Society Engagement in the Universal Periodic Review Process

David Kode gave a detailed account of the purpose and workings of the UPR mechanism.

1. The UPR: What is it about?

The UPR is a state-driven process aimed at making improvements to the application of human rights by all 193 member states at the United Nations. Each member state is reviewed every 4.5 years and a total of 42 states are reviewed each year during sessions known as ‘Working Groups’. They take place three times a year in January - February, May - June and October - November.

The UPR process is a complete cycle involving three main phases:

(i) First is the review conducted on the state of human rights in the country under review;

(ii) Second is the implementation of the recommendations and voluntary decisions made during the reviews; and

(iii) Third is reporting during the next review on the progress made in addressing human rights violations.

2. Civil Society Participation in the UPR Process

Participation by civil society is limited but involves the following:

(i) Participation in pre-UPR civil society consultations at a national level.

The consultations are a useful way for different civil society organizations and human rights defenders to discuss their countries commitment to, and practical application of, human rights since the recommendations handed down to the state in the last UPR session. They are coordinated by national CSOs, and can be supported by CIVICUS if need be. The aim is for national CSOs to have common positions and to make joint submissions to the UPR Working Group. They are also useful so that CSOs may sensitize citizens about issues to address and sometimes share regional experiences.

(ii) Participation in national consultations held by the state under review.

These consultations should be arranged by the state and ideally take place a year before the review, involving a broad range of CSOs across the country. It is a requirement aimed at raising human rights issues that should to be highlighted in the national report produced by the state under review. Civil society organisations can also use this consultation to sensitize the media & citizens about UPR.

(iii) Participation in pre-UPR sessions on the state under review in Geneva.

These sessions are usually organised by UPR Info and bring together permanent missions, NHRIs, CSOs to focus on human rights concerns two months ahead of a state’s review. Each session lasts for an hour and CSOs are given the floor for 5-10mins to discuss progress on the implementation of recommendations since the last review. It is an important feature for civil society as it enables CSOs to lobby states belonging to the Working Group.
(iv) Engagement with, and lobbying of, member states involved in the Working Group.

Opportunities for lobbying and engagement can be achieved during pre-UPR sessions organised by UPR Info in Geneva. Opportunities should also be arranged in-country with embassies in the state under review 3-4 months before the review. This is because the information passed on will then need to be sent to Geneva and capitals around the world.

The aim is for CSOs and activists to raise priority issues with states which the states can raise during interactive dialogue sessions and when making recommendations at the Human Rights Council.

(v) Taking the floor at the Human Rights Council during the session when the report is adopted.

CSOs are given 20 minutes to make comments as outlined in section 3(iii) below.

(vi) Post-UPR consultations & implementation of recommendations

Post UPR consultations are intended to identify strategies to engage with governments on the implementation of the recommendations. They are made up of national CSOs coming together to discuss ways of holding their government to its commitments.

3. Written submissions by CSOs within the UPR Process

Any CSO with or without ECOSOC status can make a written submission on human rights concerns and propose recommendations to the OHCHR up to 8 months prior to the UPR review. Reports are then uploaded on to the OHCHR website.

CIVICUS can assist with the drafting process and frequently co-authors UPR submissions with national CSOs. CIVICUS also provides support in facilitating trips to Geneva.

CIVICUS also supports the UPR process in the following ways:

(i) While the review is in progress

CSOs are permitted to hold side events days prior to the review in Geneva and to hold side meetings with permanent representatives from different country missions.

CSOs are able to sit in the Human Rights Council session during the review but cannot take to the floor. They are also permitted to hold press conferences and issue press releases on the review.

(ii) During the review

The review begins with a presentation of the national report by the state under review and state responses to questions sent in advance by the member states present (these are written questions submitted by states 10 days in advance to the review) are provided to the room.

This is then followed by an interactive dialogue – questions are posed to the state under review and recommendations are then proposed.

(iii) After the review itself:

A report from the working group session is adopted several days after the review. The same report is adopted again by consensus several months later during a plenary session at the Human Rights Council. States under review are allocated 20 minutes at the plenary to address any issues not dealt with during the review. CSOs are then given 20 minutes to make comments.

States are then expected to implement the recommendations handed down by the Working Group before their next review.

4. Before the next UPR session:

Recommendations should be implemented by the states between reviews

Post UPR consultations between national CSOs must take place
SESSION 5: LGBTI – DEEPLY ENTRENCHED HOMOPHOBIA AND CHANGING SOCIETAL ATTITUDES

Chair: Emma Kaliya

Presenters: Jordan Kaisi (Treatment Action Campaign, Zambia); Virginia Setshedi (Forum for the Empowerment of Women, South Africa); Sian Maseko (Sexual Rights Centre, Zimbabwe)

This session included:

Discussions on the situation of LGBTI activists in South Africa, Zambia and Zimbabwe.

A call for the Gender activists present to include the LGBTI community in their work.

Sian Maseko, Emma Kaliya, Jordan Kaisi and Virginia Setshedi discuss sexual politics in Africa.

About Emma Kaliya

Emma is a Gender and Women’s rights activist. She is the Chairperson of the NGO Coordinating Network in Malawi and the Deputy-Chairperson of the Malawi Electoral Support Network amongst other roles.

Emma believes that societal change is about empowering the grassroots, especially women, to take up new challenges as leaders in their own right. It is her conviction that there is need to continue applying the principal of helping people to help themselves. Communities must own processes and be able to appreciate their own participation as change agents.

Emma’s goal is to ensure that vulnerable groups, especially women and children achieve full realisation of their human rights and are able to claim and defend them all the time.

About Sexual Rights Centre, Zimbabwe

The Sexual Rights Centre (SRC) is a human rights organization that advocates for a sexual rights culture in Zimbabwe. Its work and philosophy is premised on the belief that sexual rights are an issue for the majority of the population, and should not be ignored as a minority issue.

Sian is the Director of the SRC.
About Treatment Advocacy and Literacy Campaign (TALC Copperbelt), Zambia

The Treatment Advocacy and Literacy Campaign (TALC) was formed in 2005 to lobby for equitable, affordable, and sustainable access to treatment, care, and support for people living with HIV and AIDS in Zambia. Based in Lusaka, but with over 100 affiliates throughout the country, TALC is a movement that works with nongovernmental, faith, and community-based organizations in seven of Zambia’s nine provinces.

Jordan Kaisi is the Provincial Coordinator of the Campaign in the Copperbelt region of Zambia. He works on HIV issues and general human rights concerns.

About the Forum for the Empowerment of Women, South Africa

The Forum for the Empowerment of Women (FEW) is a non-profit organisation that works with and in the interests of black lesbian women in South Africa, particularly in the townships.

Virginia Setschedi is a long-time political and civil society activist with a strong record in working with, and in, grassroots movements. She is the former director of the Forum for the Empowerment of Women.

Virginia Setschedi discussing her work in South Africa.

The discussion: Homophobia and Transphobia

Virginia Setschedi began the discussion by stating that “all issues are equally important” and that “South Africa is only seen to be better off” than other countries in terms of the protection of gay rights. “This is just the surface, people do not see the underlying issues”.

“Homophobia is in the language that is used all around us. We therefore need to make sure the language we use is not homophobic because the silence of friends can be worse than the actions of our enemies.”

Virginia described the culture in South Africa as being akin to “It is our constitutional right, but as long as it is not my own child, or interferes in my own life”. She said “Still we see a guard beating lesbian couple up at the mall for kissing, we still see discrimination at schools and in workplaces.”

When does it become evident that someone is being homophobic or transphobic?
Virginia mentioned the following as good indicators of discrimination:

- Language
- Silence
- Expressions
- Actions
- Discrimination

The impact of homophobia

The impacts touched upon covered a whole range of expected and unexpected outcomes: rejection by their parents and community and forced into becoming street kids; unemployment, rape and sexual abuse, suicide, high volumes of alcohol abuse.

It has however been commented by some in South Africa that LGBTI rights and lifestyle have been forced upon through the constitution.

Virginia feels that strategies are therefore needed on building a collective voice and that there is limited solidarity amongst human rights defenders with the LGBTI community because “we segregate the struggles.” As a result the LGBTI community is forced to operate within a particular space.

Engaging schools on LGBTI rights has reportedly become very difficult- teachers are reluctant. They say “You cannot speak at our schools, the students may listen to you!”

Attempts have also been made to engage the faith based community and the justice department, both of which have failed. On the subject of bringing trade unions into trade movement, Gender desks are not enough says Virginia.

There is also the issue of secondary victimization. The Police are frequently cited as useless, members of the LGBTI community. Members of the LGBTI community have been harassed or abused in some way, have to tell the story to five people at the police station and this level of voyeurism makes the person telling their testimony uncomfortable.

To combat ignorance and mistreatment of LGBTI persons in South Africa, FEW has a new Campaign focusing on parents and families of queers which is intended to support families in dealing with gay students and supporting the children of LGBTI families.

FEW is also designing strategies to continue with the following activities:

- Attendance at Pride festivals - Soweto & Johannesburg People’s Pride
- Engagement with Faith based organisations
- Engagement with schools
- Engagement with other Civil Society Organisations and the Trade Union Movement
- Engagement with the Justice department and the South African Police Service
- Parents and Families of Queers Initiative
Jordan Kaisi speaking on the situation in Zambia

Jordan Kaisi, Treatment Advocacy Literacy Campaign (TALC), Zambia

Jordan explained that access to HIV treatment and LGBTI rights is extremely limited in Zambia. The people TALC works with are not “out”. All consensual adult same-sex acts are criminalised in Zambia. In Zambia, working on LGBTI rights is considered ‘inciting the people’. Gay activists are stopped or blocked by police from openly participating in meetings and dialogues.

On the subject of HIV treatment, TALC has sought to create Community Health Advocates who instigate dialogues with community leaders because “If you are openly gay in Zambia, you are denied a large scope of rights. Health practitioners and doctors will not help you if you are openly gay.”

The Gay activist, Paul Kasonkomona, said, “Whether I speak or don’t speak, they will arrest me but we must continue” – He was eventually taken into custody in April 2013 and charged with “inciting the public to take part in indecent activities”. He had spoken on live television calling for same-sex relations to be decriminalised. The authorities didn’t know what case to level against him, and so according to Jordan, they searched his house, questioned his wife, and charged him under a ludicrous law. They couldn’t believe he wasn’t gay.

When Paul Kasonkomona was arrested, no civil society representatives went to help him, the only support was from outside the country in South Africa. South Africa-based campaign group Ndifuna Ukwazi demanded Mr Kasonkomona’s release, in an online petition addressed to Zambia’s President Michael Sata but Jordan suggests that South African protest would not be helpful because LGBTI Zambians don’t want to give the government the ammunition to say homosexuality is a foreign influence.

Sian Maseko, Sexual Resources Centre, Zimbabwe

Sian called for collective action and the need for greater solidarity, and spoke of LGBTI rights as the “final frontier for human rights.”

Politicians think they will lose support if they support LGBTI rights but “washing one’s hands off the conflict between the powerful and the powerless means to side with the powerful, not to be neutral” –Paulo Fiere.

“LGBTI rights are the final frontier for human rights”
– Sian Maseko, Sexual Resources Centre, Zimbabwe

Sian explains how violence aimed at the LGBTI community is particularly experienced by gay women and that "you cannot build a movement with broken bodies". She also emphasised that you cannot have a women’s movement without including LGBTI women, and that donors must be pushed to understand the links between good governance and women’s rights.
LGBTI rights are still seen as separate from broader rights in Zimbabwe but Sian says “we need to link this struggle to all other struggles in the community”.

LGBTI activists must lead the struggle and be the voice.

Comments and questions from participants

The comments and questions sequence produced some extraordinary discussion from the participants, some of which had never thought of LGBTI rights as part of their own struggles as human rights defenders. “This is my first time discussing this issue in public” said one human rights defender.

Some stated that they had never been approached by the LGBTI community for support and that they now wished to connect with that community. “We have never seen them, we need to know who these people are” one participant said. “They need to educate us because they are the ones who know where the shoe pinches.”

Benedict Ishabakaki, Protection officer from the Tanzanian Human Rights Defenders Coalition stated that “NGOs in Tanzania are afraid to work on LGBTI rights in the community for fear of being branded.”

That was a strong sense that many non-LGBTI participants needed further education on the LGBTI movement and that this should happen regularly. In the context of human rights battles fought and won, it was commented that “Revolutionaries will never share the benefits of the revolution”.

It was highlighted that women’s rights conferences are frequently just preaching to the converted. However one participant commented that it was Women’s rights that had brought her to the issues faced by the LGBTI community. It was then queried whether there was benefit in branding yourself as an LGBTI activist, or better as just an activist?”

The discussion then focused on “Identifying champions” for the LGBTI cause and identifying human rights processes to utilise. “We need village level language; my mom wouldn't understand the UN processes” said one participant.

“We don’t label ourselves because we want to be different, it is just who we are, as you would identify yourself as a Kenyan or Zimbabwean.”

Joy Masheti of the Caucus for Women’s Leadership, Kenya.

There are “specific needs of the LGBTI community, just as there are specific Women’s needs” said Sian Maseko.
SESSION 6: PREPARATION FOR THE 16 DAYS OF ACTIVISM ON VIOLENCE AGAINST WOMEN CAMPAIGN BY GENDER LINKS

Presenters: Sifiso Dube (Gender Links)

This session included:

An overview of Gender Links preparation for the 16 Days of Violence against Women campaign

An in-depth analysis of the research by Gender Links and indicators into sex and gender based violence in the SADC region.

About Gender Links

Gender Links is committed to women and men participating equally in all aspects of public and private life in accordance with the provisions of the SADC Protocol on Gender and Development. Gender Links achieves its vision by coordinating the work of the Southern African Gender Protocol Alliance formed around the sub-regional instrument that brings together all key African and global commitments for achieving gender equality by 2015.

Working with partners at local, national, regional and international level, Gender Links aims to:

• Promote gender equality in and through the media and in all areas of governance.
• Develop policies and conduct effective campaigns for ending gender violence, HIV and AIDS, as well as promoting economic and climate justice.
• Build the capacity of women and men to engage critically in democratic processes that advance equality and justice.

Sifiso Dube is the Gender Justice and Local Government Manager at Gender Links.

The 16 days Campaign and Gender Links’ research

Sifiso explained to the participants present that during the 16 Days Campaign which ran from 25 November -10 December 2013, Gender Links would conduct an attitude survey on VAW, a cyber dialogue on the subject and disseminate base line data assembled through their research on VAW.
Sifiso explained that Gender Links has conducted this research through household surveys, collecting first-hand accounts from those who have experienced violence, analysing government speeches, and conducting media monitoring. Gender Links’ starting point is that evidence is essential; otherwise the government will not believe you.

The evidence presented in the session showed some surprising results such as that contained in Fig.1 below which illustrates how knowledge about the 16 Days Campaign is higher amongst men in the SADC region than it is amongst women, and that the same can be said in Fig.2 on the subject of knowledge about violence against women.

*Fig.1 - Knowledge of the 16 Days Campaign*

*Fig.2 – Awareness of Domestic Violence by women and men*
Gender Links also discussed the focus of their work on developing indicators to show signs of SGBV. The aim of the regional project is to provide baseline data on GBV for specific countries in the SADC region to be used to monitor and evaluate the efforts of governments and civil society to halve the current levels of gender-based violence by 2015.

There is a need to collect baseline data on the extent and effects of GBV, as well as the manner in which governments and civil support organisations respond to GBV in order to measure the efficacy of both government and civil society programmes.

The outcomes of the regional research are expected to lead to:

- policy changes especially resource allocation and priorities for response to GBV
- strengthening the local and National Action Plans to end gender violence.

As such, a comprehensive set of indicators have been developed to measure:

1. the extent of the problem (what uniform administrative and survey data could be obtained across all countries), survivor and perpetrator data collection;
2. the effect of the problem in physical, social and economic terms;
3. the response and support interventions as measured by the multi stake holder National Action Plans to End Gender Violence that are in turn based on the SADC Addendum and draft Protocol on Gender and Development;
4. and the prevention interventions that underscore the importance of a paradigm shift towards prevention rather than simply response mechanisms.

The models of working by Gender Links in the SADC region have been thoughtful and thorough. Research so far has been conducted in 6 countries: Zimbabwe, Zambia, South Africa, Mauritius, Botswana, Lesotho.
Partnerships have also been established with the following offices and organisations:

1. Ministries of Gender- MWAGCD, GAD, MGCID, MGYSR
3. Civil society- Musasa, TVEP, WLSA Lesotho, WLSA Botswana, Shelters for women in Distress, SOS Femme
4. Research institutions- Mauritius Research Council, South African Medical Research Centre
5. University of Botswana, University of Limpopo
6. Local government COEs

**Fig 4. High Levels of GBV**

**Fig 5. Intimate Partner Violence**
The Overarching Findings of Gender Links’ research

Their research produced the following:

- High under-reporting of GBV to police and health officials across these countries.
- Patriarchal gender norms, childhood experiences, alcohol and drug use are drivers of GBV in Gauteng province, South Africa.
- Effects of Intimate Partner Violence included physical injuries, lost days of work, STI diagnosis, testing HIV positive and high levels of depressive symptoms.
- Limited mental health and psychosocial services compared to the need.
- Capacity of shelter services is disproportionate to need.
- Existing facilities should be made more responsive to survivor needs.
- Good prevention and awareness programmes, unknown long or short term impact.
- Need to include all forms of violence in awareness raising.
- Political will: how to shift from paper commitment to action.
- Need to decentralise competencies to local government.
- Inadequate budgetary allocations and human resources for implementation NAPs.
- Capacity building is required to improve on GBV programme monitoring and evaluation.

Way Forward Advocacy:

As a result of these findings, Gender Links’ will utilize them in the following ways:

- Lobbying governments at all levels to ensure creation, revision, or improved implementation of anti-GBV laws or related policies.
- Facilitating the use of evidence based research to strengthen the implementation of NAPs.
- Bridging the gap with local authorities and gender champions through the GL COE process and the annual 16 days campaign activities.
- Sustained community mobilisation and engagement geared to influence change in community norms.
- Strengthening national and local institutions to increase coordination of GBV prevention and response efforts among and with other stakeholders;
- Supporting the improvement of collection, analysis, and use of data and research to enhance GBV programmes.

Next Steps:

Follow up meetings will be held in each of the countries to finalise national agenda and messages. These meetings will be attended by the Ministries of Gender, the Ministries of Local government and the SADC Protocol alliance national focal points and gender focal points from each of the COE councils.

Comments and questions:

The comments and questions at the end of the sessions were particularly illuminating. Jenni Williams of WOZA remarked that WOZA and the Sexual Rights Centre had been blacklisted by the Government in Zimbabwe from taking part in the 16 days Campaign. She also remarked that attempts by WOZA activists to take part had been marked by the police singing “Where are the husbands and why are they letting them
demonstrate”. Emma Kailiya remarked that there was a desperate need to separate GBV from separate criminal activity.

Recommendations from the workshop

To African governments:
- Repeal regressive legislation that curtails the activities of human rights defenders and discriminate against sexual minorities.
- Put in place legislation and policies which protect human rights defenders and civil society activists in line with the UN Declaration on Human Rights Defenders.
- Ensure that legislative and administrative measures are put in place to eliminate discrimination on the basis of sexual orientation.
- Guarantee the protection of Human Rights Defenders working on LGBTI issues and create legal instruments which address specific concerns of the LGBTI community.
- Government representatives should desist from issuing threats against members of the LGBTI community and instead, publicly condemn discriminatory practices from the public.
- Publicly condemn attacks on and harassment of members of the LGBTI community and ensure perpetrators of these attacks are held accountable for their actions.
- Unconditionally and immediately release all human rights defenders and members of the LGBTI community arrested for their LGBTI activities and on the basis of their sexual orientation.

To the African Commission on Human and People’s Rights (ACHPR):
- Ensure that the ACHPR lives up to its mandate to protect the rights of all Africans and this includes the rights of people in the LGBTI community.
- Request African states to annul legislation which openly discriminates against members of the LGBTI community and criminalises their activities.

To Civil Society and Human Rights Activists:
- Work together, have a collective voice on LGBTI rights and act in solidarity across the sector in defending these rights.
- Always adopt a united front when engaging with regional organisations including the African Union on LGBTI issues in particular and human rights in general.
- Engage with UN Special Rapporteurs and provide them with information on human rights concerns so they can monitor and report on key human rights issues.
### ANNEX I – WORKSHOP AGENDA

#### HUMAN RIGHTS DEFENDERS WORKSHOP: AMPLIFYING GENDER AND LGBTI CONCERNS IN AFRICA

**WEDNESDAY NOVEMBER 13, 2013**

<table>
<thead>
<tr>
<th>TIME</th>
<th>SUBJECT</th>
<th>HOST</th>
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<tbody>
<tr>
<td>09:00 am – 09:30 am (30 mins)</td>
<td>Registration and meet and greet</td>
<td>CIVICUS</td>
</tr>
<tr>
<td>09:30 am – 10:00 am (1 hrs)</td>
<td>Key Note Address: Jenni Williams (Director of WOZA) on her experiences as an activist in the region</td>
<td>Women of Zimbabwe Arise</td>
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<tr>
<td>10:00 am – 10:30 am (30 mins)</td>
<td>An introduction and a presentation of the CIVICUS Gender Study Presenter: Charlotte Allan (CIVICUS)</td>
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<td>10:45 am – 12:15 pm (1.5 hrs)</td>
<td>Practitioners’ perspectives on engaging the African Union on Gender &amp; LGBTI issues Chair: Tiseke Kasambala Presenters: Corlett Letlojane (HURISA); Ian Southey-Swartz (OSISA)</td>
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<tr>
<td>12:15 am – 13:00 pm (45 mins)</td>
<td>How to utilise UN mechanisms to spread Gender &amp; LGBTI concerns Presenters: Tor Hoddenfield and David Kode (CIVICUS)</td>
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<tr>
<td>13:00 pm – 14:00 pm (1 hour)</td>
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<td>14:00 pm –</td>
<td>LGBTI: Deeply entrenched homophobia and changing societal attitudes</td>
<td>CIVICUS</td>
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<tr>
<td>15:15 pm</td>
<td>Chair: Emma Kaliya</td>
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<tr>
<td>(75 mins)</td>
<td>Presenters: Sian Maseko (Sexual Resources Centre, Zimbabwe); Virginia</td>
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<td>Setshedzi (Forum for the Empowerment of Women, South Africa); Sian</td>
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<td>Maseko (Sexual Rights Centre, Zimbabwe)</td>
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<tr>
<td>15:15 pm –</td>
<td>Tea Break</td>
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<tr>
<td>15:30 pm</td>
<td>Preparation for the forthcoming 16 Days of Activism on Violence</td>
<td>Gender Links</td>
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<td>17:15 pm</td>
<td>against Women by Gender Links</td>
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<tr>
<td>(1.75hrs)</td>
<td>Presenters: Sifiso Dube</td>
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### ANNEX II - PARTICIPANT’S LIST

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<th>Name</th>
<th>Surname</th>
<th>Country</th>
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<tbody>
<tr>
<td>Emma</td>
<td>Kaliya</td>
<td>Malawi</td>
<td>NGO Gender Coordination Network</td>
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<tr>
<td>Elizabeth</td>
<td>Zakhe</td>
<td>Swaziland</td>
<td>Women in Law Southern Africa</td>
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<td>Somaliland</td>
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<td>Jordan</td>
<td>Kaisi</td>
<td>Zambia</td>
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<tr>
<td>Aboubakar</td>
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<td>Rosalinda</td>
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<td>Joy</td>
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<tr>
<td>Benedict</td>
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<td>Martina</td>
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<td>Virginia Setshedi</td>
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<td>Forum for the Empowerment of Women</td>
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<tr>
<td>Ayanda Msiza</td>
<td>Msiza</td>
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<td>Iranti</td>
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A WORLDWIDE COMMUNITY OF INFORMED, INSPIRED, COMMITTED CITIZENS ENGAGED IN CONFRONTING THE CHALLENGES FACING HUMANITY.

CIVICUS SEeks to amplify the voices and opinions of ordinary people. It recognizes that for effective and sustainable civic participation to occur, citizens must enjoy rights of free association and be able to engage in all sectors of society.