

Legal Interventions in HIV/AIDS and Related Contexts in India

María Herminia Graterol

Asia Department

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Sida Evaluation 06/26

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“Like any other human right, the right to health is almost meaningless if unaccompanied by mechanisms of accountability. From the right to health springs duties – and in relation to these duties there must be transparent, effective and accessible mechanisms of accountability.”

Paul Hunt

UN Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health

About the Consultant

This evaluation and report were undertaken by María Herminia Graterol (m.graterol@unsw.edu.au; m_graterol2003@yahoo.com.au) on behalf of the Swedish Development Cooperation Agency ('Sida') in March 2006.

María Herminia Graterol is a human rights lawyer with expertise on women's rights, development and domestic implementation of international human rights standards. She is currently a visiting research Fellow at the Australian Human Rights Centre, University of New South Wales. She is also, a training and policy research consultant.

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Exposing and eliminating discrimination and stigma impinging in the lives of groups and individuals affected by HIV/AIDS goes hand in hand with meaningful changes that are linked to the notion of accountability. I am grateful to Lawyers Collective, 'Sida' and all individuals consulted in the process of preparing this report. It is reassuring to find a critical mass of persons and institutions committed to ensuring people living with HIV/AIDS and vulnerable groups are able to claim their rights, affirm their entitlements and increase their access to justice.

Special thanks are also due to the LCHAU project director, project coordinator, senior project officers and rest of the team. They all provided assistance making information available, coordinating meetings and assisting with logistic arrangements. In addition, I had an opportunity to engage with every single member of team and that made the experience very valuable at a human, more personal, level. I hope that, one day, all the collective "public interest fortune cookie wishes" that were shared with the team along the way, will come true.

Finally, I want to acknowledge Yasmin Zavery Roy and thank her for her guidance in helping me plan the external evaluation process and also, for her patience, encouragement and support.

1 List of Abbreviations

AIDS	Acquired Immunodeficiency Syndrome
AMTC	Affordable Medicines and Treatment Campaign
CRI	Civil Rights Initiative
DCS	Development Cooperation Section of the Embassy of Sweden in India
EC	European Commission
GO	Government organisations
IDUs	Injecting Drug Users
HIV	Human Immunodeficiency Syndrome
IP	Intellectual Property
LC	The Lawyers Collective
LCHAU	Lawyers Collective HIV/AIDS Unit. Also referred to as “the Unit”
NACO	National AIDS Control Organisation
NACP Phase III	National Aids Control Programme, Third Phase
NGO	Non-governmental organisation
PD	Project director
PIL	Public Interest Litigation
PC	Project coordinator
PLHA	People living with HIV/AIDS
RBA	Rights based approach
SC	Steering Committee
‘Sida’	Swedish Development Cooperation Agency
SPO	Senior Project Officer
TOT	Training of Trainers
TRIPS	Agreement of Trade-related Aspects of Intellectual Property Rights
UN	United Nations
WRI	Women’s Rights Initiative
WTO	World Trade Organisation

2 Executive Summary

The Lawyers Collective HIV/AIDS Unit (LCHAU) was formally established in 1998 and has been receiving financial support since. During the first phase of work (1998 to 2003), financial support was received from the European Commission (EC). In this connection, the EC contribution enabled the Unit to: (i) establish its main office in Mumbai and a second office in New Delhi; (ii) recruit and develop a pool of staff with expertise and (iii) support core activities. Subsequently, 'Sida' and the Ford Foundation have supported the work of LCHAU as it undertakes a second phase of work (2003–2008) which encompasses: (i) more activities/initiatives – e.g. major law reform efforts, work with vulnerable communities; (ii) consolidation of past work – e.g. litigation, legal services and advocacy campaigns; (iii) geographical expansion; (iv) setting up a documentation centre and (v) strengthening LC as an institution.

Throughout the last eight years the LCHAU has pushed the boundaries of law related work in India. The work of the Unit has been an experiment in creating a unique legal and litigation initiative that deals with health as well as the socially constructed determinants of health (e.g. gender, discrimination, poverty status, etc). At present, it is clear that the successful elements of this endeavour must be further reflected on, consolidated and built upon. Over and above that, larger issues such as the changing trends of the epidemic, the erosion of human rights in the global discourse and an increasingly complex set of stakeholders and interests require further innovation and breakthroughs on the part of the LCHAU. At the same time, internally, as part of the normal progression of “growing pains” LCHAU has entered a new stage. In this regard, the current stage requires concerted action regarding: re-consideration of roles of staff/management/leadership, re-organization of work (e.g. set workload priorities), exploring options for re-constituting governance structures, revising decision making processes and continuing with further streamlining of systems.

During this evaluation a process of on-going reflection and a space for constructive criticism was provided. Before going into further detail however, it must be made clear that critiques should not overshadow the commendable work that has been undertaken by LCHAU since 1998. One of the main findings of this assessment is that there is and will continue to be a need for Lawyers Collective (LC) beyond 2008. It is also important to emphasise that the relevance of strategies and impact of efforts led by the LCHAU are highly regarded by those within and outside the organization. The legal and litigation work is found to be what LCHAU does best. In many ways, it is this pillar that enables the LCHAU to carry out successful and meaningful advocacy and sit at every table – with NGOs, PLHA, policy makers, etc – in which key decisions regarding a human rights based approach to HIV/AIDS are made. At the same time, as LCHAU enters a new phase, there is room to take partnerships with stakeholders to a new, more sophisticated level.

In terms of the critiques that will be reflected in some of the recommendations, the author wishes to make clear that overall, the conclusions drawn were extremely positive. It is for that reason that, upon confirming the positive outcomes of the assessment, emphasis was given to recommendations that may lead to improvement that could inform the way forward for LCHAU. In general terms, the findings shared in this report hope to encourage LCHAU to: (i) consider processes and tools that may assist to set programme priorities – e.g.: explore the possibility of playing down some areas of work –; (ii) develop more suitable work plans within the areas of on-going work; and (iii) explore new modalities for operation (e.g. more appropriate governance structures; building-up more lines of leadership; creating more incentives for the staff; specialisation of staff/offices; etc).

3 Synthesis of Main Recommendations

In order to allow for easy reference, this section contains a synthesis of the main recommendations organized according to categories that were outlined in the terms of reference of this assessment.¹

1. On the continued relevance of the project in relation to the goals and policies of Swedish development cooperation and to the needs and priorities of partner countries and target groups

Recommendation(s) to 'Sida'

As relevance of the project gains greater proportions, it is timely for 'Sida' to consider developing a case study aimed at analysing LCHAU's approach to work on HIV/AIDS and gender in the context of development cooperation and partnerships. The lessons and good practices that can be drawn from LCHAU's use of the law as means to engage with government, inter-governmental bodies and NGOs might prove to be helpful to others around the world.

Phase 3 of the project – starting in 2008 – will be very important. In future years, clear evidence of the positive impact of processes and initiatives that have been initiated, as of 2006, are likely to emerge. The expected impact will contribute to the further visibility of outcomes of Swedish development cooperation.

2. Regarding the effectiveness of the approach/strategy being used to achieve the project outputs

Recommendation(s) to LCHAU

As a result of the positive impact of LCHAU, the volume of work in various areas is increasing and is likely to continue to expand. Hence, it is necessary to find better ways to ensure the organisation is able to meet results and maintain quality of expected future outcomes. Appropriate planning and re-structuring processes may provide tools to ensure efficiency is enhanced. In this regard, a process of re-aligning programmes on the basis of priorities linked to mission and vision may prove to be beneficial.

3. Analysis of intended and unintended effects of the activities, including effects on the intended vulnerable groups

Recommendation(s) to LCHAU

LCHAU has served as a catalyst for change. As the Unit approaches 10 years, it may be beneficial to develop a critical reflection on the approaches and strategies LCHAU has adopted/adapted in ten years of work. Until now, on-going reviews have mainly involved the staff of LCHAU and thus, at this stage, it may be necessary to consider ways to share lessons gathered – both, positive and negative – with a wider audience of activists, lawyers and specialists.

4. Exploring gender concerns at various levels of project implementation and gender sensitivity of the project staff

Recommendation(s) to LCHAU

Gender concerns and sensitivity are built into all processes and projects. It is also important to note that LCHAU addresses gender in ways that encompass gender identity and sexuality issues from a rights based perspective. The process of creating more avenues for exchange between the women's rights initiative (WRI) and LCHAU, as envisaged, is likely to enhance the understanding of gender within LC as a whole.

5. Considerations regarding the efficiency of project management and the cost-effectiveness of the resources/inputs used

Recommendation (s) to LCHAU

There is a felt need to re-consider systems, structures and operations in order to be able to maintain efficiency and cost-effectiveness in the context of growth. At the same time, this process may require some external assistance in order to ensure the timely design and implementation of systems, structures and processes that are greatly needed. At present, LCHAU has developed into a mid size organisation that envisages further growth, for this reason, considering challenges and constraints being faced, it is necessary to focus on institutional strengthening and proper planning.

¹ The terms of references are included in Annex A.

4 Introduction

This Mid-term evaluation took place between February 26th and March 2006 in accordance to the agreement between ‘Sida’ and Lawyers Collective for the period of 2003 to 2008. The main stakeholders of this review are the Lawyers Collective and the Development Cooperation Section of the Embassy of Sweden in India (DCS).

4.1 Purpose and Scope of the Evaluation

The main purpose of the mid-term evaluation has been to assess the overall *quality, functioning* and *success* of “Legal intervention in HIV/AIDS and related contexts in India,” a project being implemented by the Lawyers Collective HIV/AIDS Unit (LCHAU). In addition, this report aims to formulate specific recommendations for the rest of the agreement term between ‘Sida’ and Lawyers Collective (LC).

This report considers substantive areas outlined in the terms of reference for the evaluation.² In this regard, the following issues are addressed:

- The continued relevance of the project in relation to the goals and policies of Swedish development cooperation and to the needs and priorities of partner countries and target groups
- The effectiveness of the approach/strategy being used to achieve the project outputs
- The intended and unintended effects of the activities, including effects on vulnerable groups
- Gender concerns at various levels of project implementation and gender sensitivity of the project staff
- The efficiency of project management and the cost-effectiveness of the resources/inputs used

Furthermore, taking into account the purpose of the evaluation and the questions that were identified in advance, the scope of the evaluation required attention to the following:

- *Relevance*: what is the value of the LCHAU in relation to India’s, Sweden’s and global priorities on HIV/AIDS treatment, prevention, public policy, law reform, education and related strategies?
- *Approach*: is the rights based approach (RBA) and gender equality framework implicitly or explicitly referred to in all areas of work? Have these values been internalised? Are they evident to others?
- *Effectiveness*: to what extent does the LCHAU achieve results in relation to stated objectives?
- *Efficiency*: does the Unit use resources/inputs, apply processes, develop systems and implement decisions in ways that maximise the achievement of objectives? In relation to finances and accounting, it is important to bear in mind that a more in-depth and specialised audit will be undertaken by May 2006. In order to avoid unnecessary overlap and/or contradictions, this report will refer to finance and management in as far as it relates to implementation of programmes as well as governance/decision making structures.
- *Sustainability*: can the LCHAU maintain achievements and continue to exist if financial support by external funders is withdrawn? Can lessons be replicated, adapted and/or applied to other contexts/countries?
- *Added value*: what is the value added of using the law as a tool to promote equality – equal opportunity, equal access to opportunity and equal results – for persons living with and affected by HIV/AIDS across all areas (civil, cultural, economic, social and political)?

² Please refer to Annex A for further details.

4.2 Methodology

The assessment process involved the following:

- Document and literature review³
- On-going exchanges with ‘Sida’ and LCHAU in order to develop a methodology for interviews as well as identifying stakeholders to participate in the assessment
- Nine days of interaction with LCHAU and stakeholders in Mumbai (4 days), Bangalore (2 days) and New Delhi (3 days). Throughout this period, LCHAU provided logistical assistance and support. Also, since time did not allow for the possibility of in-depth discussion with staff as well as with all stakeholders originally identified, a sampling approach was used when selecting external respondents.⁴
- Upon completion of the mission, a briefing was held in the Embassy of Sweden in New Delhi. The briefing provided a space to share preliminary findings with representatives of LCHAU, DCS and the Ford Foundation
- Preparation of a draft evaluation report
- Incorporation of feedback and edits to the final report

It is important to mention that there are a series of developments that were beginning to take place during the preparation of the report that could not be examined in detail.⁵ Also, final versions of four key documents were not available as of March, 2006.⁶ Notwithstanding, based on discussions and interviews, the availability of this information prior to completion of this report would not have been likely to change the findings and recommendations hereby presented in a substantial manner.

4.3 Evaluation Process

Overall, the findings of the evaluation were very positive. At all times, it was evident that there is and will continue to be a need for the LCHAU beyond 2008. What is more, the relevance of strategies and impact of efforts undertaken by the Unit since 1998 is highly regarded by those within and outside the organization. As further reflected in this report, the nature of the work of LCHAU points to well based analysis that is informed by experience and an understanding of the rights based approach.

The evaluation process provided a space for in-depth reflection as well as articulation of constructive criticism by members of LCHAU and key stakeholders. It is clear that as LCHAU approaches ten years, it finds itself, as articulated in documents and by respondents: “undergoing transition”, “at a juncture/crossroads”, “growing/expanding” and “in the process of becoming a world class organization.” At the same time, this process is part of the expected evolution of a successful legal NGO.

Furthermore, the current trends, in regard to changes in funding for NGOs working in HIV and geographically located in India, could eventually affect the sustainability of the organization’s work and achievements. For this reason, one recurrent theme in this report deals with the ways strengthening

³ Annex C contains further details.

⁴ Please refer to Annex B for a detailed list of persons interviewed and Annex D for supplementary information on methodology. It is also important to note that during the visit, it was possible for the evaluator to observe LCHAU’s Thursday meeting session on sexuality issues in Mumbai; a strategic meeting on the 377 challenge and a sex workers’ march and rally in Delhi.

⁵ For example, two new staff members joined. Also, recommendations by the project coordinator on improvements on systems/structures had not been finalised. In addition, formal discussions on the further integration of finances/accounting of WRI and LCHAU had not been finalised.

⁶ In the future, the following documents ought to be considered alongside this report: (i) systems and operations best practices manual; (ii) annual report for 2005; (iii) consolidated project descriptions and (iv) revision of work plan to be proposed to ‘Sida’

administration, systems, leadership and capacity to raise funds should be seen as avenues to maintain the impressive “learning curve” that has been evident since 1998. Although expansion is a natural progression, compromising on the quality of the programme in the near future would affect the process of building an institutional memory and multiplying success/impact.

In terms of areas of improvement, recommendations made in regard to management, the establishment of programming priorities and improved governance structures are not meant to provide definitive assessment or pronounce authoritative judgements. The criticism contained in this report is aimed to help LCHAU and ‘Sida’ identify gaps and areas that need to be brought to the table in current and future planning exercises. Although the report touches on areas that coincide with LCHAU’s felt needs and constraints, in some instances, the author has attempted to propose ways to enable the organization to tackle and reflect upon existing problems differently.

In regard to analysis of findings gathered through interviews, although the majority of views were positive and are highlighted, a balanced perspective requires alternative views to be recorded for the purpose of informing further processes of reflection within LCHAU. In this regard, all criticism made in this report is intended to be constructive and should not be read as an attempt to undermine the work and evident achievements of LCHAU.

4.4 Structure of This Report

It must be stated that structuring findings, analysis and recommendations according to the evaluation questions and scope proved to be a challenging task. Although the information has been organised under smaller sections, due to the inter-relatedness of the work of the LCHAU, areas of overlap in the report could not be avoided.

Besides, it is also worth mentioning that over the years, LCHAU has produced a great deal of valuable written material on all areas covered in this report. The documentation available together with the information gathered through interviews was rich and informative. Therefore, maintaining a reasonable length in the report was not an easy task.

In terms of the organization of information contained in this report, findings and recommendations by respondents, have been, as far as possible integrated into sections 5 and 6. The last three sections of the report (7, 8 and 9) contain concluding remarks, recommendations and insights drawn by the evaluator in the assessment process. In addition, supplementary information is provided in annexes.

5 Evaluated Intervention

The LCHAU seeks to contribute to the creation of an enabling environment (ethical, legal, social, political, cultural, economic) for the realization of the rights of persons living with HIV/AIDS (hereinafter PLHA) and groups affected by the epidemic. The mission of the Unit is to protect/promote the human/legal rights of individuals living with and vulnerable to HIV/AIDS. From the Unit’s perspective, law reform, legal aid, advocacy, training and research are integral parts of a comprehensive strategy to combat HIV/AIDS. Consequently, the work of the Unit is informed by international human rights standards and principles.

The LCHAU’s head office is located in Mumbai. As of April, 2006, there are two additional project offices in New Delhi and Bangalore. There is also a third project office envisaged for 2007–2008. All offices are structured in similar ways and follow a joint work plan.

5.1 History

Since 1981, the Lawyers Collective (LC), a public interest group of professional lawyers, law students and legal activists has undertaken progressive engagement with the law, policy and judicial action as a basis for guaranteeing universal access to justice and the rule of law at all levels. Years later, this understanding led to LC's involvement in the first HIV discrimination case in India.⁷ In many ways, this case led to an important realisation in regard to the need to ensure that a human rights approach is incorporated at all levels of action in the context of HIV/AIDS. In particular, the early cases initiated by the Unit pointed to the principle of natural justice, non-discrimination, and the ways these should be applied to processes, initiatives and actions aimed at containing/addressing the epidemic in India.

Informed by the activism and pro-bono litigation that had taken place under the umbrella of LC, the LCHAU was formally set up in 1998. The main project undertaken by the Unit is titled "Legal interventions in HIV/AIDS and related contexts in India." In this connection, the accomplishments of phase one of the project (1998–2003) inspired LCHAU to use phase two (2003–2008) as a means to expand areas of work and build on past achievements.

5.2 Structure and Organization of Work (Governance & Management)

At present the LCHAU has over thirty staff members, including consultants. In terms of day to day organization of work and decision making, the current governance structure can be described as follows:⁸

Level 1	The Unit's team is headed by the Project Director	
Level 2	The Project Coordinator	
Level 3	Financial Manager and Project admin/finance officer	
Level 4	Step 1	Senior Program Officers (for Bangalore and New Delhi)
	Step 2	Legal officers, Advocacy Officers, Admin Officers and financial/administrative officers
	Step 3	Admin Assistants, consultants, interns

As of April 2006, the staff positions that are filled include: project director, project coordinator, financial manager, senior project officers (one in Delhi and one in Bangalore), 6 Legal Officers, 8 Advocacy Officers, 8 Admin and finance officers/assistants and 6 consultants. In addition, there is at least one intern in each project office. Hence, for the purposes of the evaluation, LCHAU will be considered as a medium size organization.

It is also important to mention that there are two additional programme components undertaken by LC as a whole, one of them is the LAWYERS magazine and the other is the Women's Rights Initiative (WRI). The WRI functions as an independent unit and LAWYERS is a collaborative effort between both units. Over and above that, the senior members of the LC continue to undertake strategic pro bono litigation.

It should also be noted that LC has a management committee and that there is a Steering Committee (SC) that contributes to the direction of the work of the LCHAU. These structures are described in the next section.

⁷ This case dealt with the incarceration of HIV+ activist Dominic D'Souza under the Goa Public Health (amendment) Act, 1986.

⁸ Although there are a large number of decisions that are adopted as a team, this is an overview of the levels of additional responsibility, accountability and discretion within LCHAU. The further development of a clear line of dependencies and decision making responsibilities is in progress. Although the Unit has developed an organisational diagram and written descriptions of roles in the past, in practice, the lines of reporting/management appear to be slightly different.

5.3 Substantive Areas of Work

The main work of the LCHAU has been divided into two broad categories of action: i) legal services and ii) advocacy/research. There is a clear inter-relatedness between these areas of work. The kinds of activities undertaken are detailed below.

1 *Legal advise aid and litigation*

The Unit provides free legal services to persons living with/affected by HIV/AIDS. At a first level, legal advise is provided to individual clients that have been discriminated against and/or stigmatized as a result of their HIV/AIDS or “vulnerability” status. In this regard, the legal team informs clients of their rights and other means for legal recourse that may be available to them. It must be emphasized that the nature of legal services provided by the LCHAU cover a wide range of issues and areas of law.⁹ Most importantly, through legal aid services the Unit aims to empower individuals along the way.

At a second level, if the client consents to take legal steps, the Unit proceeds to negotiate on her/his behalf or initiate legal action in court. Thirdly, the LCHAU also considers involvement in strategic public interest litigation claims. Finally, the Unit responds to legal questions on HIV/AIDS law and related issues that may be brought forward by partner NGOs and other stakeholders.

Overall, this area of works serves two very important purposes in regard to LCHAU’s work. On one hand it helps in the redress of individual grievances. On the other hand, it maintains momentum and pressure to create legal precedents that may be used in favour of individuals and groups directly or indirectly affected by HIV/AIDS.

Some important judgements (2004–2006)¹⁰

LX v Union of India (2004) (Delhi): Where the Unit has obtained an interim order directing the Union of India to continue providing anti-retroviral treatment to the petitioner who was provided the same in Tihar jail and has since been released on bail

X v State Bank of India (2004) (Bombay): Where the Court directed SBI to appoint the petitioner as a hamal-cum-sweeper. The latter had been denied employment solely on the basis of HIV-positive status

M/s Novartis AG, Switzerland v. M/s Cancer Patients Aid Association, India (2006) (AMTC, Chennai): Where the Patent Controller held that the anti-cancer drug “Gleevec” is not patentable.

In addition, a successful PIL guaranteed the success of the right to marry campaign in 2000. In this case, the Supreme Court set aside its previous judgement (in a case filed by the Unit – *Mr X v Hospital Z*, 1998) suspending the right of PLHA to marry and restored the right, bolstering the rights based approach to HIV/AIDS.

2 *Advocacy and Capacity Building*

The following strategies are examples of the wide range of complementary efforts that are needed to achieve the mission of the LCHAU, maintain gains and improve the possibilities of success through the progressive use of law and litigation:

Awareness/Capacity Building

The Unit plays an important role in terms of coordinating/facilitating/participating in training, workshop, seminars and meetings on HIV/AIDS law and human rights related issues for a wide range of stakeholders such as PLHA, health and human rights NGOs, lawyers, judges, policy makers, etc. The aim of activities is to promote, sensitise and encourage better understanding of emerging issues and concerns. These activities also create opportunities for developing conceptual clarity, share knowledge and build capacity.

⁹ For instance, labour concerns, family matters, property, wrongful arrests, violence, etc.

¹⁰ These descriptions are taken from a document by LCHAU titled “Achievements 1998–2005.”

A good example of this kind of activity is the “Thursday drop-in Meeting” which is held at LC premises and provide opportunities for PLHA and others interested, to interact on topical issues on HIV/AIDS and related issues to the law. These activities also entail the preparation of materials and tools aimed at building awareness and sharing information through other means e.g. the “know your rights” series.

Law reform/policy work

In the current phase of the work of the LCHAU, more concerted efforts have been made to further develop and strengthen law reform through efforts that have gained greater momentum. It is also possible to envisage that as law reform initiatives lift off the ground, greater capacity for monitoring implementation of law through policy work will be required.

Moreover, as an illustration of the scale of this strand of work, on the request of the Government of India, the Unit has drafted the HIV/AIDS Bill. The process required comprehensive efforts that included research, preparation of materials (e.g. book titled “Legislating an Epidemic: HIV/AIDS in India”), coordination of consultations, compilation of views/feedback, drafting and disseminating the bill. It is likely that lobbying efforts and coalition building in 2006–2007 will be critical for the adoption of the Bill in its current format.

Campaigns

The Unit has led/coordinated and, in many instances, supported a significant number Campaigns aimed at demanding state accountability and significant changes of attitudes, law and policy. In this regard, the “Right to Marry Campaign” was the first campaign organized by LCHAU. The sustained advocacy maintained during 1998–2002, along with legal intervention led by the Unit, resulted in the restoration of the right to marry for PLHA. Since 2003, the “Affordable Medicines and Treatment Campaign” (AMTC) has gained momentum, nationally and internationally.

Action oriented research and publications

In terms of written materials and innovative research/analysis LCHAU is a prolific organisation. Through research, the Unit (i) conducts on-going assessment of the legal and policy framework; (ii) develops policy papers; (iii) analyses trends in litigation services and strategies; (iv) analyses patterns of violations affecting PLHA and vulnerable communities and (v) identifies advances in international human rights standards and in HIV/AIDS law.

In relation to publications, the LCHAU systematically presents information and analysis in ways that are accessible to partner organizations and other stakeholders. For example, the newsletter, “Positive Dialogue”, is available in various local languages in printed form as well as on the website.

Collaboration and partnerships with key stakeholders

The LCHAU works collaboratively with a wide range of stakeholders. Target groups and partners include: (i) legal professionals: academics, law students, lawyers; (ii) decision makers: government officials, parliamentarians, inter-governmental bodies etc; (iii) civil society: NGOs and networks of PLHA and marginalized populations affected by HIV/AIDS, health groups and coalitions and (iv) the general public.

Networking

The Unit makes strategic interventions in summits, conferences and meetings at the national, regional and international level. This has enabled the LCHAU to establish links world wide and to gain credibility with inter-governmental bodies, coalitions and NGOs from all regions.

5.4 Present and Past Financial Support

From 1998–2003, the Unit received financial support from the European Commission. Since then, ‘Sida’ and the Ford Foundation have provided the support that has enabled the HIV/AIDS unit to continue with its work for the period of 2003–2008.

Also, despite the fact that this is the first external assessment of LCHAU, it is important to note that an internal evaluation was undertaken in 2001. In addition, staff retreats have provided good opportunities for review, reflection and strategic planning. In terms of external audits, 'Sida' coordinated one audit in 2004 and will be undertaking another one in the last week of April 2006.

6 Observations and Findings

Due to the length limitations, it has not been possible to assess every single activity in this report. Besides selection of broader categories, a sampling of individual activities, practices and approaches has been made. The following section aims to highlight developments, trends, patterns and gaps in the LCHAU's work and operation.

6.1 Part A: Mapping the setting: "LCHAU's reason for being"

Over the years, LCHAU has been able to articulate its purpose and role in many different, yet, consistent ways. Due to the practice of documenting meetings, reflections and internal discussions, it is possible to observe an evolution in the understanding of why LCHAU is needed and its added value. *Although there are NGOs in India working on "cause lawyering", the efforts and identity of the Unit is distinctive and specific in the area of HIV/AIDS.* LCHAU offers the levels of conceptual clarity, knowledge and expertise that can only be achieved through specialisation

In the words of the client that inspired the work of the LCHAU, Dominic D' Souza, the vision of the Unit is "a world that will be, if not free of disease, free of fear and discrimination." In order to translate this vision into action, one of the best attempts to answer "Why LCHAU?" is found in the 2004–2005 annual report:

"If a person who suspects her/himself of being HIV positive fears discrimination and severe personal consequences on the basis being HIV+, s/he will not seek information, medical and psycho-social support that is so urgently required. This places and increasing onus on society to make life for those infected and affected by HIV/AIDS as regular and fulfilling as possible. One of the ways in which this can be achieved is through the guarantee of legal rights and the provision of an environment that reduces stigma, fear and discrimination. Therefore, to minimize the spread of HIV/AIDS and its physical, social and economic impacts it is necessary to provide a supportive and enabling environment for those who are already living with the virus and those most vulnerable to it. LCHAU has attempted to promote and foster such an environment vis-à-vis legal aid and reform, using law as an instrument of social change in the context of HIV/AIDS."

The value of an on-going exercise of re-framing the mission and methods/strategies of the LCHAU periodically has been well understood. Once again, it would be necessary to emphasize that the approach of the Unit is holistic as well as innovative. At the same time, the fact that the organization finds itself in a very decisive transition at present should not be understated.

The reasoning behind the Lawyers Collective

The work of LC is informed by several over-arching principles, three of the most important ideas that shape its work are: (i) the understanding that law has a social function and at the same time, it should be used to challenge the biases and social constructs entrenched in "the letter of the law"; (ii) that lawyers have a duty to protect essential constitutional guarantees and enhance democratic citizenship rights in India and (iii) that social exclusion has led to the unmet legal needs and lack of access to justice for disadvantaged sections of society. These underlying ideas bring coherence and relevance to LCHAU,

WRI and THE LAWYERS magazine. That is why, although, at times, WRI and LCHAU may “agree to disagree” on certain issues (e.g. prostitution vs. sex work), but this does not affect the overall impact of LC.

In addition, the fact that all the members of the collective, in particular Indira Jasing and Anand Grover, are known to be ethical, transparent, non-partisan and fearless of retaliation, brings added significance to LC. This was widely acknowledged by legal professionals and activists interviewed.

6.2 Part B: Locating the work of the LCHAU in India and at the International Level

The effort undertaken by the LCHAU since 1998 has enabled the Unit to contribute to thinking about HIV/AIDS within human rights in India as well as globally.¹¹ As the patterns of the epidemic continue to change, government and non-government organisations in India continue to address the situation of the second largest HIV+ population in the world. As stated by the Unit in the most recent annual report, it seems that eight years on, “the need for urgent interventions in healthcare, education, empowerment and rights takes on even greater importance.” In this regard, official sources confirm that HIV/AIDS is spreading rapidly in India and as of December 2003, 5.1 million people had been infected.

While there have been advances in relation to the Indian government’s responses to HIV/AIDS in recent years, it is too early to assess the sustainability of these achievements. At another level, the conceptualization of solutions to the problems posed by HIV/AIDS does not seem to be the most significant obstacle. The biggest difficulty faced by the government of India appears to be effective implementation. *In this regard, legal and advocacy interventions by LCHAU have allowed for opportunities to “rescue” components of the human rights framework for HIV/AIDS that would have been lost. Consequently, the LCHAU has continued the process of monitoring the transformations of rights/policies “on paper” to rights/policies “in reality.” This line of efforts, along with achievements through successful litigation, has led to the appreciation of the technical capacity and expertise of the LCHAU by key NGOs and decision-makers.* As a result, this has led to more opportunities and in some cases demands, for the Unit to play a “technical advisor” role in various law and policy processes dealing with HIV/AIDS as well as related issues.

Although the LCHAU has clearly maintained a focus on the national HIV/AIDS agenda, there is an understanding of the need to bring global issues home and the importance of bringing voices from developing countries to the international debate. Throughout the first phase of work, representation and influence in regional/international meetings was given importance. However, in recent years, there has been a shift to more measured and strategic interventions in expert-level forums and strengthening links South-South.¹²

Lastly, as global standards and principles around the human rights based approach to HIV/AIDS and economic, social and cultural rights evolve internationally the LCHAU will continue to have room to apply these and test them against local experiences. In this regard, *the Unit’s work on the human rights based approach to HIV/AIDS prevention and access to medicine/treatment may need to be more explicit and clear so that even*

¹¹ In general, over the years, there has been increased recognition of the work of LCHAU by activists and academics in India as well as at the international level. For example, an average internet search often leads to significant number of “hits” that use materials, interviews and case studies from the unit or the AMTC Campaign. One example is a publication titled “HIV/AIDS and Human Rights in a Nutshell: A Quick and Useful Guide for Action, as well as a Framework to Carry HIV/AIDS and Human Rights Action Plans” which clearly uses LCHAU as an example of “best practice.” In addition, there are international law reviews and Human Rights Quarterly articles that either mention LCHAU, or praise the landmark decisions of the Supreme Court of India that were litigated by the unit.

¹² In this regard, one of the most recent achievements of the LCHAU was holding the conference “Realising the Right to Health: Global South Dialogue on HIV/AIDS and Access to treatment” which was undertaken with the support of ‘Sida’ and UNAIDS (2005). The results of the conference contributed to coalition building and the development of key action points to be taken forward.

non-lawyers build the confidence to apply it. In order to develop greater consistency in litigation and advocacy, conceptual clarity around key ideas, such as how do HIV/AIDS concerns feed into the progressive realization of the right to health, will need to be further developed. At another level, as soon as key law reform initiatives yield results, the Unit will have opportunities to use key elements of the rights based approach in the development of better tools for monitoring government policy.

6.3 Part C: LC HIV/AIDS Activities and Areas of Work

As stated in the previous section of this report, LCHAU's main undertakings can be divided into two broad, inter-related, categories of action: i) legal services and ii) advocacy/research. Since broad descriptions of the kinds of efforts LCHAU have already been provided, this section aims to review some of these efforts in order to determine accomplishments, gaps and challenges.

1 Legal Services and Litigation

One of the most important findings of this evaluation has been that legal services and litigation characterized the initial "excellence" component of LCHAU. At present, legal initiatives undertaken by the Unit are holistic and generate opportunities of change through advocacy and law reform. Incidentally, the Unit has good standing with a wide variety of stakeholders, precisely because it is seen as an NGO that embodies the qualities of "a good lawyer" such as: (i) objectivity, (ii) the balance that comes with commitment to justice, (iii) the ability to identify gaps and recommend action, (iv) the capacity to respond to emerging challenges and (v) the willingness to adapt to requirements of activism that may extend beyond "legal expertise."

The following examples are evidence of the positive impact of legal services and litigation undertaken by LCHAU:

- Without the LCHAU, issues pertaining to rights of PLHA and marginalized groups would not have been heard in courts as soon as they did, in the early 1990s. The timeliness of legal interventions by the Unit points to a holistic understanding of HIV/AIDS and its human rights dimensions.
- Despite the losses, there have been important changes in the ways in which Courts view and apply constitutional guarantees and human rights principles in the context of HIV/AIDS. The fragility of initial success is no longer a main concern as there is enough body of jurisprudence in favour of the rights based approach HIV/AIDS to "hold space" for future, more expansive gains. At the same time, since the nature of the legal work of the Unit is exposing violations that have been "invisible", future accomplishments are likely to come in hand with new needs e.g.: marginalised communities.
- In the last eight years, LCHAU has mentored and developed a critical mass of lawyers with expertise on HIV/AIDS law related issues. This process has not only impacted on the levels of capacity of legal officers, but also, enhanced the knowledge of some of the lawyers associated with the Unit. For example, the "advocates on record" interviewed affirmed that they have been sensitised to HIV/AIDS and the situation of marginalised/vulnerable groups.
- Progress in regard to the ways "clients" view lawyers, the role of law in society and their own ability/power to claim rights is seen over the years and is evidenced by the increasing number of legal services sought. In this regard, it is difficult to confirm whether or not clients may have been empowered through the experiences of using the law to seek redress. However, representatives of networks and organizations of PLHA often reiterated that whenever taking legal action is required, LCHAU is the "natural" partner.
- Some cases, particularly those that were envisioned hand in hand with campaigns, have generated favourable media, mainstream support and political backing. These kinds of litigation efforts have encouraged public debates on the impact of unfair laws and practices on PLHA as well as vulner-

able groups. One major shift can be observed is that while in the early 1990s HIV/AIDS challenges were seen as mainly related to public health concerns and/or morality, there is now better understanding to the inter-play of the epidemic, human rights and development. While the slow changes in the social and mainstream perceptions can't be attributed to LCHAU, there is no doubt that the Unit has made important contributions.

Legal aid

From 1998 until present, the LCHAU has provided advice relative to over 540 cases related to the violations of fundamental rights of PLHA and marginalised communities affected by HIV/AIDS. Legal services are provided in all the project offices of LCHAU. All clients are assured shared confidentiality and this is supported by ensuring their identities are suppressed when the case is filed. In addition, if clients require other kinds of support (e.g. counselling, etc) a referral system is in place.¹³

The Unit has a detailed and very comprehensive selection criterion to assist the legal team in determining: (i) whether or not the matter(s) brought by the potential client could/should be handled by the Unit; (ii) which clients should be provided with free legal aid; (iii) whether or not the matter could be framed as public interest litigation (PIL). This approach has proven to be successful, and, as evidenced by reports and documents prepared by LCHAU, the criterion is re-assessed and revised periodically.

Over the years as the work of the Unit has intensified, it has proven difficult to outline clear geographical limitation for the provision of legal services. While on one hand, every project office is envisaging the provision of legal services to districts and states nearby its offices, it is also evident that requests for assistance are being received from all over India. On the other hand, the number of cases and requests related to the rights of marginalised groups vulnerable to HIV/AIDS is also increasing. As a result, *the model of provision of services is changing and expanding. Hence, it is important to contextualise growth against the backdrop of sustainability of the Unit and its achievements.*

On various occasions the LCHAU has felt the need to discuss whether or not the volume of services can be maintained as other areas of work continue to increase. Some consider that a possible way forward is to minimize these services to make way for more strategic litigation, for example the adoption of a test-case/impact model has been discussed. It is also important to note that one recent idea that has begun to be explored is merging the pool of legal officers of WRI with the LCHAU. The merits of this idea are likely to be discussed in the joint staff retreat planned for April.

One conclusion that can be drawn is that although the approach of providing legal aid may have to be re-considered over time, the LCHAU may not be able to do away with this kind of work. The information gathered through legal aid and consultation has enabled the Unit to identify patterns of systematic discrimination and remain immersed in current issues. At the same time, the wealth of data gathered by legal officers since 1998 should not fail to be appreciated.

Litigation and litigation strategies

Since 1998, the Unit has litigated approximately 215 cases related to HIV/AIDS. In addition, seventeen public interest litigation (PIL) cases have been filed. In this regard, good descriptions of litigation cases and PILs won by the LCHAU are provided in a document titled "Lawyers Collective HIV/Unit Achievements, 1998–2005" as well as in publications by the Unit.

In more recent years, the LCHAU has started to plan strategic litigation in relation to a wider range of significant matters such as, access to affordable medicine and treatment including, service delivery. Moreover, litigation cases relating to sexuality rights, gender issues and basic rights of PLHA will also continue to be considered. To illustrate the approach of the Unit, the process of filing, developing

¹³ One of the findings of the evaluation is that the process of mapping and assessing partner NGOs, legal practices and organizations with capacity to deal with referrals, takes time. Keeping these records updated is time-consuming and also, there is no way to guarantee that referral partners keep in line with the Unit's practices and philosophy.

arguments and building support for the case challenging section 377 of the penal code has included extensive research, consultations and campaigning. This has, in turn, strengthened broad-based coalitions that support litigation efforts.

In the process of undertaking this evaluation, two lawyers that have appeared as “advocates on record” were interviewed. Both stated that the experience of working with the Unit has been very positive and had enabled them to change their attitude towards PLHA and affected groups. It is also important to note, that “advocates on record” felt that collaboration with the LCHAU’s legal team, including, the project director was encouraging. At the same time, a limitation with this approach is that the process of engaging “advocates on record” is based on the premise that the expertise on human rights and HIV/AIDS is within the Unit and does not take into consideration the expertise that others may have in this field. At another level, *in the future, a more significant number of strategic cases should be argued by senior legal officers as well as lawyers/legal NGOs that collaborate in with LCHAU. From this point of view, the extensive litigation experience of the project director could, over time, be a potential means for mentoring a new generation of HIV/AIDS lawyers.*

Findings/Brief Assessment of key efforts initiated in the period of 2003–2006

District level work in Maharashtra and Karnataka: There have been orientation/training workshops for lawyers working at the district level in these states. The initial steps seem to be yielding positive effects. However, the Unit’s legal and advocacy team is expected to: (i) identify lawyers; (ii) design training modules/programmes; (iii) monitor/supervise and follow up the work of district lawyers on the day to day basis; as well as (iv) liaise with clients on top of their existing workload. Over time, this initiative will also require staff to travel more extensively within these states. As stated below, without proper planning, the scale of the project could generate additional pressure/demands on the staff. *In the short term, concerns regarding staff “burn-out”, may require re-consideration of the scale of new projects and plans for implementation of programmes.*

The Civil Rights Initiative (CRI): the “pilot project” is being undertaken by the Mumbai office legal team with support by the Project Director. So far, its initial stages show promise. Nevertheless, through the process of evaluation and considering that the current legal team does not have extensive expertise in criminal law, this project (based on the scale that was originally envisaged) may be difficult to implement. In this regard, although the Unit is currently recruiting a lawyer with criminal law background, this may be positive in terms of providing assistance but not in terms of reducing workloads for legal officers. *In the future, it may be necessary to contemplate a different approach to this level of work, e.g. continuing efforts in prisons in Mumbai and use the lessons to develop a litigation manual for criminal lawyers.*

- *CRI and District level work, common constraints:* Despite the relative success of these initial efforts – approximately one year old – a significant constraining factor continues to be the difficulty in identifying and developing the capacity of lawyers practicing independently to handle cases related to HIV/AIDS and related issues in a “sensitive, ethical and committed manner.” Even if a new set of lawyers expresses interest in HIV/AIDS, there is no guarantee of ideology, transparency, etc¹⁴. *The Unit needs to consider whether (i) to downsize these projects in order to work with the best group of “advocates on record”, district lawyers and criminal lawyers involved in the civil rights initiative; (ii) it is beneficial to consider new kinds of partnerships with human rights lawyers/firms/practitioners; or (iii) there is a need for the legal team to grow significantly in order for legal officers to be able to coordinate with these lawyers in better ways. In short, the possibility of a more efficient approach that is less time consuming and resource intensive should be considered in the future.*

Considering the current staff transitions and management concerns directly relating to the Delhi office, it may not be feasible to initiate these efforts before 2007.

¹⁴ As an example, in page 7 of the 2004–2005 LCHAU annual report a statement such as this was included: “Experiences in the past have shown that “advocates on record” are reluctant to take on legal aid work or are willing to do such work only to obtain profiles as individuals who are providing socially relevant services, without commitment or sensitivity to the issues.”

Pre-grant Oppositions: this is one of the levels of work undertaken as part of the AMTC, more specifically, relating to the mailbox project. It requires lawyers and advocates involved to have, at minimum, a basic understanding of intellectual property (IP) law. One interesting point to highlight is that the individuals filing and presenting oppositions do not need to have legal qualifications in India. Responsibilities in regard to this project are shared between LCHAU and other organizations active in the AMTC Campaign. *It is important to note that this initiative seems to be going well and that it may be a good model for “decentralisation” of tasks through delegation of responsibilities to officers or to partners.*

2 Advocacy, Law Reform and Research

As described above, this area complements legal efforts and litigation undertaken by the LCHAU. Advocacy, law reform efforts and action oriented research facilitate the process of change in society and within the legal framework. It is also important to mention that although all categories of action and initiatives were considered, this section will only take note of broader categories of work and highlights a limited number of activities.

Over the years, the LCHAU has added new elements to advocacy without allowing enough space to explore aspects that could be developed through partnerships. *The threat posed by growing in all areas of work is that the Unit could potentially over-commit in ways that may cause unforeseen, negative, changes in direction/focus.*¹⁵ *In other words, although it is not negative for the Unit to be ambitious, the on-going expansion advocacy and increased volume of efforts, requires appropriate attention to new possibilities/synergies.*¹⁶

Initiatives on sensitization and awareness raising

These activities are part of “routine” activities undertaken by the Unit. For example, members of LCHAU often address meetings and make presentations on HIV/AIDS related issues. In this regard, *one of the strengths of the Unit has been the ability to attend to a wide range of stakeholders.* Moreover, by attending and conducting seminars, workshops, etc all staff members are exposed to conceptual and legal issues relevant to their work. At the same time, the development of a pool of resource persons from groups affected by HIV/AIDS would make it possible for the Unit to be represented in more meetings, particularly in community based activities. This idea is explored in further detail below.

The coordination of “Monthly Thursday Meetings” has been a practice followed in the Mumbai, Delhi and Bangalore offices. External resource persons are invited to make presentations on various emerging issues relating to HIV/AIDS and the rights of affected groups. These meetings provide an opportunity for networking among NGOs and like minded people. In recent months, however, due to staff transitions in the Delhi office these activities have been discontinued for the time being.

Other routine activities include: (i) updating and sharing information on the referral list of allied services of PLHA and vulnerable communities; (ii) translation and dissemination of publications; (iii) contributions to newsletters by the Unit and magazines by LC and (iv) logistic arrangements necessary to conduct workshops, meetings with communities/networks. Although these activities/responsibilities are often regarded as simple, all of them are labour and time intensive, as they often require coordination, information exchanges, etc.

Initiatives on Access to Justice and Effective Application of the Law

Many advocacy aspects of the current work with injecting drug users (IDUs) and other vulnerable groups affected by HIV/AIDS would fall under this category. *Even though these are new efforts, the support provided to vulnerable communities is highly regarded.* Representatives from organisations that work with all these groups were interviewed and all consider that interaction and exchanges with the Unit are very

¹⁵ This is a concern that was highlighted in the internal evaluation workshop held in 2001 and now gains even more relevance.

¹⁶ While the LCHAU is aware of this, throughout the interviews it became clear that a consultant with expertise on NGO management and governance structures would be able to provide assistance in this regard. Please refer to expended recommendations for more details.

positive. For example, research undertaken by the Unit was used to support positions of various sex worker organisations in India in relation to proposed amendments aiming to criminalize clients. Since the LCHAU has credibility and rapport with the government bodies, it was possible for some of the members of the Delhi team to assist leaders in various meetings with decision makers.

Initiatives on Law Reform

Within five years of work it became clear that a two pronged approach – litigation and advocacy – was not enough. A third tier of work, law reform, was then considered essential.¹⁷ *One of the most evident achievements of the LCHAU has been spearheading the development of a national HIV/AIDS Bill (2005).* It is clear that the preceding success and credibility of the Unit enabled a partnership with the government that led to a direct request of technical assistance.

Although the HIV/AIDS Bill is not the only law reform process the LCHAU is currently involved in, it is the best example of the approach adopted by the Unit. Efforts included: (i) pushing decision makers to acknowledge the need for this piece of legislation; (ii) extensive research and comparative analysis on key elements and areas to be covered in the bill; (iii) coordinating a national process of consultation among a wide range of stakeholders and which, in some instances, meant that criticism that was not always constructive; (iv) developing components and negotiating language/elements with stakeholders along the way; (v) publication and dissemination of the bill and complimentary materials and (vi) contributing to coalition building among key networks of PLHA and marginalised communities nationally. Although the efforts have been comprehensive, the next stage of work (phase 3) is the most critical.

In this regard, it is clear that through the negotiation and adoption of the HIV/AIDS Bill, the Unit will have to seek balance between providing technical assistance to the government and ensuring networks of PLHA are involved in the process. As noted by some of activists that were interviewed, the final push for adoption of the HIV/AIDS Bill should come from those directly affected by HIV/AIDS. As someone noted, “although we will often need the Unit to arm us with knowledge on legal issues, the ‘faces and voices’ of the civil society coalitions of PLHA should be in the forefront”. Moreover, it was also found that until now the Draft Bill process is still mainly perceived as a LCHAU initiative. Therefore, LCHAU recognises that in order to generate true transformation, ownership of the process is likely to shift over time.

From another perspective, in reality, the Unit may not have the capacity to continue to lead the lobbying while also providing technical assistance to decision makers supporting the Draft Bill. An inevitable process of adoption of new laws and bills is that at some point, very critical compromises are made. In this connection, it would be inappropriate for the Unit to be associated with these concessions that are not supported by PLHA. In this regard, an issue that may not be essential for some is a non-negotiable for others. Consequently, a note of caution for the Unit is the need to maintain balance between both roles.

At another level, upon adoption of the HIV/AIDS bill, research will be needed in order to monitor the effective implementation of this new piece of legislation in ways that guarantee access to justice to PLHA. Since the Unit has invested time and effort in the bill, it a natural progression for the LCHAU to lead advocacy efforts to ensure it translates into practical outcomes within the next five years.

Between 2006 and 2008, critical law and policy reform processes are expected to build-up: (i) repealing section 377 of the penal code, (ii) avoiding over-regulation of sex worker through proposed amendments to the Immoral Traffic Prevention Act (ITPA) and (iii) further reforms led by the AMTC are envisaged. *Considering the extent and importance of law reform efforts led by LCHAU, at one point the Unit will have*

¹⁷ In relation to this, analysis of trends shows that over the years the LCHAU has decided to take a more proactive approach to law and policy reform. In previous years, the Unit had focused on opposing state and national level proposals and changes that would have undermined the rights of PLHA and vulnerable communities.

to re-assess existing capacity and expertise within the organisation.¹⁸ In this regard, in the future, a policy coordinator based in the Delhi office should be considered as a valuable addition to the staff.

Capacity Building

In terms of the current success in capacity building, the annual training programme for judiciary has been building up for five years. The interesting aspect of this training is that it is imparted by two international experts, who are Supreme Court magistrates from South Africa and Australia. The partnership between the Unit and these resource persons has been very positive and will continue to grow.

A lesson learned is that the possibility of drawing in “external” resource persons that are able to convey ideas in a way that is consistent with the position of the LCHAU could be further explored.

Over the last few years, the Unit has continued to undertake various levels of capacity building with partners and stakeholders on a wide range of issues. Despite the wealth of information, materials and experience in capacity building over the years, most training workshops and capacity building initiated by LCHAU are still directly undertaken by team members. What this means, is that *although in most cases, information is shared, a more comprehensive and continuous approach to capacity building should be explored and discussed in the future.*

Campaigns

In the first phase of work, the LCHAU initiated and coordinated the “Right to Marry Campaign” with positive results. Subsequently, the “Affordable Medicines and Treatment Campaign” (AMTC) was launched in 2001. The AMTC deals with access to anti-retroviral therapy and most important, the impact of WTO agreements, mainly the TRIPS scheme, which compounded with increasing poverty, generate barriers that make it practically impossible for vulnerable sectors to avail themselves of universal healthcare. The Campaign was launched in 2001 and re-gained momentum with the passing of the Indian Patent Ordinance in 2004. Advocacy efforts undertaken in 2004 and 2005 included public meetings, press conferences, submissions to government panels and intensive lobbying. As a result, changes in three out of seven proposed amendments/revisions in the Patents Act in March 2005. This is an example of positive impact, although the desired outcome was only partially achieved, advocacy generated debate, interest and awareness at a large scale. In addition, the result of *M/s Novartis AG, Switzerland v. M/s Cancer Aid Association India (2006)* is a very critical indicator of success and of the far-reaching effects of the AMTC.

The AMTC is a very timely initiative that feeds into the larger aims of access to affordable medicine movement around the world. The innovations and best practices developed as part of the Campaign are likely to inspire health rights and health advocates. In this regard, *the AMTC will continue to enable the LCHAU to critically analyse and develop strategies/positions that draw on a better understanding of development policy, international cooperation, globalisation, the world trade organisation, patents, corporate responsibility of pharmaceuticals and the intersection between public health and human rights.* This means that efforts in this regard require coordination and advocacy at the local, national and international level. Furthermore, the international level work will continue to be linked to follow-up action and strategies that have been strengthened as a result of a very important South-South coalition.

Although these issues are of importance to all LCHAU team, not all aspects of the AMTC are linked to the work that all officers undertake on the daily basis. Brief discussions with the officers more directly involved in the AMTC made it clear that this initiative requires development of expertise through specialisation in this area. It is also important to note that there is resistance to the idea of “specialisation” within LCHAU because the perception is that the notion of a collective implies shared learning, shared responsibility and shared processes. One observation is that despite opposition to this idea, experience by other NGOs has shown that specialisation does

¹⁸ At present, a significant proportion of expertise on law reform efforts lies with consultants. Although this is positive, over time, in addition some members of the core staff must develop expertise on lobbying, media, etc.

not mean that officers in charge keep knowledge to themselves. The reality is that consolidated information and knowledge is easier to share, apply and replicate within a team. In some ways, this approach would make it easier to enable newer staff members to develop more confidence and proficiency around the AMTC.

Another finding of the interview process is that organisations involved in the AMTC Campaign consider it to be a joint partnership. This is important because, other initiatives were perceived as “LCHAU-led” efforts that others support.

One lesson gathered is that in the future, the Unit will have to outline the ways it seeks to be recognised for on-going efforts relating to the AMTC. One observation is that while, in general some feel that there is no need for the LCHAU to seek explicit recognition or leadership, others feel the efforts of the Unit should be visible. In this regard, perhaps what is needed is the development of a memorandum of understanding in order to formalise roles/expectations with key NGOs and networks.

Action Oriented Research

The LCHAU continues to carry out research on new developments regarding areas/issues that have continued to emerge throughout the course of the work. This component is tied to all levels of work and is regarded by those inside and outside the organisation as an area the Unit is known for. In many ways, the policy research is a means for monitoring changes linked to HIV/AIDS and related issues at the national and international level. This report refers to “action oriented” research because it reflects the Unit’s proactive approach to using the findings of research to inform advocacy, apply knowledge to sharpen litigation, shape law reform and raise awareness.

Due to recent changes in the composition of LCHAU, an internal training on methodologies for undertaking legal research was carried out. This effort has been highly regarded by the current team. At the same time, with the diversity of skills needed to work in legal and advocacy areas of the LCHAU, the Unit should draw on research strengths of individual members. It is important to acknowledge that while some staff members may be good in analysing complex issues, others may be better at illustrating examples and conveying information to a larger audience.

There is a lot of potential in this area of work in the future. Firstly, due to the reputation of the LCHAU, it is likely that the Unit will be able to develop further research with leading academic institutions (e.g. through human rights clinics, research centres, etc). Secondly, more three-to-twelve month internships for law students supported by well-recognised institutions could be linked to research projects. Finally, over time, as an additional income-generating effort, the Unit could actively seek to be commissioned (paid consultancies) to develop a small number of research papers for key government bodies or inter-governmental institutions.

Resources/Publications

As stated in proposals and reports, the Unit is “constantly in the process of devising practical and useful material that promotes human rights.” Since 1998 a wide range of advocacy material and publications have been printed and disseminated. Although not all of these have been translated into local languages, key documents have been.

Printed Materials/publications by LCHAU:

One of the most useful tools for raising awareness among affected groups is the “Know your Rights” leaflet series. These leaflets aim to provide basic information on the legal and human rights of PLHA and vulnerable groups. The translation of these materials demonstrates the Unit’s commitment to ensuring a basic level of legal literacy and points to an understanding of the importance of outreach within the states it operates in.¹⁹ In this regard, a plain language leaflet on the rights of sex workers is forthcoming.

¹⁹ Various “know your rights leaflets” have been translated to Hindi, Marathi, Gujarati, Kannada, Bengali and Malayalam

The Unit publishes two newsletters, “Access” and “Positive Dialogue” that are disseminated in print (approximately 5500–6500 copies of each) and most of which are available on the LC website.²⁰ These publications feature articles written by members of the team. Stakeholders interviewed also considered these newsletters a very useful means of remaining updated on emerging issues, challenges, laws, etc. Nevertheless, *considering the increasing number of publications by the Unit, it may not always be possible/necessary to produce more than two issues of each newsletter a year.* In this regard, if the Unit seeks to maintain key stakeholders informed, it may be more efficient to develop some of the issues in electronic format (e-newsletter) to be sent through a mass e-mail and archived in the website.²¹

One very interesting initiative is a shared news column in a national newspaper that features HIV/AIDS related information. Whenever issues raised relate to legal, law reform or human rights matters, the Unit is responsible for writing that week’s column. Incidentally, as the LCHAU continues to discuss best ways to approach and engage with the media²² it is important to build alliances with newspapers, journalists, etc.

As a result of the Draft HIV/AIDS Bill process, two publications were produced, including a printed version of the Draft Bill. Other kinds of materials that have been produced by the LCHAU since 1998 include posters, brochures and resource manuals.

The LC Website and “The Lawyers” Magazine

The LC Website <www.lawyerscollective.org> has basic information about LCHAU, WRI and the back issues of the magazine. Although it is a very well developed resource, additional possibilities include: (i) using it as a means to disseminate more types of information; (ii) using it as password protected space for exchanging information and debating with key partners in law reform and campaign efforts, as well as; and (iii) creating chat rooms for all officers to “meet”, post messages, news, etc. In this regard, the current coordinator has already consulted an independent IT expert on various options available (e.g. networking all LCHAU computers, upgrading the website, etc). *Initiatives and efforts to make better use of IT and the website could be considered as being part of the resource/information/documentation centre.*

At another level, although “the Lawyers” magazine is a successful collaborative effort among WRI and LCHAU, in the long term, the time-frame between issues may need to be re-considered. While recognising that the monthly magazine is a valuable contribution, the benefits and problems of making it a bi-monthly publication should be deliberated upon. Re-assessing the effort and time devoted to the magazine should be considered as part of the process of prioritizing and re-aligning work plans for the LCHAU.

Other means for sharing and disseminating information:

Seven external respondents recommended LC should produce “resources and training materials for lay people.” *In order to increase and ensure key concepts/information/materials are “used by those most affected to obtain knowledge” there may be a need to think about the possibility of producing a few popular legal literacy materials.* These tools would have to initially be developed with the assistance of education specialists that have an understanding of adult learning processes.

One important observation is that the LCHAU mainly relies on printed information/resources. In the next years, the Unit should begin to experiment with other means to convey information, for example,

²⁰ Access is the AMTC newsletter. Positive Dialogue is the Unit’s newsletter and it is available electronically through the LC website

²¹ In order to ensure wide dissemination, updating the database of LCHAU is an important task that should be streamlined after all LC begin sharing a common computer network (IT).

²² It is important to note that a toolkit for working with the media has been commissioned to an external consultant.

how to use video for advocacy?²³ *Ideally, over time, partnerships with educationists, media experts and activists would start feeding into all areas of work.* More specifically, these kinds of initiatives could be considered under the umbrella of the resource and documentation centre.

Resource and Documentation Centre

Although the Centre was originally conceived as a documentation centre, over time, the role of LCHAU as a resource has also been explored. Internal discussions within the Unit point to an understanding that having the information/publications/knowledge is not enough. Change happens when knowledge/information is effectively used, applied and disseminated. For this reason, this tier of work could potentially bring in additional components such as effective use of information technology, media strategies, and other means of communicating/imparting knowledge. In many ways, as the project coordinator explained, the current vision is a centre that brings together research, documentation, resources, information technology, dissemination/communication and education/training. It is also important to stress that based on the feedback and recommendations of civil society partners and stakeholders interviewed, as newly envisaged, this centre could address gaps in current efforts.

From this perspective, the resource/information dissemination centre could be an active link to the community through for example, training of trainers (TOT), or even, fellowships in advocacy and paralegal work.²⁴ Also, if additional staff were to be recruited as part of this initiative, educators, media, and technologically “savvy” activists could be considered. These skills would compliment the current team and ways of operating.

6.4 Part D: LC/LCHAU Governance Structures and Operations

LC is committed to fundamental values that underpin all efforts undertaken. Many of these are clearly outlined in LC’s memorandum of association²⁵ and others, can be gathered from the work of WRI and LCHAU. In practice, transferring these values into the day to day systems, processes and activities of LC depends on the organisation’s structures. As generally accepted, governance structures put in place the process of decision-making and the process by which decisions are implemented (or not implemented). Hence, periods of growth may require re-structuring and maintaining able bodies that govern the internal functioning of LCHAU.

1 The Board of Trustees

LC’s main governing body is the Board of Trustees (BOT). In this regard, most of the founding members of LC, including WRI’s and LCHAU’s project directors as well as individuals external to the organisation constitute this body. Moreover, the BOT operates on the basis of clearly defined procedures. The main tasks are generally intended to ensure that the organisation operates in a way that is in compliance with statutory obligations as well as in accordance with its own mission and values. For that reason, some of the members of the BOT are part of the Project Management Committee.²⁶

Although the BOT continues to meet, it would be timely to reflect on the ways the notion of “collective” has changed as the organisation becomes bigger and more professionalised. In years to come, it may be interesting to consider

²³ Good examples of documentaries produced by legal NGOs/activists can be found in the Human Rights Video Project’s Website www.humanrightsvideo.org, in addition Zackie Achmat’s documentary on legal issues in South Africa is also recommended.

²⁴ For example, one external respondent stated “LCHAU should consider building the capacity of others rather than continuing to scale up. Whether we like it or not, scaling up often means compromising the quality of the work. Good models for doing this include developing a pool of trainers through TOT or lobbying other legal groups as well as human rights NGOs to take up and lead advocacy on some new areas.”

²⁵ For example, the aims and objectives LC include: “to spread an awareness of legal rights of the citizens”; “to protect the democratic rights of citizens guaranteed in the Constitution of India”; and “to study and/or research into the social function of the law.”

²⁶ Ms Indira Jasing and Anand Grover are ultimately accountable for the finances of the organisation. Therefore, they are the only two signatories LC bank accounts.

questions such as: (i) what are the implications/expectations of a “collective”? how do members and staff of LC perceive this?; (ii) do members of BOT have a role to play in mentoring staff?; (iii) would the possibility of inviting senior staff members or, for example, former staff members that remain involved for more than 6 consecutive years, to be part of the “collective” be seen as an incentive? Are there any other ways to encourage and build up a future line of leadership in the BOT?; (iv) Are there formal means by which each Unit formally reports to the BOT?

At a practical level, the project directors of each Unit are mainly responsible for being the “liaison” between the BOT and members of the staff. There does not seem to be regular interaction between other members of the staff and the BOT and, at times, it seems there is a disconnect. In other ways, however, it is commendable that project directors have maintained coherence between decisions and values within the organisation. This is important because, *in future, an internal assessment that considers LC as a whole should consider the possibility of re-vamping of governance structures within the organisation in ways that could enhance efficiency. At the same time, it must be acknowledged that since this evaluation mainly covered LCHAU, the assessment of the BOT has not been very thorough.*

2 The Women’s Rights Initiative

As described in the overview of LC, WRI functions as a distinct programmatic Unit that works independently of LCHAU. Besides embracing the same underpinning values and principles, sharing premises in Mumbai as well as in Delhi and contributing articles to the monthly LC magazine, since their inception the units have mainly worked separately. *One important finding is that the work of both units is highly regarded.*

In recent months, project directors have been increasingly exploring possibilities of: (i) integrating financial and administration management and systems;²⁷ (ii) taking steps to integrate legal aid services; (iii) ensuring all project offices of the LCHAU “house” one lawyer and one administration officer from WRI; (iv) holding joint staff retreats – as of 2006 –; and (v) tapping into the strengths of the current members of the LCHAU’s project management unit in order to propose an integration of systems and practices across the organisation. In the long term future, it would also be interesting to consider the possibility of merging the physical library spaces and adopt an integrated policy to purchasing, cataloguing, borrowing, etc. One important observation is that these discussions are crucial, timely and at this stage, should still be seen as preliminary.

The possibilities of combining capacities and achievements of both units offer very positive prospects. Yet, without disregarding the importance of the discussions that are currently taking place, it is also important to emphasise that it is necessary to consult staff in order to design and plan the implementation of these decisions. Some of the changes proposed, such as looking into merging legal aid services, are fundamental, thus, a detailed plan of action would have to be developed.

WRI and LCHAU: Commonalities and Differences Approaching Gender

One of the main questions of this evaluation deals with gender concerns and how this affects the policies and work of the LCHAU. In this connection, it was considered essential to assess the ways LC approaches gender equality and women’s equality. At one level, WRI has a feminist approach to gender and substantive equality, as a result, conceptual clarity is reflected at all levels of work. At another level, the LCHAU has a dynamic understanding of social constructions of gender and the ways that encompasses obstacles to equality that affect individuals from both genders. Consequently, although the positions of both units may differ when dealing with, for example, debates around prostitution, the work of LC around gender issues is very sophisticated and up-to-date. One common factor to all areas of work of LC is that social disadvantage in itself is considered as a social construct. Hence, LC promotes the idea that the belief that “poverty is inevitable” must be challenged in the name of all affected by it (e.g. women, men, transsexuals, sex workers, children, persons with disabilities, etc).

²⁷ As a first step, the financial manager has responsibilities with both units

Due to the nature of the work of LCHAU, a significant proportion of the clients continue to be women. The patterns of gender discrimination and how they affect women's health rights, property rights, labour rights, etc have been analysed and understood by the Unit. In this regard, general references to women's issues are made. At the same time, the LCHAU has identified women's issues as an area that will need more attention in coming years. In this regard, the feminization of poverty can be easily co-related with gendered impacts of HIV/AIDS and the ways this affects the vulnerabilities of women and their children.

The way a progressive understanding of gender is intrinsic to the work of LCHAU is clear. For instance: (i) women in the staff feel they are treated equally and that their interactions with the project director and project coordinators have been positive; (ii) the language and analysis used by all officers when explaining their areas of work and the challenges they face took into account gender issues; (iii) throughout interviews and interactions it was heartening to observe an extensive team of staff that is able to engage with a wide range of stakeholders in the same manner; (iv) all external respondents working on sexual rights issues shared that they feel LCHAU approaches their issues and, their humanity, without stigma. As a result, PLHA and individuals/organisations from vulnerable groups rely and trust the LCHAU team.

3 LCHAU: Steering Committee (SC)

The SC is an advisory body that was created in phase 1 of the project. According to the project proposal, membership is composed of: the higher levels of management of LCHAU (Project Director and Project Coordinator); LC's Secretary; one PLHA; one human rights activist; the director of health services of Maharashtra; a retired judge; and a public health expert (HIV/AIDS). The SC is chaired by the Project Director of the National AIDS Control Organisation (NACO). The SC has some supervisory roles and responsibilities such as "reviewing progress on a half yearly basis to ensure that the project's objectives are being achieved."

It is important to note that the consultant has deliberately decided to refer to the SC separately. At this point in time, changes in leadership of project offices (including Mumbai) together with adjustments affecting the implementation of projects have deemed it necessary to adapt ways of operating, reporting and adopting decisions according to existing capacity and needs. At present, the SC is a body that serves to formalize partnerships with key stakeholders. Consequently, as it currently operates, it is difficult to determine the "added value" of the SC.

Some concerns that arise regarding to the SC can be summarised as follows: (i) due to regular changes in leadership positions of government agencies, it has been difficult to ensure continuity of the chairperson of the SC;²⁸ (ii) in order for the SC to be truly participatory, the chair should rotate periodically among members; and (iii) a more fluid exchange between the SC and senior officers could be considered.

4 LCHAU: Project Management Unit and Project Management Team

Despite, changes in the volume of work and number of staff, the internal operations' governance structures of LCHAU have retained a similar form since the New Delhi office was created. Although many decisions are made in consultation with the team, in terms of the day to day running of the Unit, current levels of autonomy and accountability could be outlined as follows:

²⁸ The majority of stakeholders interviewed considered changes in government of India (e.g. a sudden shift into less democratic state) could threaten achievements that have benefited those directly affected by HIV/AIDS. In this regard, representation of NACO in the SC, a key governance structure of the Unit, may not always be strategic

Project management unit

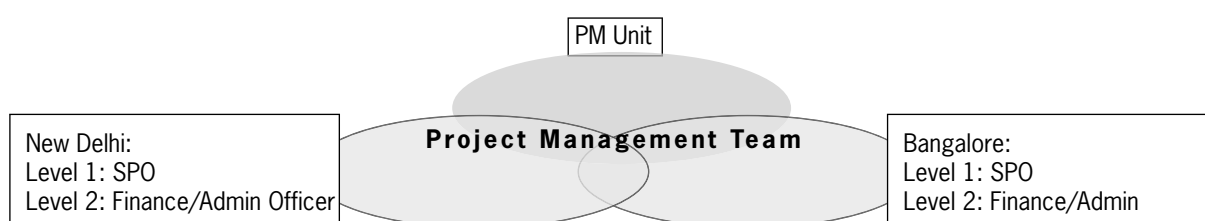
Is based in Mumbai and oversees all offices. The project director and project coordinator travel to all offices regularly.

Level 1: The LCHAU's team is headed by the *Project Director (PD)* and founding member of the Unit, Anand Grover, an advocate of the Bombay High Court with extensive experience in HIV/AIDS law and human rights. The director works part-time and supervises all levels of litigation and legal initiatives.

Level 2: The *Project Coordinator (PC)* is responsible for the everyday running of the programmes. She also supervises human resources and advocacy; developments of systems and overseeing work plans/timelines/strategies.

Level 3: The *Financial Manager* is responsible for developing and improving systems that relate to accounts and finance of LC. Reports to Project directors of WRI and LCHAU. Assists Project coordinator in developing new systems. This is a new position (as at March 2006)

Level 4: *Project Finance/Administrative Officer:* mainly responsible for overseeing and supervising the work of Finance/Administrative Officers in all the project offices. The latter report to the former. The Administrative assistant in the PMU assists this person.



The project management unit

One felt strength of the organisation, which was re-confirmed in the process of this review is that LCHAU, like LC, has maintained high ethical standards. *LCHAU is considered to be transparent, non-partisan, reliable, accountable and known for consulting a broad base of stakeholders. In this regard, it is also important to note that most of the respondents sometimes referred to LCHAU and the project director interchangeably.* In many ways, this shows the credibility and reputation of the project director. Also, there seemed to be a general concern regarding the perception that at times, the LCHAU and the project director are seen to be “over committed.” In this regard, considering the current transition and moment in the evolution of LCHAU it would be constructive to consider that the process of maximizing efficiency is likely to provide an opportunity to draw on capacity and strengths of those in leadership positions.

This is an important issue that will require further discussion and consideration internally. As one very key internal respondent recommended “perhaps after all these years what we really need is a thorough, maybe harsh, assessment of where we are going.” *In many ways, due to the leadership and weight of the project director within the organization it is time to devise better ways to ensure that his part-time availability – now requiring divided attention among more staff in more offices – does not affect the performance of new staff and new project offices.* One person said: “maybe we deserve a full time director”. In this regard, the fact that the project director is available part-time could be resolved by appointing a deputy director or two project coordinators. In this way, the project director’s presence would not be required in three or four places at one time.

The project coordinator (PC)

In terms of the project coordinator position, it is clear that the previous project coordinator had a tremendous amount of substantive knowledge and expertise that enabled him to influence the direction of the programme. The new project coordinator joined less than a year ago and at a point when key members of the staff had resigned as a result of “burn-out.” Her first months in the position have required coordination of recruiting, planning internal capacity building efforts, etc. At the same time, over the last two years, the trend has been increasing management and human resources demands on

the coordinator.²⁹ In addition, in future years, as LCHAU continues to consider geographical expansion and more areas of work, the project coordinator may have to lead fundraising efforts. This is important because until now, one unique characteristic of LCHAU is that financial support has been provided consistently and without having to be coordinated with more than two major funding partners at a time.

It should also be mentioned that in an effort to fill gaps that have resulted from key staff members leaving LCHAU in the last year, the project director and project coordinator have been taking on more tasks. As a direct result, the lines of communication and reporting have blurred to the point that from time to time there is unnecessary overlap.

In this regard, it may be timely to hold discussions regarding the need to create some “specialised” positions or another line of management. Otherwise, the impact of over-generalisation of tasks may lead to further miscommunication, duplication and unnecessarily bureaucratic systems and processes. Over time, decisions on governance will be likely to affect the programme coordinator’s job description.

The financial manager

The current financial manager has extensive experience in the corporate and NGO sector. His strengths lie in finance. *This is important because the systems that are in place in LC were designed in ways that point to a perception that financial management and accounting are practically the same thing.*³⁰ It is important to note this position does not appear in the original organisational diagram, therefore, the lines of reporting for the Financial Manager will need to be included.

The project management team

After extensive discussions with the Senior Project Officers (SPOs) in charge of LCHAU’s Delhi and Bangalore offices, it is clear that this position/role needs to be re-considered. *Although an integrated approach to management and programme components within LCHAU is highly beneficial, both SPOs expressed similar concerns in regard to levels of management support and “burn out.”* A common experience seemed to be: “despite doing too much, we – the Unit – still feel we haven’t done enough” and “sometimes I needed something to fall back on but that wasn’t there.” As one former staff shared, “perhaps the problem lies in having peers in charge of peers... that doesn’t seem to work.”

It is clear that the Delhi and Bangalore SPOs were assigned these responsibilities because of their competence and knowledge. Yet, the process of taking new kinds of responsibilities did not correspond with the level of upgrading of management skills and systems that was necessary to support the process of nurturing new leaders within the Unit. As an example, at the time of this evaluation, half of the staff in the New Delhi Project office were new and, despite this, the more senior staff members had not been able to transmit the knowledge “because of the pace of work had not stopped.” In fact, six days after starting in the Unit the new Delhi-SPO had not been briefed by the person she was replacing.

It is well accepted that senior program officer job descriptions should be re-assessed. It is also important to note that the heads of the Unit are aware of these problems and often reflect on “how to restructure and re-allocate work and how this relates to programme and management.” There is no doubt that this is a need already identified by LC that has not yet been fundamentally tackled. At the same time, it would be ideal for this to be pondered upon in the context of future discussions on governance/decision-making within the Unit.

²⁹ As already stated, there is no doubt that, when leaving, the previous project coordinator left a void. At the same time, the current project coordinator brings skills that were lacking in LCHAU. Her strengths lie in managerial skills and the design of processes that until now have been “foreign” to the Unit and yet, are greatly needed. As a result, a lot of the improvements in systems and operations being proposed will require a long process of getting all internal stakeholders to “buy in” and on-going skills building in relation to management/operations.

³⁰ This is reflected for example, in the ways the components of the budgets have been outlined in the past (generalised as opposed to detailed). Also, for example, until now, all project offices operate with petty cash and do not have access to local bank accounts.

5 LCHAU: Project Staff

The LCHAU's Project Staff is...

...largely composed of a team of lawyers and social scientists with a commitment of using the law as a tool for change. The levels of interaction and supervision could be described as follows:

Step 1: Senior Program Officers (for Bangalore and New Delhi)

Step 2: Legal officers, Advocacy Officers, Admin Officers and financial/administrative officers

Step 3: Admin Assistants, consultants, interns. In this regard, it is important to share that in many instances senior consultants report directly to the PC and PD.

One of the findings of this evaluation has been that from 1999 until 2004, the organisational structure and systems of LCHAU were appropriate for a small organisation. However, at present, the same structure and modes of operation are no longer efficient, particularly, when considering that a new project office is envisaged. As of 2008, it is understood that there will be more staff, one additional office and increasing volume of work to manage. For that reason, it is timely to plan a transition that will facilitate the process of taking LCHAU to a new level of professionalism, a mid-size NGO that meets the challenges of a “world-class organisation.”

Until now a “collective” mode of operating implied that all legal and advocacy officers shared and exchanged knowledge constantly, and through this process, everyone achieved a comparable level of competency. Until recent months, this approach was adequate and enabled to build up the organisation. However, increasingly: (i) “burn-out”; (ii) turn over of staff and (iii) difficulties in recruiting, training and retaining staff, are becoming recurring constraints. Although LCHAU has made decisions to try to address these problems, it has also been acknowledged that: (i) external demands are increasing; (ii) the field in which the Unit operates is changing; and (iii) levels of work are encompassing more dimensions. In this regard, the inter-relation among legal interventions and activism is becoming more complex.³¹

The notion that all staff need to be competent in all areas of work does not mean they all need to be specialised. There are diverging opinions and voices within LCHAU whenever this point is raised, however, as an external listener, it was possible to identify valid concerns that could be accommodated through a process of internal discussion, consultation and participatory planning. *One conclusion drawn is that in the context of growth, some level of specialisation within the staff is inevitable. At the same time, the process of defining and outlining how specialisation will affect work descriptions, shape structures and contribute to generating more collective knowledge will require special attention.³² In this connection, efficient structures need to be in place in order to enforce accountability and efficient reporting of staff to management. At the same time, if LCHAU takes steps towards “specialisation” there will be a greater need to consider better ways to address burn-out and create better incentives for key staff.*

At another level, as officers are given more responsibility it is also important for them to learn and upgrade management skills. In general, officers that show promise in substantive areas of work are not necessarily similarly qualified in management/supervision. In this regard, the process of “professionalisation” of LCHAU needs to be built upon a better understanding of the ways managers need to have an understanding of substance and viceversa.

³¹ As one internal respondent expressed: “we know the work we do should be more professionalised without compromising our activism, however, it seems we still haven’t found a way to do this... we know there must be a better way.”

³² In this regard, one challenge usually faced by organisations that engage in this level of work is the realisation that as expertise is “decentralised”, corresponding levels of autonomy and decision making must trickle down. Furthermore, one of the expected outcomes of specialisation is that over time, some officers are likely to develop more expertise than their supervisor(s) on particular issues (e.g. trade, IP, criminal law, public policy implementation, media, etc).

One finding is that the turn over of staff³³ has had an impact on decision making processes within the Unit. As stated in previous sections, at times, the project management team adopts decisions that are inconsistent. Consequently, this affects how – and whether – decisions/plans/processes get implemented.

Consultants

It is also important to note that, there are consultants working in all the project offices. Although LCHAU has had varied experiences with external consultants over the years, at present, the consultants being engaged are highly competent. At another level, officers working with consultants value the assistance provided. In general, as organisations expand, specialise and grow, the need for consultants becomes more commonly accepted.

6 LCHAU: Finance and Administration Systems

After the annual audit was undertaken on behalf of ‘Sida’³⁴, LCHAU took steps to implement recommendations. It is important to note that this process is not yet completed. At present, LCHAU has decided to adopt systems in accordance to the needs identified in the process of assessing the current status of operations. One of the aims of LCHAU in the next year is a smoother functioning and better coordination between the three offices. Also, additional decisions aimed at improving other aspects of operations have been made and are in the process of being implemented.

One finding of this evaluation is that, as in programmes, in admin and finance, there is no specialisation of tasks or responsibilities. As a result, the situation across the organisation, a very common trend among NGOs is that “everyone is doing everything all the time.” This affects efficiency and does not take staff’s strengths and knowledge into account. As with programmes, some internal respondents felt a review of the governance structures within LCHAU would be highly beneficial. In general, project offices in Mumbai and Delhi are being affected by delays in cheques, inconsistencies in systems, etc.

Another important observation is that the current culture within LCHAU needs to change in order for accounting/admin systems and financial practices to improve. In this connection, changes in systems and procedures are perceived to be part of a long, exhausting process, of “trial and error.” Hence efforts to streamline accounting/finance systems are met with resistance at almost all levels within LCHAU. At the same time, this is a challenge that can be easily addressed in the near future.

7 Good practices for institutional memory

The importance of proper documentation

One of the elements that contributes to the success of LCHAU is the on-going documentation of internal debates, processes and experiences. There is no doubt that frequent analysis has assisted in setting the direction of the programme in a consistent way. In this regard, the wealth of information available will make it possible to refer to the reasoning behind systems, programmes, practices and structures in order to inform potential improvements.

In the future, as planned, developing an IT system and a consistent system for filing and sharing information electronically will contribute to strengthening the organisation as it grows. Over time, it should be possible for everyone – all offices – to have access to reports, updates, strategic documents, policy papers, etc. In this regard, availability of information is an element that strikes a balance between generalisation and specialisation.

At present, e-mail is the main means for sharing files and documentations among offices. In this regard, it is difficult for the project management unit to monitor and evaluate whether filing is consistent.

³³ As indicated in Annex B, between May 2005 and mid-March 2006, twelve staff members left the Unit. Some key staff members that resigned were: the project coordinator, senior advocacy officers and SPOs. In this regard, most of the core staff of the New Delhi office joined the Unit recently. It is also important to note that according to a recent update, four staff resigned between April and May, 2006.

³⁴ This was the first external audit ever undertaken

This is important because it also affects the ways in which new staff will be able to find information as and when they need it.

Staff Retreats

It has been found that staff retreats are good for many reasons, including: (i) creating conditions that are conducive to strategic planning; (ii) bringing all staff from different offices face to face; (iii) providing a good opportunity for team building and (iv) serving as a means of “levelling” the knowledge of all officers. Senior programme staff members brainstorm, share, engage and energise while new staff members begin to identify with the institution and develop more confidence on substantive matters.

At the same time, as the number of staff attending the retreat increases – as of 2006, WRI and as of 2007, possibly a team from a fourth project office – it may be necessary to change the format/approach of the retreat.



8 LCHAU: Head Office and Project Offices

The Mumbai Head office (1997)

This office is more developed than the others. This is not only because it is the oldest office but also because the project management unit is based in the same premises. This office's strength is litigation and legal strategies. Legal initiatives, for example CRI and work within districts, are initially tested at this level. After experiences are gathered and analysed, the projects are replicated in Delhi and Bangalore. As a result, the work of the

advocacy officers in Mumbai compliments legal work in a very positive manner. More specifically, in regard to outreach to affected communities and NGOs.

Another aspect that brings strength to this office is that there are staff members that have been there since 1998. Their contribution is consistent and clear. At the same time, because of their seniority, they also have responsibilities with project offices and this, at times, may be too much. Additional tasks are taken up, “over and above” responsibilities regarding the day to day programmes.

The Delhi Project Office (1999)

The New Delhi project office shares premises with WRI. In many ways, LC’s reputation in the Supreme Court preceded the establishment of the office. Also, until this day, the fact that WRI is based in Delhi is very helpful. *In this regard, the proximity to the Supreme Court of India, legislature and Ministries, policy bodies etc, strengthens the work of the LCHAU. There is no doubt that critical aspects of advocacy and law reform will continue to be spearheaded from New Delhi in the next three years.* Also, the work in Delhi facilitates coordination with liaisons and spokespersons for national networks of PLHA, etc. This is one of the main reasons the consultants assisting with the HIV/AIDS Bill process are based in this office

Last year, the Delhi office conducted its first regional workshop on HIV/AIDS law and rights of those affected for northern India. Also, since 2005, important members of the core staff of the Delhi office have resigned. In this connection, 2006, is a year of many changes. One of the problems being faced is that the transition for new members of the team has not been easy. Moreover, appropriate hand over of the responsibilities of the SPO has not been possible. In some ways, despite the energy and commitment of the team, some areas of work have been affected. Some activities have stopped altogether. The issue of “burn out” has affected this office greatly.

Overall, the Delhi office has benefited from the fact that the project director and project coordinator often travel to attend meetings. Also, the fact that the project director represents the LCHAU in cases at the Supreme Court level has ensured that legal officers observe and learn from him. Notwithstanding, at the current time, even external stakeholders from NGO voiced concern regarding burn out and “over-commitment.”

The Bangalore Project Office (2004)

The Bangalore Office was set up more recently, in response to the need to have presence in Karnataka, one of the states of south India in which there is high prevalence of HIV/AIDS. *Due to its location and the fact that LCHAU project management unit and staff in Mumbai and New Delhi were not familiar with the setting of Karnataka, this office has evolved in different ways.* The Bangalore office has a different way of operation and this was a very natural progression. When LCHAU opened the office, PLHA organisations and networks had already been organised. Also, there were many organisations doing work on HIV/AIDS related issues and, as a result, the office had to learn to find its niche.

In Bangalore, advocacy developed faster. More importantly, the nature of advocacy in Bangalore is different in that this office operates in a more horizontal manner. As a result, strong relationships with NGOs and partner institutions are the basis of the success of this office. Moreover, since this office operates on the basis of synergies, it is hard for officers in Bangalore to dictate terms and/or keep to pre-determined work plans. In many ways, this is both a strength and a weakness. While the shape of Bangalore is distinct, it is also necessary to bring greater coherence to this office. For example, the trends of legal aid and cases filed do not match with local advocacy efforts.

A contributing factor to the distinct nature of the Bangalore office is that due to the geographical location, regular visits by the project coordinator, project director and senior officers from other offices were not always possible. As a result, relationships and exchanges among the team are of great importance. In many ways, the specialisation of this office is inevitable. At present, two years on, it is difficult for the office to try to fit into a pre-conceived model set by Delhi and Mumbai and this clearly creates

anxiety. Once again, the solution may lie in focusing on coherence of results rather than attempting to mirror past experiences and approaches.

One final observation is that this office will greatly benefit from new management systems and processes. In the same way, more mentoring from the project coordinator in regard to management has been well regarded.

Prospective Project Office (2007)

The Unit has determined that additional Project offices are needed. In this regard, this process has taken into account: (i) the track record of the organization in areas of legal aid and advocacy/capacity building; (ii) needs expressed by stakeholders in HIV/AIDS in regard to legal support, capacity building and (iii) analysis of states in which there is high, or increasing HIV/AIDS prevalence. At present, there are plans to set up a new project office in the North East in 2007. However, the specific location has not yet been decided upon e.g. Manipur, Nagaland, etc.

Two external stakeholders had very useful suggestions: (i) Mr Eldred Tallis (Sankalp) has experience in the North East and recommended it may be useful to start with an office in Calcutta and service the North East from there; (ii) Dr Jana felt it would be very useful to have LCHAU presence in Calcutta. Also, since the nature of HIV/AIDS related issues in each state/region are different, a detailed study/assessment should be undertaken in advance. Some questions that may be considered by LCHAU are for example: (i) how many NGOs work with PLHA in the states that are being considered?; (ii) are there possibilities of partnerships with all categories of stakeholders? (iii) what are the specificities of the regions being considered? E.g in the North East, armed conflict and customary law may have implications in terms of the prospects of litigation; etc.

Alternatives to a new project office that could be explored are: (i) to establish project “cells” or “desks” in districts or neighbouring states that would report to existing offices; (ii) setting up “one stop centres”³⁵ in some of the biggest hospitals PLHAU and affected groups may visit regularly. Although these are not as ambitious as a new project office, they may be easier to sustain and manage over the long term.

One final observation is that until existing operations, systems and processes are adequately streamlined, the establishment of a new office could generate additional difficulties. As some respondents noted, in the next two years, it may be better to focus on consolidating gains and reflect on the further implications of growth.

6.5 Part E: LCHAU's Human Resources

This section of the report aims to provide further analysis on some concerns that relate to human resources:

1 Addressing Workloads and Burn out

As mentioned earlier, from 2003 until mid-March 2006, twelve members of the staff members have resigned from LCHAU. Furthermore, at least of four of them had developed expertise in organisational as well as substantive issues and were known to excel. As already noted, this situation has had impact at various levels and although competent staff have been hired as replacement, it is important to reflect on lessons learned and avoid the continuation of this trend. In this regard, the reasons given for resignations of approximately 50% of staff that have left LCHAU, across levels and with different years of involvement in the organisation, has been, and continues to be, “burn out. At the same time, it must also be acknowledged that others leave for other professional and personal reasons/interests.

³⁵ Perhaps these could build on models of “one stop” centres for violence against women that have been established in many places around the world. The model would require lawyers or a paralegal to provide legal aid “on site” to persons that have experienced discrimination or abuse while seeking HIV/AIDS treatment and/or related information in a hospital.

While decisions and practices have been adopted as a response to burnout, every improvement has been matched by a new challenge. As noted earlier, although LCHAU has introduced systems (e.g. more days off, etc), developed a peer mentoring process and re-distributed workloads, the volume and demands of work are also increasing.³⁶

Throughout the interviews, members of the staff were asked to describe the work they do. Considering the product and outcomes of the work of the LCHAU, it was not surprising to find that everyone does a lot. Also, for the majority, the work of the Unit is so engaging, so personal, that “we bring it home with us.” In this regard, respondents were mostly referring to the way work and passion for the work, takes on personal dimensions to the point that it becomes very hard to disconnect. Most interviews with programme staff led to sharing stories, many of these deal with poverty, injustice and very often, referred to clients that had passed on. These findings did not come as a surprise, after all, the work of LCHAU is about upholding dignity of all those affected by HIV/AIDS and yet, the realities of injustice, discrimination and exclusion are horrific. In this connection, although officers said “we counsel each other, we support each other” it might be necessary to learn from best practices recommended by experienced counsellors.

In addition to the process of transformation of the political into the personal, it is well accepted that all officers and management staff must know how to work under pressure, at a very fast pace. As someone stated: “we have priorities in our mind but suddenly the government proposes a new law or an amendment and we have to think in our feet and immediately respond.” At this stage, it is also necessary to effectively address problems arising as a result of workloads, pressure and stress.

In New Delhi, two of the main external stakeholders interviewed expressed concern over staff leaving LCHAU as a result of “burn out.” In their view, LCHAU is “losing very good people.” From brief discussions with former staff members, this is true that some of the people that have left the Unit are very well qualified. Some of those that left are still engaged with the work of LCHAU and still consider themselves as part of it. This is a very encouraging finding because it shows that in the future, if LCHAU grows in ways that enable work to be more “manageable” by staff at the professional and personal level, the problems that are emerging as a result of “burn out” should be resolved.

2 Recruitment, Mentoring and Incentives

At the current juncture, processes related to hiring, building the capacity and retaining staff should be seen as linked to the creation of an enabling environment for building up future leadership within LCHAU.

Recruitment

One challenge that is faced by LCHAU, as well as LC as a whole, is that it is very difficult to find staff with all the skills that would ideally be required. In general, knowledge is gained “on the job” and this is linked to the fact that the formal education system in India does not equip individuals with adequate skills needed to work in legal NGOs. For example, universities do not offer specialised degrees on NGO administration/management/finance or a specialisation on HIV/AIDS law/policy. As a result, the performance of staff members is directly related to their ability to learn, adapt, contribute and commit to the work of the Unit.

More specifically, over the years, it has been found that recruiting staff with legal qualifications for advocacy and legal officer positions is difficult: (i) lawyers with substantive understanding of the law may not be sensitive/aware to issues at hand; (ii) specialising in HIV/AIDS issues is not perceived to be

³⁶ As one internal respondent noted: “In the first years of the Unit’s work in Delhi and Mumbai we had time to think, exchange views and learn from each other. We were creating the programme and learning at the same time... there were no external demands or pressures and we could operate on the basis of an agreed strategy/work plan... I feel sorry for the new staff because by now there are many areas of work, more activities and demands... sometimes, it is even hard for those of us who have been a long time to keep up!”

a career move. Some consider the expertise as “non-transferable” with regard to other areas of practice of law; (iii) young lawyers usually aspire to become “solo practitioners” because this is seen to be more prestigious and also, remuneration is higher than working in an NGO; and (iv) it is important to hire lawyers whose ethics match the values of LCHAU. Unfortunately, after being trained, some young lawyers leave the organisation. Accordingly, some staff suggested LCHAU should find ways to recruit recent graduates.

In regard to advocacy officers, the range of skills required to carry out tasks effectively also affect the recruitment process. Ideally, an advocacy officer, despite of his/her background should be able to: (i) raise awareness of a wide range of stakeholders on the rights of those affected by HIV/AIDS; (ii) coordinate training, campaigns, media strategies, partnerships; (iii) convey messages on the law-through training and networking; (iv) spearhead law and policy reform campaigns and processes; (v) create synergies with legal officers and other members of the staff; (vi) keep grounded in the realities of the community; (vii) have an ability to undertake research and (viii) inspire and support networks/organisations of PLHAU and vulnerable groups. In this connection, the job descriptions of advocacy officers could be more detailed in terms of themes and/or areas of work.

Finally, feedback from staff in all offices indicates that the team of LCHAU may need to be expanded. Besides the vacancies that are trying to be filled, there may be a need to assess whether or not more officers are needed. In the past, more staff has equated to more work. At present, it may be needed to create a few positions with the aim of ensuring existing initiatives are seen to completion.

Mentoring

One of the most valuable initiatives put in place in recent months is on-going capacity building for the staff. For example, a basic training module aimed at mentoring staff has been designed by the former project coordinator – who was employed to do this as a consultant for this project – Also, another senior consultant is assisting with supplementary, continuing education modules aimed at updating and increasing knowledge and skills of staff (e.g. legal research, recent development in international law, etc). As noted earlier, the success of this initiative can be measured by the positive feedback received by all staff.

In the course of the evaluation, it became evident that experiences of “being mentored” vary. Some members of the Unit consider they have been properly mentored and supported while others feel this process is lacking important aspects. At another level, since senior staff members are already trying to cope with their own workloads, it may not always be easy to mentor and nurture new staff.

Incentives

At the time of undertaking this evaluation, a standardised salary increment/appraisal system was being developed. Also, within months, a salary “step” system will be implemented. Until now, LCHAU did not have such systems in place and hence, this is seen as a very important development.

At another level, there is a process by which members of the staff are provided with an opportunity to apply to be considered to participate in international conferences. An interesting finding is that while some staff consider this as an incentive, others don't.

6.6 Part F: Stakeholders and Partnerships

In addition, the evaluation process enabled the consultant to verify and confirm that LCHAU is working with the range of stakeholders and targets that are listed in key documents by LCHAU. Since the findings were very positive, it is important to use the current “juncture” to consider new levels of partnerships. In this regard, there is potential for formalising joint efforts and strengthening synergies with NGOs working closely with the Unit.

1 NGOs, PLHA and Marginalised Groups

As already outlined in this report, *all NGOs and individual activists interviewed as well as those that were informally approached, consider the work of the Unit to be relevant, credible and innovative. In India, there were external respondents that couldn't even imagine the day when there won't be a need for LCHAU. Most of the responses related to the good rapport and trust that exists among NGOs working with HIV/AIDS and related issues and the LCHAU. In every office, even in Bangalore, where the project office was only established two years ago, respondents provided positive feedback and descriptions of joint, successful processes. Furthermore, one very important comment made by an external respondent was: "when the 377 challenge was building momentum, some of us had criticism and LCHAU took it on. This is remarkable."*

In the future, it may be needed to recognise that there are basic leadership responsibilities, particularly in regard to efforts that have been undertaken since 1998, that could be contracted out or developed in partnership with other NGOs. For example, in terms of basic outreach and legal literacy in relation to HIV/AIDS law and inter-connected areas, accessible learning materials and a pool of trainers could be developed. In this way, for example, if the critical elements of the rights based framework that are advanced by the Unit would be shared in ways that enable leaders of communities affected by HIV/AIDS to take ownership and articulate legal issues. Furthermore, having a critical mass of legal community workers supported by the LCHAU would enable the Unit to be responsible for developing new knowledge and allocate more time to emerging issues. One major conclusion drawn is that the resource and documentation centre should also be linked to information dissemination and education materials.

Finally, in the context of campaigns such as AMTC or the campaign that may follow as a result of the adoption of the HIV/AIDS bill, LCHAU may consider developing various kinds of "memorandums of understanding" with partners. In this way, concerns regarding when there is a need to be acknowledged, dividing responsibility while ensuring all efforts by everyone are acknowledged and evident, etc could be addressed.

2 Government and Inter-governmental bodies

A brief analysis of the history and milestones of LCHAU points to a fluid and very constructive interaction with all levels of government and inter-governmental organisations. For example, within two years of being established the LCHAU co-organized and jointly conducted the National Conference on Human Rights and HIV/AIDS (New Delhi, 2000). In this connection, the co-organisers were the National Human Rights Commission, the National Aids Control Organisation, UNAIDS and UNICEF. The activity aimed to build the capacity of senior law enforcement personnel and members of national and state human rights commissions. In addition, the success of the training for judiciary and the HIV/AIDS process has already been noted in this report.

In short, one of the strengths of LCHAU lies in being a resource for all kinds of institutions and organisations working in HIV/AIDS. For this reason, LCHAU has a central role to play in terms of liaising with the government and groups affected in HIV/AIDS. This is one of the explanations of why LCHAU has been and will continue to be a natural partner of international UN and international cooperation agencies. It is also one of the reasons all external respondents consider that LCHAU should always be at the table when NGOs and the government interact.

Finally, since one of the findings of the interviews is that in general, it is clear to all involved that, in the same way states can generate positive change, at times, a shift away from human rights and the rule of law can generate backlash. For this reason, in the long term, and taking into account the political environment, it may be needed for LCHAU to develop internal guidelines/principles that will make it easy for officers to know when to engage and when not to engage with government. In this connection, some NGOs in the Global south have developed a "code of ethics" that make it easy to make sure relationships with government do not question transparency and accountability of the NGO.

6.7 Part G: The Relationship of LCHAU and Funders

Although, the LCHAU and LC have maintained a very good track record and reputation with funding agencies, the current “funding crisis” affecting NGOs in India could potentially threaten the sustainability of LCHAU and the results it has already achieved. The reality is that funds for international cooperation and investment of international foundations in India have been decreasing. *The Unit continues to have concerns regarding being able to sustain itself in the long term without dependence from funding agencies.*³⁷

Due to nature of the work of the LCHAU, it is will be unlikely for the Unit to become financially independent by the end of phase 2 of the project. At present, the only possibilities of future “income generation” would be through paid technical assistance and consultancies. Hence, the possibility of generating income would come hand in hand with more work for the Unit and this is not ideal. Accordingly, financial sustainability beyond 2008 continues to be a major concern for the organisation. Along these lines, it is also necessary to emphasise that in over time, LCHAU will have to develop capacity for fundraising.

1 ‘Sida’ and LCHAU

In the same way that the achievements of LCHAU must be acknowledged, it is important to recognise that the direct investment that ‘Sida’ has made, in the current and future phases of work, is equally commendable. Sida’s India policy makes it clear that the current strategy is “supporting and promoting reforms and innovative thinking in areas that are of importance to the poor.” In this connection, the answer to “why a partnership between ‘Sida’ and LCHAU?” is very obvious, the reasons being outlined in the previous sections of this report. Hence, it is clear that in order for ‘Sida’ to further document and analyse lessons in development cooperation that may be drawn from the “innovative thinking, knowledge development and dynamic changes for the poor” by LCHAU, it would be necessary to consider support for phase 3 of the project. For example, even if by 2008 the partnership with ‘Sida’ would have resulted in a process by which an HIV/AIDS bill was set into motion and adopted, only by 2012, would the impact of this bill and the positive changes resulting from it be clear and more easily measurable.

LCHAU’s vision and initiatives are in line with Sweden’s development cooperation policies, in particular the understanding of human rights, HIV/AIDS, poverty and gender. Also, the 2002 Bill on “Shared Responsibility: Sweden’s Policy for Global Development” considers the attainment of global development through more coherent policies and more collaboration/coordination with governments and actors. In this regard, LCHAU should be seen as one actor that should be directly engaging and collaborating with ‘Sida’ in the future.

Partnerships with Sweden should be considered through maintaining a direct partnership with ‘Sida’. In this connection, phase 3 of the work could consider undertaking strategic collaboration with other actors through a ‘Sida’/LCHAU joint-effort. In this regard, although there are potential partnerships that should be explored between LCHAU with entities in Sweden, the main partner should continue to be ‘Sida’. Mainly because: (i) LCHAU can be regarded as a NGO model that follows components that directly fit into the vision of ‘Sida’; (ii) ‘Sida’ could benefit from documenting the ways shifts in development cooperation may contribute to further change in countries such as India through NGOs like LCHAU; (iii) from a very general search into Swedish education institutions and NGOs, it will be difficult to find an “equal partner” to LCHAU, in this regard for example although “Lawyers without Borders” undertakes public interest litigation, the focus and expertise is seen to be civil and political rights; (iv) It seems that LCHAU and ‘Sida’ engage with the same kinds of stakeholders in comparable ways; and (v) in phase 3, ‘Sida’ could consider “matching” LCHAU with another ‘Sida’ partner in the developing world (e.g. for example, an NGO in South Africa such as the Treatment Action Campaign.)

³⁷ In accordance to information contained in the SC minutes (2005) ‘Sida’ provides 88% of funds. Ford foundation provides remaining funds. In terms of future prospects, the Ford Foundation is currently negotiating a “core” grant with LC

7 Evaluative Conclusions

Relevance:

- The project contributes to social justice and to triggering legal, policy and societal changes that will lead to the improvement of the lives of those living with and affected by HIV/AIDS. In this regard, the vision and mission are in light with those of 'Sida's.
- The project contributes to and is consistent with 'Sida's development cooperation model. It also feeds into NACP Phase 3. In addition, it strengthens, brings another dimension (legal and law reform dimensions) to the work by civil society groups in this field.

Approach:

- The project's strategy encompasses local, regional, national and international components. The approach also targets a wide range of stakeholders. Evidence of positive impact regarding all initiatives is available.
- The project serves the disadvantaged, empowers the disadvantaged, aims to make structural changes in society and uses resources and tools available effectively. In this regard, the project operates according to a rights based and gender perspective. These ideas have been internalised.
- The programming principles comply with: gender; human rights; transparency; empowerment, working in partnership with others, ensuring accountability and promoting responsibility of all levels of government (executive, legislature, judiciary), clearly oppose discrimination in all its forms (indirect/direct, intended/unintended); promote the principle of equality and democracy; seek sustainable changes by dealing with systemic issues such as for example, poverty.

Effectiveness:

- The project has attained results in relation to stated objectives. Early signs of impact include: (i) landmark cases; (ii) improved legal services (more users, more groups, more legal strategies, more areas of work); (iii) law reform (very critical initiatives and outcomes such as the bill, AMTC, etc indisputably attributed to LC); and (iv) partnerships and synergies (across all levels, diverse and strong).
- At the same time, the positive impact has led to growth that needs to be supported by a matching strategy for institutional strengthening.

Efficiency:

- Since 1998, the project has used resources/inputs, applied processes, developed systems and implemented decisions in ways that maximise achievements. In April 2006, however, the organisation finds itself in a very important transition. It has expanded into a mid-size NGO and now undertakes comprehensive efforts in new areas of work.
- There may be a need to develop a second phase to this assessment aimed at developing capacity within LCHAU needed to strengthen the institution and take current efforts to a new level. There is need for: (i) new, more efficient systems and processes; (ii) exploring ways to develop capacity to fundraise and deal with multiple funders; (iii) better use of information technology; (iv) exploring options to move away from "everyone doing everything all the time"; (v) avoiding "crisis" created by adding work that was not planned for; (vi) timely implementation of decisions; (vii) considering options for re-structuring governance structures and creating new staff positions; (viii) a more informed exercise on mission, vision, and objectives aimed at enabling LCHAU to establish programme priorities.

Sustainability:

- In order for LCHAU's efforts to maintain achievements, financial support for phase 3 will be essential. It is unlikely for LCHAU's to become less dependent on external sources of funding by 2008.
- LCHAU's experience offers lessons and approaches that should be analysed, documented and disseminated. In this regard, if phase 3 of the project is as successful, the LCHAU may offer elements that may be replicated as "best practices" across the developing world.

Added value:

- LCHAU has been at the forefront of critical changes and activities that have provided more visibility and voice to disadvantaged sections of society.

8 Reflections and Lessons Learned that may Assist LC beyond 2008

The process brainstorming and reflection is a dynamic process that is closely inter-twined positive transformation. It is clear that LCHAU knows how to do this and will continue to do so in times to come. At this juncture, change is connected to LCHAU's process of reinventing, re-assessing, re-shaping and re-affirming its approach and operations. In this regard, the following section aims to provide "food for thought":

Monitoring and Evaluation:

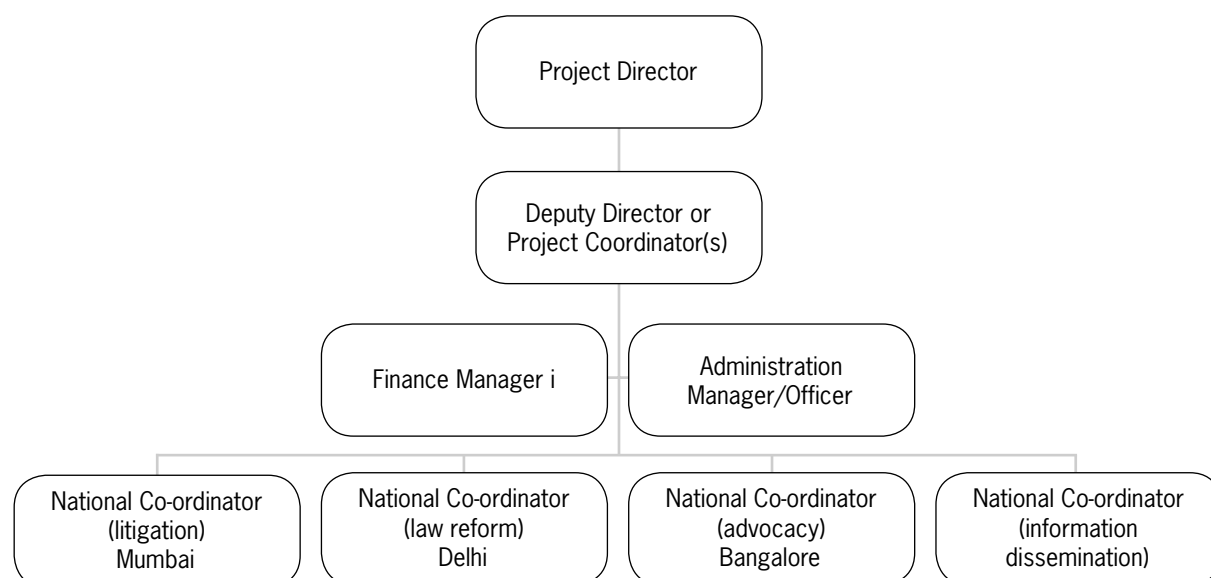
- There is a need for a better "tracking" system to monitor and evaluate achievements. In this regard, it would be interesting for the LCHAU to develop its own qualitative indicators. These indicators could guide officers to prioritise and organise day to day efforts. At another level, they would make the process of writing annual reports easier.
- It was clear that although LCHAU has used and continues to use the rights based approach to HIV/AIDS, there is no consistent understanding of what the elements of the RBA mean to LCHAU. Hence, it would be useful to develop a policy document to outline what are the concepts that should be understood by all staff, shared in all training/presentations and conveyed through information generation/dissemination strategies.

Re-shaping the LCHAU:

- As organizations scale-up, if governance structures and processes are not re-envisioned, they tend to move towards more inefficient structures. The challenge for the LCHAU is to explore appropriate levels of specialization within each office. In this regard, perhaps there is a need to shift emphasis on sameness to emphasis on coherence. In this regard, achievements by every member of the staff should not be equal, rather, comparable.
- The process of considering options for reshaping structures to adequately respond to current challenges faced by the Unit, should also explore possibilities to change the composition and operation of the SC.³⁸

³⁸ The SC could potentially serve as a team of independent experts that, among other responsibilities, assist the LCHAU in developing positions on issues such as globalisation. In addition, a new honorary body or working group could be established in order to strengthen partnerships with NACO and other key government bodies. In this connection, this body/working group could assist in shaping the kinds of "technical assistance" that the Unit should provide to the government of India as other influential players that shape public policy (ie: funding agencies, inter-governmental bodies)

- There may be need for the Unit to undergo a process of capacity building in NGO finance and management. It would make sense to tie this to the process of developing IT systems for networking all offices.
- A new programme management unit structure could take into consideration some of the following:



Reporting into the National Co-ordinators would be each of the officers, in a matrix style of organisation. It is imperative for a matrix organisation to be successful, that a degree of resource planning and negotiation occur at the level of director and co-ordinator. This will lead to a matrix plan which would show how much time each officer should spend for each competency. A simple resource plan could be visualised as:

	National Co-ordinator (litigation)	National Co-ordinator (law reform)	National Co-ordinator (advocacy)	National Co-ordinator (information dissemination)
Senior officers	2 days/week	1 day/week	1.5 days/week	0 days
Liaison officers	1 day/week	1 day/week	2 days/week	1 day/week
Junior officers				
Assistants				

Ultimately, as previously recommended, a management consultant will be able to analyse the gaps within the current governance structures and recommend, plan and implement a compliant structure. Also, this process may assist in improving strategies around recruiting, mentoring and incentives for staff.

As stated above, some ideas for canvassing lines of reporting would be:

Level 1 Project director

Level 2 Deputy Director or Project Coordinator(s)

Level 3 Finance Manager and Administration Manager

Level 4 National coordinators: litigation (Mumbai), law reform (Delhi), advocacy (Bangalore) and information dissemination coordinator (based at resource centre at the beginning and eventually in office 4)

Level 5 Project Offices run by an office manager/coordinator

Level 6 Step 1 Senior officers (those that have been longer): law, advocacy, admin

Step 2 liaison officers (e.g. consultants)

Step 3 junior officers

Step 4 Assistants

- There may be a need to hire: more lawyers; one media expert/educator; one public policy expert

Staff Incentives

- Other kinds of incentives focusing on other aspects of professional development could be considered. For example, in the case of legal/advocacy officers: (i) supporting the participation of officers with more than four years of experience in the Unit to an advanced course – two weeks to one month – in a well known international institute or academic institution;³⁹ (ii) granting a one year paid leave to officers wishing to undertake an LLM or MA abroad and committed to return to the Unit for two years after graduation; and (iii) facilitating the presence of a senior lawyer in an academic institution abroad in order to undertake research or write an article on behalf of the Unit. It is important to note that with the track record of LCHAU, it is likely that the Unit would be able to negotiate scholarships.⁴⁰ At another level, incentives should be created to encourage all staff members to undertake further studies and excel (e.g. loans).

Engagement with the Private Sector/Corporate Responsibility:

- Considering the “influential” players shaping affordability of medicines and treatment debates nationally and globally, in the future, LCHAU may need to engage directly with the private sector. Some issues that may need to be explored in phase 3 may be related to the notion of “corporate responsibility” and codes of conduct for the private sector may affect the realization of the right to health.

Popularizing and Disseminating Information:

- One recommendation that emerged strongly was the need for popular legal literacy materials that can be disseminated within networks. At present, the level of publications does not make these materials easily accessible to a wide range of persons that have a low literacy level. In the future, LCHAU can adopt various strategies in order to make key information more easily accessible/available.
- Although the content of all the current training activities is of good quality, it would be easier to develop a set of standard training modules that include substantive materials as well as learning methodologies and exercises. In this regard, innovative ways of sharing and explaining concepts should be shared among all staff. In the future, it would be interesting to consider engaging someone with expertise in adult learning/education to assist in pulling together the information and resources already available within LCHAU and consolidating this information in the form of a basic capacity building manual.
- Development of a core set of materials and modules to generate a pool of trainers that includes both, members of the team as well as individuals/groups working in partnership with the organization might be a means to streamline these processes to ensure consistency in content and quality. In many ways, regardless of the level of training being imparted, some key ideas relating to critical and progressive engagement with a human rights framework to HIV/AIDS are common. For example, whether training is for activists, health workers or lawyers, conceptual clarity around the social constructions of disadvantage and their interplay with determinants of health, HIV/AIDS status, should be clear to all participants.

³⁹ For example, the university of Turku in Finland offers a two week advanced course on the justiciability of ESCR

⁴⁰ For example, Columbia University and NYU have human rights fellowship programmes.

- At another level, as new laws are passed and new areas of legal work are introduced, development of “generic” training materials may prove to be effective. In this regard, the Unit could consider starting to develop a basic package on the rights based approach to HIV/AIDS – with relevant cross-referencing with constitutional provisions, etc – as well as another one on the HIV/AIDS Bill and its practical use/application. As mentioned before, another option is to re-consider shaping the output of the CRI initiative so that one of the components is a toolkit for lawyers working on HIV/AIDS for lawyers already working on HIV/AIDS.

LCHAU: Ten Years On:

- While documentations and findings in regard to legal services and litigation by the LCHAU have informed future direction, reflection and strategies within, there is no strategic document that makes this knowledge available to a wider audience. For example, how was the balance between lost cases vs. won cases determined? In hindsight, how would some of the legal strategies have been different? What have been the obstacles and challenges experienced along the way? How does the Unit view alternative dispute resolution? What have been the consistent arguments (framework) reiterated over time? How are the experiences/reactions of clients in regard to their experiences with litigation recorded? How have experiences and political thinking of the Unit around HIV/AIDS informed the evolution of strategies? This is an area that would give room for interesting partnerships with research institutes or media and could perhaps be considered as a project to commemorate 10 years of the LCHAU in 2008.

9 Expanded Recommendations

Although a series of recommendations have been included in the main sections of this report, the following recommendations are aimed at those that may be implanted for the rest of the agreement term between ‘Sida’ and the Lawyers Collective:

Greater Emphasis on Consolidation and Institutional Strengthening

- The next year will require careful consideration of ways and means to: (i) formalize lines of management; (ii) thinking about the creation of some senior/specialised staff positions; (iii) match responsibilities of staff with current needs; and (iv) explore ways to reconsider decision making processes within LCHAU
- There may be a need to engage an expert on NGO management⁴¹ to provide assistance in order to develop a plan of action in regard to (i) setting programme priorities through a process of engagement/analysis of the mission/vision and objectives of LCHAU; (ii) considering options for restructuring governance structures within the Unit and clearly outline the “pros and cons” of specialisation; (iii) “coach” LCHAU through a process of transition into a mid-size NGO; (iv) comment on processes in place on the day-to-day that may affect work-plans, made decisions and adhere to them. Similarly, there are areas identified in this report that should be considered in this process. In this connection, it must be emphasized that LCHAU has already taken important steps, however, this recommendation is made with the intention of trying to ensure that knowledge and assistance is available to the Unit in this important process of expansion
- There are areas identified in this report that the external auditor should consider. For example, it would be timely for the auditor to make recommendations regarding (i) financial/accounting systems to be introduced and those that are being proposed; (ii) the ways networking computers may

⁴¹ For example, the Human and Institutional Development Forum (HIDF) based in Bangalore

assist in finance; (iii) make specific recommendations in regard to the process of “merging” the finance section of LC; (iv) consider whether or not it is beneficial centralise accounting within LC; (v) whether there is need for additional finance staff—workload, skills building, etc; (vi) review of the petty cash system, reimbursements, etc: are there better, yet equally secure ways?; (vii) are there better practices in terms of signatories of cheques.

Suggested Plan of Action for LCHAU:

- From June 2006 to June 2007: Transition Phase 1: Inward Looking

The next year will require careful consideration of ways and means to: (i) formalize lines of management, (ii) consider creation of some specialised senior positions; (iii) match responsibilities with current needs; as well as (iv) an opportunity to reconsider decision making processes and enhance autonomy of senior staff members.

- Programme focus: critical review, re-assessment, controlled expansion
 - a. Undertake a comparative analysis models of governance structures and management in other mid-size NGOs
 - b. Systems and processes: tested and finalised
 - c. Staff & Programmes: more critical review of question of specialisation of some staff
 - d. Re-assess ways to develop work-plans in ways that build on strengths and focus of each office
 - e. Mapping of partnerships and target groups (with a focus on potential and new areas of work)
 - f. More detailed discussions with WRI in regard to the potential of integrating legal aid services, etc
 - g. Develop plan for resource/documentation centre
 - h. Plan a strategy for “popularizing materials”
 - i. Explore whether technical assistance to government can be provided in a paid capacity. Also, whether or not a discrete number of consultancies for the government can be undertaken as “income generating” projects
- From June 2007 to June 2008: Transition Phase 2: Outward Looking
 - j. Focus: LC- from leaders to catalysts of change
 - k. More holistic approach to LC: integration of systems with WRI
 - l. Take partnerships to a new level
 - i. Build pool of trainers: recommended targets i) lawyers; ii) paralegals in positive networks, iii) basic issues with vulnerable communities
 - ii. “Outsource” some projects to partner NGOs
 - iii. Develop a model for “memorandum of understanding” with partner NGOs and academic institutions
 - m. Continue to consolidate efforts (internally and externally)
 - n. Activities of resource centre begin: generate and disseminate knowledge and materials
 - o. Explore policy issues, lobbying and media at a larger scale
 - p. Develop a more cohesive local, national and international strategy
 - q. Inform others of changes in priorities (if any) as well as implications
- From June 2008 onwards: Forward Looking
 - r. Focus: geographical expansion, Growth, Impact, Change. LC as a “world class organisation”

Recommendations Relating to Programmes and Activities

- Since all areas of work of LCHAU are inter-related, at the current stage of developments within the Unit, it may be necessary to undertake in-depth analysis of options regarding the following issues: (i) as the intensity and volume of work continues to increase, it will be necessary for LCHAU to consider better means to monitor the quality, effectiveness and impact of legal/advocacy programmes; (ii) as a critical mass of unit-trained HIV/AIDS lawyers and advocacy experts develops, better models of leadership, decision-making and continuous education will be needed for senior staff; (iii) recruitment and mentoring of newly graduated lawyers may be required – who could work as advocacy or legal officers –; (iv) over the next three years, the possibility of allowing for offices to specialise while maintaining coherence in approaches and information may need to be taken into account; (v) categorizing newer initiatives as “pilot projects” of lesser scale may allow for the LCHAU’s legal team to agree on priorities, dependencies, etc.; and (vi) explore alternative models of partnership/collaboration with lawyers and NGOS already undertaking litigation initiatives and providing legal aid in discrimination law, criminal law, human rights.
- The work plans need to include better target/indicators for legal services and litigations. At present, the quantitative approach reflected in annual work plans is not adequate.⁴²
- It is necessary to follow up implementation of the action points agreed upon during the “Global South Dialogue on HIV/AIDs and Access to Treatment”
- AMTC should be based in Bangalore, that would allow an opportunity for each office to spearhead one major national initiative. iAt the same time, other project offices should initiate more action on the campaign.
- There is room to build more conceptual clarity around the rights based approach to the work of LCHAU and to HIV/AIDS. In this regard, all staff members should be trained and articulate on key, cross-cutting principles
- It is timely to begin to explore better ways to share and disseminate information. In this regard, partnerships for “popularizing” some of the key ideas promoted by LCHAU should be contemplated.
- Develop a strategy for better uses of the LC website and potential uses of Information technology
- Over time, a wider pool of trainers/resource persons could be developed. Experiences of other NGOs in this regard, have shown that, once basic imparting of concepts is “decentralised” it is possible to undertake newer, more sophisticated, capacity building. While, over time, the pool of trainers/paralegals imparts knowledge on basic concepts on behalf of LCHAU, the team could devote more attention on capacity building efforts at a more advanced level. In the same way, if over time, the Unit imparts knowledge and mentors activists in lobbying and law reform, the capacity to provide technical assistance would be enhanced.

To ‘Sida’:

- It would be ideal for ‘Sida’ and the Ford Foundation to jointly support processes aimed at strengthening institutional building.

‘Sida’ should consider supporting LCHAU beyond 2008.

⁴² Valuable resources on monitoring and evaluation that may be applied/adapted develop targets/work plans may be found in the following website: <http://www.care.ca/libraries/dme/default.htm>.

Annex A: Terms of Reference

Mid-term Evaluation of “Legal intervention in HIV/AIDS and related contexts in India”, a project implemented in India by Lawyers Collective

Evaluation Purpose

In accordance to the agreement with Lawyers Collective, a Mid-term Evaluation is planned to be carried out in the beginning of 2006 to assess the overall quality, functioning and success to date and to formulate specific recommendations for the rest of the agreement term. The main stakeholders of this review are the Lawyers Collective (LC) and the Development Co-operation Section (DCS) of the Embassy of Sweden in New Delhi.

Intervention Background

The Lawyers Collective HIV/AIDS Unit, an NGO with head office in Mumbai and project offices in New Delhi and Bangalore, facilitate in creating a supportive legal and ethical environment, which is protective of human rights and emphasises on those who are vulnerable and discriminated against.

The Unit of the organisation was set up on a realisation that law, policy and judicial action – that uphold the human rights framework – has a central role to play in effectively dealing with the spread of the HIV epidemic. Human rights are therefore central to the Unit’s work. Through its legal interventions to support people living with HIV/AIDS (PLWHA) and sensitizing decision-makers and those affected, they endeavour to facilitate the adoption of rights-based responses and influence the thinking and practices that are in consonance with human rights standards.

The first phase of the project (1998–2003) received support from the European Commission. In the second phase (2003–2008), the project aims to build on the past work and sees an expansion and initiation of new interventions, with focus on PLWHA and vulnerable populations such as women, men who have sex with men (MSM), sex workers (SWs), and injecting drug users (IDUs). The project document titled “Legal intervention in HIV/AIDS and related contexts in India,” focuses and summaries on three broad components: i) legal advice and litigation; ii) advocacy and capacity building; and iii) documentation. Sida support to the project is 16.5 MSEK and covers the period 01 September 2003 to 31 August 2008.

The Objectives of the Project Are:

To promote awareness of HIV/AIDS-related issues among PWA, lawyers, judiciary, legislators, law enforcement, NGOs, healthcare workers, vulnerable populations, law students and policy makers.

To develop knowledge and capacity among the legal community of discriminatory practices in law, legislation, regulations and policy regarding HIV/AIDS and vulnerable populations.

To advocate for change, the development of the judicial response and collectively appropriate statutes, and /or laws and policy to respond to HIV/AIDS and the needs of vulnerable populations based on the integrationist model.

Evaluation Questions

The evaluation will cover all important aspects and components of the project as outlined in the project document and later amendments, taking into account developments since the signing of the agreement between LC and the DCS to date.

The evaluation team shall particularly address the following issues:

- The continued relevance of the project in relation to the goals and policies of Swedish development cooperation and to the needs and priorities of partner countries and target groups;
- The effectiveness of the approach/strategy being used to achieve the project outputs.
- The intended and unintended effects of the activities, including effects on the intended vulnerable groups;
- Gender concerns at various levels of project implementation and gender sensitivity of the project staff;
- The efficiency of project management and the cost-effectiveness of the resources/inputs used;
- The outputs in relation to the efforts put in for capacity building and institutional development and the development of networking and coordination; and
- Early signs of potential impact and sustainability of results.

Recommendations and Lessons

On the basis of this assessment, the evaluation team should identify problems, constraints and lessons, if any, and propose recommendations for follow-up action. A number of generic recommendations should also be made that have bearing beyond the project.

Stakeholder Involvement and Methodology

The evaluation team will carefully review all relevant documentation, including the original project document and the project progress reports.

The team will visit the project offices/sites and conduct interviews with relevant staff in the DCS/Sida, LC and partner NGOs of LC, as well as other stakeholders in the activities undertaken.

Work Plan and Schedule

The evaluation will be carried out during three weeks in end February/early March 2006. It is proposed that the review be carried out as follows:

- Documentation review and preliminary consultations with the DCS/Sida and LC, including the development of a work plan;
- Visit to the project site, including collection of relevant written material as well as interviews with the staff of LC, partner NGOs and other stakeholders;
- Analysis of the information collected and preparation of a first draft of the report; and
- Debriefing, information validation, and preparation of the final version of the report.
- Logistical arrangements for the project visit will be decided upon once a detailed work plan has been developed.

Reporting

- (I) The evaluation team will produce a mid-term evaluation report of not more than 20–25 pages, apart from relevant annexes, containing the following sections:
- (II) Cover page with date of version and name of consultants;
- (III) List of contents;
- (IV) Executive summary – with particular emphasis on main findings, conclusions, lessons learned and recommendations;
- (V) Introduction – presentation of the evaluation’s purpose, questions and main findings;
- (VI) The evaluated intervention – description of the evaluated intervention and its purpose, logic, history, organization and stakeholders;
- (VII) Findings – factual evidence, data and observations that are relevant to the specific questions asked by the evaluation;
- (VIII) Evaluative conclusions – assessment of the intervention and its results against given evaluation criteria, standards of performance and policy issues;
- (IX) Lessons learned;
- (X) Recommendations;
- (XI) Annexes – terms of reference, methodology of data gathering and analysis, list of people interviewed, references, etc.

The findings and recommendations should also be verbally presented to LC and the DCS/Sida. A draft version of the evaluation report will be shared with the organisations for comments at least two days before the presentation/s. The final evaluation report will be submitted to the DCS in 3 bound hard copies and one electronic copy (in MS Word or compatible software).

Evaluation Team

The evaluation team will be of two members designated by DCS/Sida.

The team should possess demonstrable skills in evaluating capacity development of organization as well as substantive experience from dealing with HIV/AIDS and rights/legal issues, gender issues and management procedures. Excellent (English) oral and writing skills are essential. Work experience in India/South-Asia is of advantage and good knowledge and ability to apply Sida’s goals and Sida’s HIV/AIDS Policy in carrying out the evaluation is needed.

The team should ensure that the ToR is fully understood and that the evaluation report is completed in accordance with this ToR.

Annex B: List of Persons Interviewed

Lawyers Collective/HIV-UNIT (interviewed persons marked with *)

Name	Designation	Date of Joining
Mumbai Office		
Anand Grover *	Executive Director	Founder-present
Shobhna S. Kumar *	Project Coordinator	01.06.2005
Nitin Thakor	Financial Manager	06.03.2006
Veena Johari *	Senior Legal Officer	01.05.1998
Shehzad Mansuri *	Legal Officer	01.05.2002
Julie Geroje *	Legal Officer	01.06.2004
Santosh Chouri *	Advocacy Officer	15.07.2005
Kalpna Gaiwad*	Advocacy Officer	15.07.2005
Prathibah*	Advocacy Officer	20.12.2006
Stella D'Silva *	Finance and Adm	15.09.1998
Peter D' Rozario *	Admin Officer	04.01.2005
Pravin Seena Sali	Office Assistance	01.05.2000
Pradeep Mahadik	Legal Clerk	01.07.2005
Isabel	Intern (Harvard)	
Law student	Intern	
Jeff	Consultant	
Vivek Divan*	Consultant/Formal Coordinator (from 2000–2005)	
New Delhi Office		
Tripti Tandon *	Senior Project Officer	01.08.2000–31.3.2006
Dr. Rachna Bharadwaj	Senior Project Officer	01.03.2006
Savita Singh*	Legal Officer	01.06.2004
Suprabha *	Legal Officer	01.09.2004(started@Bangalore)
Shivanji Rai *	Advocacy Officer	07.11.2005
Asha Mohan *	Advocacy Officer	19.12.2005
Leena Menghaney*	Advocacy Officer	01.08.2002–31.08.2005
Lalit Mohan	Office Administrator	01.03.2004
Rajender Kumar	Office Assistance	01.04.2001
Kajal Bhardwaj *	Consultant	01.08.2003
Vinod C.B	Consultant	15.10.2005
Bangalore Office		
Priti Radhakrishnan *	Senior Project Officer	23.08.2004
Geetha Sajjanshetty*	Legal Officer	16.02.2004
Lakshmi Murthy *	Advocacy Officer	20.04.2005
Rajkumar Sankar *	Advocacy Officer	05.09.2005–04.03.2006
Mohammed Javed *	Advocacy Officer	01.09.2005
Vidyuth *	Advocacy Officer	05.09.2005
Chan Park*	Advocacy Officer	10.08.2004
Dorothy Alex *	Admin Officer	13.09.2004
R.Rangaswami	Office Assistance	01.09.2005
Prafulla	Consultant	19.12.2005
Asha Raik *	Consultant	
	Intern	
Women's Right Unit		
Indira Jasing	Project Director	
Asmita Basu	Project Coordinated	
LC Magazine		
	Assistant Editor	

Note: Mr Nitin Thakor and Dr. Rachna Bharadwaj joined the Unit during the course of the evaluation and that is why they were not interviewed.

Person Interviewed	Partner/Stakeholder
Mumbai	
Eldred Tellis	Sankalp
Shabana Patel	Network of Positive People
Mr Shankar	Hamsafar Trust
Haresh Shivdasani	Advocate – part of advocate on record and district lawyers
Rajan Salvi	Advocate, High Court – Advocate on Record, district and CRI
Bangalore	
Ms Prabhavathi	Deputy Director
Joyti Kiran	Karnataka State AIDS Prevention Society
Arvind Narrain	Milana Foundation
	Alternative Law Forum
New Delhi	
Dr Jana	Assistant country director/CARE India
Anjali Golapan	Durbar Mahila Samanvay Committee (DMSC)
Loon Gangte	Executive Director, NAZ Foundation
Roshmi Goswami	Delhi Network of Positive People (DNP+)
	Ford Foundation (India)

Note: Initial contact with the following individuals was made. Unfortunately, phone interviews were not possible: Dr Tokuga from CARE-Chennai (former Steering Committee member) and Nandini Kapoor from UNAIDS. Also, special thanks to Yasmin Zavery Roy for her guidance and for travelling to Mumbai to meet us at the beginning of the mission.

Informal discussions with various NGOs and experts, including representatives of : the Asia Pacific Council of AIDS Service Organizations (APCASO), UNAIDS human rights and law working group, Voices Against 377, feminist organizations working with sex workers, independent legal organizations in India.

Annex C: List of Documents Reviewed

Lawyers Collective's Publications

Website

LC HIV/UNIT's Brochure

Newsletters – ACCESS and POSITIVE DIALOGUE

The Lawyers Collective's Magazine (Law for the People)

Know Your Rights Series (leaflets)

Various position papers

Draft HIV/AIDS Bill and book on HIV/AIDS in India

Report of outcomes of global south dialogue on HIV/AIDS and access to treatment

Relevant Documentation

Proposal by LC's HIV/UNIT to 'Sida' and related documents

Annual Progress Reports: a) September 2003–August 2004; b) September 2004–2005

Internal Evaluation Workshop Report (2001)

Minutes of Eight Steering Committee Meeting (2005)

Reports of selected staff retreats

Work plan April 2005–March 2006

Document: Achievements of the HIV/AIDS Unit(1998–2005)

Sample format for budget being discussed internally at the moment

Drafts of several documents on systems and reports currently being prepared

Manuals and agenda for internal capacity building seminars for staff

Other Sources

UNAIDS materials; 'Sida's policies and website; NACO Website and documentation

In addition, web-based research regarding Southern partners of the AMTC Campaign and literature drawing on Lawyers Collective's work.

Annex D: Complementary Information Regarding Methodology

In addition to main questions of the evaluation, other questions were identified in order to inform conversations and interviews with key stakeholders during the evaluation process. Furthermore, the sub-categories of questions were used by the consultant to analyse the findings and develop recommendations.

The process of interviews and literature review proved to be extremely valuable. On one hand, the openness of all persons that were interviewed made it possible to exchange ideas on needs and potential recommendations along the way. On the other hand, LCHAU has diverse kinds of documentation and this made it possible to grasp underlying principles and ideas.

Evaluation Questions

Although interviews were undertaken in small groups and individually, the questions often led to constructive conversations that did not always cover the total scope of the evaluation.

Continued relevance of the project in relation to:

- Goals and policies of Swedish development cooperation (refer to HIV/AIDS policy by ‘Sida’, gender policy, India country strategy; ‘Sida’'s on global development)
- Needs and priorities of partner country: (NACP Phases I-II-III)
- Target groups (sampling group interviews chosen on the basis of discussions with LC and DCS)

The effectiveness of approach/strategy/methods being used to achieve project outputs

- Gather information from interviews with staff, management, documentation by LCHAU and discussions with stakeholders
- Compare legal work/lawyers vs. non legal work/activists
- Is expansion – e.g. opening more offices – the best strategy or is it better to focus on what LCHAU does best? Can a process divided in phases be more effective?
- Rights based approach: is it implicit or explicit? Is there conceptual clarity and consistency in terms of terminology, approach, etc?
- Explore the interplay between international, national and local action/efforts
- The intended and unintended effects of activities:
 - Intended:
 - best practices in legal services, litigation,
 - best practices in advocacy
 - best practices in education and learning
 - best practice: better understanding of problems of target groups, reality, approaches
 - best practices: awareness raising and campaigns
 - what does it mean to be a rights based NGO? A legal NGO?
 - Unintended results: positive and negative
- Impact of activities on:
 - Vulnerable groups
 - PLHA

- Judiciary
- Legislators
- Law enforcement
- Policy makers
- Partner NGOs
- Outward – on others
- Media
- Communities
- Workplace
- Corporations/Private sector
- Government as a whole (politics)
- Constraints and threats (outside LCHAU’s control)
 - General issues: Indian government (democracy, view of NGOs, etc)
 - General concerns in regard to international funding
 - General issues with regard to difficulties in recruiting and keeping senior staff
 - Is the LCHAU “too ambitious”?
- What are the lessons that can be learned from this project that could be replicated in the world and further supported, documented by ‘Sida’?

Gender concerns at various levels of project implementation and gender sensitivity of project staff

- Women’s issues and gender awareness
- Does the understanding of gender issues links to conceptual clarity on sexuality rights?
- Review of plans to work with women’s rights unit: how is the consolidation envisaged?
- The efficiency of project management, cost-effectiveness of the resources/inputs used
- How does the staff feel about the steps to improve systems based on the previous audit?
- Determine trends in reporting expenditures
- History, what areas did EC support? Particularly in relation to project management
- How does the finance team feel about the creation of new position, financial manager? Do they feel that will create more work or improve?
- Governance structures and decision making processes
- Is there a need for a clearly stated mission and vision?
- Processes for staff input: participation vs. consultation
- What does it mean to have a rights based approach?
- To what extent does the internal functioning and structure of the organisation impact positively on the programme work?
- Review of Systems in place – highlight felt needs by LC
- Outputs in relation to the efforts put in:

- capacity building (internal and external)
- institutional development
- development of networking and coordination (include partnerships)

Early signs of potential impact and sustainability of results

- Documentation and interviews

Some additional questions for LCHAU’s team regarding “burn out” and workload issues:

- How did the workload for the Mumbai office change when other offices? Is it felt that opening more will create more work?
- What would you like for your own capacity building? What would you consider to be “incentives”?
- What are some ways to deal with burn-out, is the situation better? How can you do your work in better ways?
- How much time spent between institutional issues and substantive work? Is it seen as extra work
- Do you have any specific suggestions? Recommendations
- In your view, what are some of the constraints in terms of recruiting and retaining staff?
- Agreed activities vs, unexpected activities that come up: how does this affect workload?

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