



**A REPORT OF THE 3RD ANNUAL EHRDs WORKSHOP ON
STRENGTHENING THE WORK OF ENVIRONMENTAL
HUMAN RIGHTS DEFENDERS (EHRDs) THROUGH THEIR
ENGAGEMENT WITH THE COUNTY ENVIRONMENT
COMMITTEES (CECs) AND ASSESSMENT OF
EMERGENCY AND NON-EMERGENCY SUPPORT NEEDS
FOR EHRDs**



**FLAMINGO BEACH RESORT AND SPA, SHANZU,
MOMBASA 12TH - 14TH JUNE, 2019**

ACRONYMS

EHRDs - Environmental Human Rights Defenders

NEMA - National Environment Management Authority

CECs - County Environmental Committees

CJGEA - Center for Justice Governance and Environmental Action

LED - Land and Environment Defenders

UNEP - United Nations Environment Programme

OHCHR - UN Office of High Commissioner on Human Rights

ILC - International Land Commission

CoG - Council of Governors

HRDs - Human Rights Defenders

EU - European Union

PI - Protection International

USA - United States of America

US - United States

UN - United Nations

NCHRD-K - National Coalition for Human Rights Defenders

CBO - Community Based Organization

NGO - Non-Governmental Organization

Abstract

EHRDs globally have continued to face serious threats with regards to the type of work they do. More often than not they are subjected to numerous violations ranging from attacks, murders, harassments, and infringement of their fundamental rights among many others. Kenya is not left behind, it is one of the countries that has become extremely unbearable for the EHRDs to survive in. In this regard, CJGEA came up with an initiative to empower EHRDs countrywide to ensure they are protected and feel secure when handling their work. This was also to ensure environmental protection and conservation work continues smoothly. For the past three years, EHRDs drawn from all over the country under the banner of CJGEA have been meeting annually for a workshop to deliberate on the issues that affect them and the work they do so as to better their work in protecting the environment. This year's meeting was the third annual conference for the EHRDs and the theme was on strengthening the work of environmental human rights defenders (EHRDs) through their engagement in county environment committees (CECs) and assessment of emergency and non-emergency support needs and support. The workshop was based on an interactive methodology which included presentations, practical exercises and simulation; to illustrate methodologies and discuss challenges faced by the participants. An emphasis was placed on sharing approaches drawn from the participants' experiences. The findings arising from the information collected during the survey conducted before the workshop, on gaps and needs of EHRDs, formed the basis of discussions for some of the sessions. A typical session comprised of a presentation, discussion, and one or more practical exercises, either in plenary, working groups, pairs or alone, including role-plays, drafting exercises, case discussions, and brainstorming. The workshop encouraged teamwork and learning from each other's experience. The workshop was conducted in English. The event took place in Mombasa at Flamingo beach Resort from the 12th -14th of June 2019. The following report outlines the events at the workshop and entails information on all the sessions that were conducted during the conference. It is divided into different sections starting with the background, introduction, the body which mainly dwells on the sessions that were conducted and all the presentations and lastly the outcomes and deliberations from the workshop.

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1.0 Background

*“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities...”*¹

Environmental Human Rights Defenders (EHRDs) are agents of positive change who individually or in groups act to promote or ensure the realization of Environmental Rights. EHRDs, through their actions, often help to uncover environmental and human rights violations by bringing them to the public’s attention and pushing for fair and just solutions. While many aspects of the relationship between human rights and the environment are of great importance, none is more urgent than the need to protect these individuals who work, often at great personal risk, to protect the natural environment from unsustainable exploitation while defending their own rights and those of the communities they represent. Environmental defenders are entitled to all the rights and protections of human rights defenders in accordance with international human rights standards. Therefore, the State must provide a safe and enabling environment for defenders to operate in, which is free from threats, harassment, intimidation and violence.

In many countries where environmental conflicts are perilously on the rise; both at the local level and the national level, EHRDs are constantly becoming targets for actions of impunity carried out by state and non- state actors. In the Kenyan context, EHRDs are negatively profiled as “anti-development” people who stand in the way of development without cause, and thus they face severe risks and consequential threats due to their activities. EHRDs are denied enjoyment of fundamental human rights, particularly the right to liberty and personal security; the right to life and prohibition from torture; the right to peaceful assembly, and the right to participate in environmental decision making. They are often subjected to violent actions, attacks, harassment, intimidation, police brutality; arbitrary detention, enforced disappearances and even killings.

Some gaps exist in the protection of EHRDs which include: legal recognition issues, funding constraints, knowledge and capacity gaps on human rights systems that protect EHRDs, limited access to support resources, barriers to access to justice, enforcement of laws that protect EHRDs, attitudes of authorities towards EHRDs, forced exile, as well as restricted security from violence and exploitation. EHRDs need to be guaranteed liberty, security, equality and protection against abuse from state and non-state actors in the course of their work. A survey that preceded this workshop was conducted by CJGEA to gather information on EHRDs and Organizations that record threats and incidents concerning EHRDs. The

¹Principle 10 of the Rio Declaration on Environment and Development (1992) - Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

findings of the survey were used to guide through the discussions and also formed the basis of consultations on protection challenges and possible ways of bridging the capacity gaps in EHRDs.

States need to realize that EHRDs make positive contributions towards the society and have a role to play in the advancement of Sustainable Development Goals (SDGs). They can do so by creating an enabling environment for the EHRDs to operate in; as well as offering them support, respecting their rights and protecting them at all costs. EHRDs as individuals and as representatives of the communities they work in need to be consulted by virtue of the principle of public participation before development projects affecting them are initiated and should be actively involved in the decision-making process. There still exists significant implementation gaps in the realization of the UN Declaration on Human Rights Defenders² in Kenya, as authorities tend to criminalize EHRDs rather than support and protect them and thus for the success of the work EHRDs do, it is necessary for them to be incorporated into a structured and formalized system which allows them to contribute to Environmental Governance.

CJGEA through its work with the EHRDs in Kenya identified County Environmental Committees (CECs) as a platform for the involvement of EHRDs in formal structures that support public advocacy and engagement. The current devolved system of governance takes into account the need for citizen engagement in the policy and decision-making process on matters regarding environment and subsequently provides for the establishment of County Environmental Committees across all the 47 Counties as per the Environmental Management and Coordination Act (EMCA). This is an Act that provides for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto. Under section 30 of the EMCA Act, the County Environment Committees shall be responsible for: (a) The proper management of the Environment within the County for which they are appointed (b) Developing a County strategic environmental action plan every 5 years (c) Performance of additional functions as prescribed by the act or as may, from to time, be assigned by the Governor by notice in the Gazette. The structure of the committee includes among others two representatives of the public benefits organizations engaged in environmental management programs within the county³.

A functional CEC would ensure EHRDs are accorded more legitimacy, recognition, support and protection in their activities and that they are up to par with knowledge on the resources available for them in the course of their work, and also provide a platform for them to make inputs in the County Strategic Environmental Action Plan. The CECs will provide a platform

² The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

³ Section 29 of No 5 (f) of The 2015 EMCA Act - Every County Environment Committee shall consist of two representatives of the public benefits organizations engaged in Environmental Management Programs within the County appointed by the Governor in consultation with the National Federation of Public Benefit Organizations.

that will make it easier for EHRDS to monitor the government agencies as they will link them to the Government at the County level and will also enable them to provide feedback and information to the Communities they represent, and thus this will be essential in peacefully solving Environmental Conflicts. Findings from a baseline survey conducted by CJGEA established the existence of gaps in the formation of the CECs in the Counties covered by the study. The gaps range from insufficient funding or in some cases, no budgeting at all for the CEC activities, lack of knowledge on the existence of the CECs by the EHRDs, unfamiliarity with the new devolution concept; with regards to who is the legit duty bearer in funding the CECs between the County Government and the National Government, inappropriate CEC member selection based on political affiliations, the fact that most counties don't prioritize issues of environmental concern; thus don't see the need of pushing for the establishment of the CECs, ignorance by the responsible state agencies and bureaucracy within county governance systems.

With the establishment of the CECs, a real opportunity to improve on the current situation of EHRDs through their active involvement in these committees presented itself. CJGEA in partnership with OHCHR, UNEP and LED Coalition held a consultative three day workshop with EHRDs drawn from different Counties in Kenya especially those areas with high degree of environmental conflicts to effectively engage with stakeholders in the environment sector. The stakeholders included the government officials in charge of the environment e.g. Directors of environment departments at the County level and NEMA personnel, NGOs involved in environment and human rights work, International organizations that support EHRDs work, fellow defenders among other guests. This platform provided the EHRDs with the perfect chance to share success stories on their work, challenges relating to their work and the potential for unlicking and utilizing new advocacy opportunities in their respective Counties.

The workshop hoped to:

- a) Provide an opportunity to reflect on environmental gaps, needs and risks faced by EHRDS
- b) Achieve an understanding of the emergency and non-emergency support needs of EHRDS and the intermediary organizations that provide support (prevention and protection) at the national and international level
- c) Strengthen the capacities and understanding of the EHRDs on the County Environmental committees; their functions and how they can effectively engage
- d) Exchange and develop concrete measures and practices to strengthen the engagement of the EHRDs in the Committees.

1.1 Introduction

Over the past three years, CJGEA has conducted a workshop for EHRDs countrywide where they meet once a year to deliberate on issues that affect them as EHRDs. This year's event was the third annual conference for EHRDs which was organized by

The Centre for Justice Governance and Environmental Action in partnership with United Nations Human Rights Office of the High Commissioner (OHCHR), United Nations Environment Programme (UNEP), Global Green Grants and Land and Environmental Defenders Coalition (LED). The consultative forum was held in Mombasa and attended by (EHRDs) drawn from different counties across the country from the 12-14 June 2019. The aim of the forum was to provide a platform for the participants to share their experiences and risks encountered as EHRDs, to understand the support required from fellow EHRDs and intermediary organizations at local, regional and international levels, to enhance knowledge of the participants on the County Environmental Committees (CECs) and lastly to collectively come up with measures on how to strengthen EHRDs engagement with the CECs.

The workshop was a highly interactive event and it focused mainly on the following key topics:

- Presentation of findings of the CEC baseline survey conducted by CJGEA and launching of the CEC baseline survey report.
- The County Environmental Committees, their functions, memberships and challenges in their functioning.
- The role of Council of Governors and NEMA in facilitating EHRDs engagement in the County Environmental Committees
- Strategies of engagement and participation of EHRDs in the County Environmental Committees.
- Presentation of findings of the Pilot project on emergency and non-emergency support for land and Environment Defenders (LEDs) in Kenya where we collected incident data on threats, attacks and killings of EHRDS in Kenya in the year 2018 and also identified organizations that offer emergency and non-emergency support to LEDs/EHRDs locally and internationally.
- Validation of the findings of the emergency and non-emergency support needs of EHRDs.
- Emergency and non- Emergency needs of EHRDS and identification of National mechanisms for protection and promotion of EHRDs and the use of any international mechanisms in Kenya.
- Showcasing of EHRDs work and some of the Challenges they have faced in line of duty while defending and protecting the environment.

The agenda of the workshop can be accessed [here](#) in order to get a better understanding of the topics that were subject to discussion during the workshop.

1.1.1 Participation

The workshop targeted EHRDs, the support Organizations that assist EHRDs and members of county Environmental Committees from different counties in Kenya. More than forty

EHRDs from all over the country were selected to attend the meeting. Together with other invited guests from government and other partner organizations, the workshop was attended by more than fifty participants who were fully booked in the hotels during the entire period.

1.1.2 Opening Remarks

The meeting started with welcome and introductory remarks from CJGEA and its partner organizations OHCHR, UNEP, LED, Global Fund, United Nations Development Programme (UNDP) and Frontline Defenders (FLD)

The opening remarks were made by Marcella Fevretto, Senior Human Rights Adviser, OHCHR who thanked the participants for their activism in environmental rights issues and acknowledged that EHRDs are seriously exposed to risk and threats from state and private sector and that there was an urgent need to support and protect them. She stated that the meeting was a follow-up from last year and that there were a number of urgent environmental rights issues in the country but due to the lack of prioritization of environmental issues in Kenya, not much attention had been drawn to them. Some of the environmental human rights issues she mentioned were forceful evictions from lands, emission of toxic wastes in the environment among other rights violations. She thanked the EHRDs for their advocacy efforts and urged them to use the forum as an avenue to speak about the threats they face from the state and individuals who often pursue their own interests at the expense of the environment and subsequently that of the Kenyan people.

The Senior Human Rights Adviser, OHCHR categorically pointed that Kenya has a right to a clean and healthy environment as enshrined in the 2010 Kenyan constitution and that this was a legally strong base which had to be put into action by all means. She stressed on the importance of the need to make sure that County Environmental Committees are fully leveraged. She pointed out a few developments that had happened since the last convening and were significant in shaping future conversations on the environmental human rights such as the Communication from the UN Special Rapporteur on Human Rights and the Environment on the medical plan for the victims in the Owino Uhuru lead poisoning case, the commitment by the Attorney General of Kenya, Honourable Paul Kariuki to develop a comprehensive law on evictions and resettlements in Kenya and lastly the report of the UN Assistant Secretary General for Human Rights, Andrew Gilmour, after his visit to Nairobi. Marcella urged the participants to read the report as it touches on environmental rights issues in the country. Favretto also informed the gathering that there was an upcoming Universal Periodic Review of Kenya in January 2020 and that it was very critical that they make submissions to the UPR committee highlighting on the environmental human rights issues and violations they had.

1.1.3 Speech by CJGEA

This speech was given by one Mrs. Tania Okumu the finance and administration office at CJGEA. She briefly gave the history of CJGEA's work with EHRDs and outlined the organizations mandate, mission, vision and goals and how the work of EHRDs relate to CJGEA's work. Thereafter Ms. Phyllis Omido the Executive Director of CJGEA led the gathering in the singing of the national anthem and issued vote of thanks to the gathering fir

honoring our call to attend the workshop and turning up for the event. Finally the overview of the program/agenda was conducted again by CJGEA and with that the workshop began officially.

1.2 Baseline Survey conducted on County Environmental Committees

The session was led by Michelle Mwanahamisi, of CJGEA who presented the findings of the Baseline Survey conducted by the organization on the Status of CECs in Kenya. She stated that CECs were important to CSOs as its membership includes two representatives of public benefit organizations engaged in environmental management programs and they mainly represent the interests of communities in the committee. The main objective of the survey was to understand the operations of the CECs, better track their progress and identify possible areas of collaboration with civil society organizations in the future. The data was collected from 23 counties in Kenya.

The specific objectives of the study included:

- To support the geographical expansion of CJGEA (coalition of environmentalists)
- To facilitate an entry baseline study to identify the progress of CECs
- To train and facilitate one representative from each of the 47 Counties to participate in the CEC meetings

Some of the benefits that could be attained by implementation of CECs were noted as below:

- CECs are an important platform for EHRDs and CSOs in environmental governance
- CECs improve access to information by communities
- CECs provide direct link to government by communities
- CECs promote inclusiveness and public participation in environmental matters
- Community members can directly report environmental problems to CECs

From the baseline survey study conducted, CJGEA was able to identify several issues relating to the progress of CECs from the counties covered by study. The key **findings** of the survey are outlined as follows.

- Out of the 23 counties visited, 3 counties (Kericho, Narok and Kirinyaga) were unwilling to divulge information on CECs.
- 78.3% of the counties visited had presence of CECs. However, only 43.5% of these had been gazetted.
- Only 21.7% of the counties with CECs had budgetary allocations. 56.5% had no budgets while the rest was either uncertain about the budget status.
- Only 10 counties out of the 23 had CECs Gazetted
- Only 4 counties had budgeted for CECs out of the possible 23
- In terms of representation in the committee, Youth were represented in 12 of the 23 counties while 17 of the total 23 counties had women representation
- On the question of whether they faced challenges in the implementation of the CECs, 10 of the 23 counties said yes while six said no. The remaining counties were uncertain.

From the analysis of the survey, it was realized that the magnitude of environmental conflicts varied from county to county. In 14 counties of the 23 covered, the conflicts were high while in 9 of the 23 counties covered they were minimal. Some of the environmental problems faced by these counties included:

- Pollution such as the Owino Uhuru lead poisoning case in Changanwe Constituency.
- Deforestation for example in Kakamega and Malava Forests in Kakamega County.
- Land degradation for example in Kitui County due to the uncontrolled sand harvesting.
- Destruction of wetland areas a good example is the Kisii wetlands.
- Uncontrolled mining activities for example salt mining in Magarini constituency in Kilifi County.
- Drought for example in Machakos and Makueni Counties.
- Environmental conflicts arising from sharing of natural resources like in Turkana oil issue.

Other findings of the study included:

- The actions of the CECs are limited due to lack of adequate funding. This is because a number of county governments do not include sufficient CEC budget lines and even where they do, these are slashed by the national government during allocation.
- Lack of clarity on power structures. Environmental issues were initially run by the national government. Due to the challenges experienced with devolution, the passing down of this responsibility is more on paper than it is in implementation. This lack of clarity on who is in charge makes it difficult to push for accountability.
- There's lack of understanding of the concept of CECs (including by members of the committee) and their mandate. This has led to challenges such as the improper constitution of the committees where roles have been assigned to members who do not meet the qualifications as stipulated in The Environmental Management and Co-ordination (Amendment) Act, 2015(EMCA).⁴ An example is the appointment of a representative from a faith-based organization in Kilifi as opposed to a representative of a public benefits organization engaged in environmental management programmes within the county.⁵
- The EMCA provides that constitution of CECs should be followed by gazette of names upon which the Committee can begin performing its functions.⁶ A number of CECs have been constituted but are yet to be gazetted. This means they lack the mandate to perform any functions. This also affects financial allocations because these cannot be made before gazette.

⁴ The Environmental Management and Co-ordination (Amendment) Act, No. 5 of 2015 (EMCA) establishes an institutional framework for the management of the environment.

⁵ EMCA sec 29 (2)(f).

⁶ Sec 29(1).

- There's lack of implementation of decisions made by CECs because environmental rights issues are not prioritized.

On the challenges encountered by the field officers during the study, the following were noted:

- Complex hierarchy of authority where junior officers had to get permission from senior officers who were ever absent to release information to us.
- Denial of access to information as some counties completely refused to allow us get information from them.
- Suspicion and tension between Government and NGOs (asked why people from other counties were interested in their county info)
- Arrogance of some state officials. This was experienced in some counties where the officials could not even listen to us.
- Lack of a clear understanding of the concept of CECs by some state officials.

The interactive session after the presentation which was led by an EHRD from Mombasa Mr. Bosco Juma, mainly focused on the gazette of CECs. The participants enquired on how counties can be compelled to gazette CECs immediately after they are constituted as this was one of the biggest challenges faced by EHRDs. For instance, the CEC in Trans-Nzoia had not been gazetted more than a year after persons were appointed to the committee.

Updates were given about some counties that had made progress after the study was conducted. For example, it was reported that Vihiga County had gazetted its CEC but that the challenge was with budget allocations which were slashed by the National Assembly upon submission. The CEC in Mombasa County was reported to have been gazetted in January 2019. Trans-Nzoia County's CEC was also gazetted and the Migori county CEC was also gazetted in May this. This showed that there was progress towards the implementation of the CECs and all these we shall cover during our follow-up sessions that we shall conduct on the CECs.

1.3 National Environment Management Authority of Kenya: Set-up, functions and mandate of CECs

The session was led by Mr. Alexander Obwocha, Director of Environment at the National Environment Management Authority of Kenya (NEMA) in Kisii County. Mr. Obwocha's presentation focused on the formation and composition of CECs, its legal functions, administration and management of CECs and finally the areas that required intervention by CECs.

In his introduction, he noted that the EMCA Act Cap 387 establishes an institutional framework for the management of the Environment. Institutions established under EMCA as presented by him included NEMA, County Environmental Committees, National Environment Tribunal and National Environment Complaints committee. Among all these, he specifically pointed out that the CEC is a very important piece that if implemented correctly, would go a long way in protecting and saving the environment.

Mr. Obwocha then talked a bit on the establishment of CEC and expressed that section 29 of EMCA is the law that forms the CECs and it gives the governor to constitute the Environmental committee by a notice in the Kenya Gazette.

He noted that the committee is composed by two categories:

1. By virtue of the office: these include the County Executive Member in charge environment who serves as the chair of the committee, and the director of NEMA in the county who is the secretary to the committee.
2. By virtue of the kind of work you do: They include representatives of different ministries responsible for environmental matters, two representatives of farmers/pastoralists; two representatives of business community; two members of public benefits organizations involved in environmental programs and a representative of regional development authority.

The governor should consult with relevant county organs during appointments to ensure equal opportunity for women, youth, indigenous people and people with disabilities. The duration for serving is three years.

He highlighted the following activities that fall within the mandate of CECs:

- Coordination and supervision of environmental activities in respective areas of jurisdiction
- Deliberation of environmental issues of concern from the grassroots
- Creation of awareness of environmental issues in the general public through public barazas
- Identification and conservation of economically significant/sensitive areas
- Restoration of abandoned/ degraded quarries and sites
- Preparation of State of the Environment (SoE) reports.
- Preparation of the County Environment Action plans which was previously done by NEMA but now CEC is responsible for it.
- Review of Environmental Impact Assessment (EIA) Reports for proposed projects.
- Identification of areas to be issued with environmental restoration orders, conservation orders and environmental easements and supervise implementation of such orders
- Follow-up/monitoring of environment improvements.
- Assist environmental inspectors to receive and review environmental monitoring and evaluation.
- Monitor the implementation of projects and programmes related to international treaties conventions and agreements in their areas of jurisdiction.

On administration management, he noted that NEMA Regulates day-to-day management and administration of CECs as the secretary to the committee.

Lastly, Mr. Obwocha noted lack of political support as the biggest challenge encountered by CECs as powerful politicians have a lot of interests in the environment that go contrary to what the CECs are working towards. He also linked the issue of lack of political support to the challenge of inadequate finances which he stated was as a direct result of this thus amounting to great limitations for CECs to effectively perform their functions as the political class is the one mandated to approve money for the CECs budgeting process. Other

challenges he mentioned included: corruption, inaccurate interpretation of the CEC mandate and inappropriate appointment of members to the committee. Finally he shared an experience of corruption he had while discharging his official duties and when he refused to accept any form of bribery, he was threatened with dismissal by the client claiming he was disrupting his development projects.

1.4 Council of Governors and its role in the Environmental Rights Sector

This session was led by Brian Muthoka from the Tourism and Natural Resources Management Committee. Mr. Muthoka's presentation began with an introduction of the Council of Governors (CoG), its mandate and relevance in the environmental rights sector. He explained that the CoG was established section 19 of Intergovernmental Relations Act 2012 and that it was the main avenue through which consultations and cooperation could be pursued among 47 county governments on matters related to the county.

On the roles of the CoG, he mentioned the following:

- Sharing information on performance of counties to learn and promote best practice
- Considering matters of common interest to county governments
- Resolve disputes between county governments (sharing of water resources, etc.)
- Facilitate capacity building of governors
- Consideration of concerns by public, and reports

He expressed that more counties had gazetted CECs due to World Bank – KSB program, which demanded CEC creation for funding.

He also introduced the participants to the Tourism and Natural Resources Management Committee, which was established to oversee matters related to mining, climate change, forestry, disaster risk management, water management and finally environmental management and conservation. This committee advises County government on matters related to policy and legislations that affect the above issues. He gave an example of the Climate Change Fund Bill and the Agroforestry Bill in Vihiga County.

With regard to CECs and their operations, Mr. Muthoka noted that Vihiga County CEC had made great strides and could be used as best practice by other counties still struggling with proper implementation. He stated that the CEC had been gazette and operationalized. This was followed by a training of the members of the Committee on their role in environmental management and preservation. He added that members of the CEC in Vihiga went ahead and divided the Committee into smaller sub-groups that can meet more regularly (CECs meet quarterly) to monitor implementation and progress. He however pointed out that the challenge with regular meetings was that members had to forego sitting their meeting allowances as these were not covered in the budgets.

He also agreed that low budgets were a serious limitation to the operations of CECs. He noted that even though Vihiga had made such progress, finances were still a huge challenge after the budget allocation amounted to only Kshs.1million despite a budget request of Kshs. 5million.

He urged CECs to collaborate more with the CoG in capacity building exercises, support of relevant legislations and to achieve greater impact with their work. He gave an example of a

tree planting exercise in which 1000 seedlings had been planted on wetland in a collaboration exercise between the CoG and CECs in Vihiga. He stated that collaborations were also a strategic way of overcoming some of the financial challenges which hampered operations by all actors. For instance, he noted that a strategic partnership between CJGEA and the CoG would have been one of the avenues applied by CJGEA to overcome some of the challenges experienced by the staff during the field research such as difficulty in securing meetings with members of CECs in some counties.

On challenges faced by CoG, he noted that they were almost similar to those that NEMA identified. He added that lack of cordial relationships between NEMA and some county governments hampered work in some counties and finally lack of legal framework to support the resolutions of the CECs was a major hindrance to development for example not all counties had established water policies, sand harvesting policies, noise pollution regulations etc. and this was among the ‘elephants in the room’.

With regards to possible areas for collaboration with CoG, he noted that CoG could partner to help develop a legislation to enforce resolutions of committees in counties and assist in controlling waste management which has been one of the hardest environmental issues to deal with after devolution.

1.5 CEC representative from Vihiga County

This session was conducted by Mr. Andrew Otom who sits in the CEC for Vihiga County. He gave an overview of the CEC in the county and pointed out that the committee was constituted in March 2019 and an induction for members was carried out where they agreed to work as a team. He noted that they agreed to be meeting quarterly but also expressed concerns that he felt that was not going to be sufficient time for the committee to implement all its functions accordingly.

Mr. Otom reiterated that the remuneration for the participants was not there as the budgetary allocations were too little to cater for allowances for the members. He also said that there was need to conduct trainings to the public on why EIAs are very important and why they needed to demand for them during projects implementation.

On environmental challenges facing Vihiga County, he noted that solid waste management was big problem since Vihiga does not have a sewerage system and there was need to establish one to help with the challenge. Vihiga County also does not have solid waste management system when actually it high populations density hence the generation of a lot of solid waste daily. Other challenges in the county consisted of deforestation, planting of eucalyptus as cash crop which uses a lot of water and give back little revenue to the county as all the products are sent to Kisumu city. He proposed switching to bamboo which uses little water and is equally productive. Unregulated mining and the implementation of the water tower projects supported by EU that affected most areas leaving rivers dry and people fighting for available limited resources were also among the challenges he mentioned.

1.6 Plenary session for NEMA, CoG and Vihiga CEC representative

During the plenary session, participants got an opportunity to pose questions and or comments for Mr. Muthoka, Mr. Otom and Mr. Obwocha from NEMA.

Mr. Daniel Ngoka the participant from Makueni County noted that in the previous system of government before the passing of the new constitution, Makueni County was among the last ranking areas in terms of development and environmental conservation and protection. Recently, they have seen some progress as currently the county is coming up with policies especially those involving public participation in decision making on environmental issues. Some of the problems he mentioned they still face include the fact that the Kenya Forest Service, for example, does not allow tree-planting in gazetted areas and encouraging civil society participation in the county issues has been a bit hard.

The issue regarding the appointment of a representative from a faith-based organization in Kilifi to the CEC came up. A question was posed by the participants to the NEMA official from Kilifi County to justify the appointment which had clearly been opposed. The response was that appointments to the committees were purely administrative and so were done at the head office making it difficult to challenge such an appointment. CJGEA was urged to consider going to court to challenge the appointment even though gazettelement had already been done.

Participants from Kilifi County also lamented about their many requests to NEMA which had failed to make site visits and record the number of environmental rights issues that were ongoing in the community.

One of the participants Ms. Anna Wamuyu raised a concern that pollution, like oil leak in Makueni county had serious detrimental impacts to the environment and that she was not even sure how much water had been contaminated. She thereafter posed a question to the CoG on what measures they had in place for the cleaning and remediation of the affected area in the county. She also touched on the cleaning and remediation of the Owino Uhuru community land which was contaminated by lead smelting company through releasing lead into the soil. The response that Brian, the representative from CoG gave was that clean ups were happening across the country and that the Makueni issue would be addressed once the assessment of the impact was complete and that the affected people would be compensated accordingly. He also noted that they were working towards changing behavior of corporates and industries to ensure effective waste management. NEMA also weighed in on the matter and expressed their views stating that the oil leak in Makueni was an environmental crime and that the government needed to apply the polluter pays principle to hold the responsible parties accountable to pay for their act. Makueni County was also provided with the option of seeking litigation on the matter but was warned that the process takes too long to complete especially when the cases involve the government therefore they were advised to consider it as the last resort.

Lastly, the participants agreed that public participation must be at the centre of all decisions made by the CoG and CECs at the County level.

1.7 Advancement of public participation and environmental rights through the work of CECs

This session was led by Mr. Wambua Kituku from Amkeni Kenya. His presentation touched on the concept of public participation in Kenya, the history of environmental participation and the role of CECs in advancing public participation and human rights in Kenya.

He noted that public participation in environmental matters meant that individuals, groups and organizations are given the opportunity to provide input in the making of decisions which impact the environment. This he observed was supported by the legal framework in Kenya through the Constitution of Kenya,⁷ County Government Laws⁸ and other legislation such as international law and precedents.

Mr. Kituku noted that public participation was important not only to respect human rights but to ensure that the elite do not make decisions that favour and profit them alone, to promote shared responsibility and for communities to solve their problems in the ways that they understand and support to ensure sustainability.

The participants were then taken through the history of environmental participation in Kenya. From the state-centric colonial era to the emergence of environmental lobby groups such as Mazingira Institute and the Green Belt Movement (GBM) in the 1970s. He highlighted the case of *Wangari Maathai v Kenya Times Media Trust*⁹ in which the Plaintiff, the coordinator of the GBM filed an injunction to stop the defendant from putting up a highrise building in a recreational park. Despite the Plaintiff suing on her own behalf, the court ruled that only the Attorney General could sue on behalf of the people of Kenya. Therefore, she was found to have no right of action against the defendant.

All these were actions which culminated into structural management and decentralization of environmental matters through the enactment of the EMCA in 1999. This led to the establishment of District Environmental Committee at the district level, Provincial Environmental Committee at the provincial level and National Environmental Council at the national level. The role of the three committees was to integrate environmental issues at all three administrative levels. However, the Committees experienced great challenges such as enforcement of decisions. In the case of *Gathoni v R*,¹⁰ the court ruled that disobedience of the DEC did not amount to an offence under the penal code. That decision watered down the enforcement powers of the Committees. Other challenges included limited funding, proliferation of districts which meant new DEC's came up often, weak linkages between DEC's and local authorities. For instance, it was unclear at the time whether decisions of the DEC's were legally binding on local authorities.

The establishment of County Governments after Kenya's 2013 elections led to the formation of CECs. This brought about positive changes in environmental management. For example, appointment now takes marginalization into account. This means the youth, persons of disabilities and women are part of the committees and are able to shape discussions in a manner that does not discriminate on any special group. Secondly, the CECs are able to integrate environmental concerns in development processes due to the binding nature of the County Environment Action Plan (CEAP). Thirdly, there's greater involvement in environmental management initiatives. Fourth, Constitutional backing for the CECs meaning they enjoy more legal support as compared to the DEC's. Lastly, the establishment of the

⁷ Article 10, Constitution of Kenya

⁸ County Government Act, Urban Areas and Cities Act, PFM Act, IGR Act, MoDP Guidelines, County Public Participation Act, Public Administration Act.

⁹ No. 5403 of 1989.

¹⁰ Criminal Appeal No. 297 of 2004.

CECs led to the abolition of the National Environmental Council in 2014. Mr. Kituku stated that while some may see the abolition as a good thing since the Council was dysfunctional, an aspect of public participation on environmental issues has been taken away from citizens at the national level. Public Participation is now the mandate of the Cabinet Secretary for Environment.

He urged the CECs to ensure their environmental planning process was linked with the budget making process. Otherwise there's no implementation of the action plan. The County Environmental Action Plan process and the budget process should not be mutually exclusive processes since they are mutually dependent on each other.

Mr. Kituku also urged counties to work towards building the capacity of county officials including CECs to be able to effectively perform functions within their mandate. He stated that lack of capacity was an excuse used by the national government to continue being in charge of services that were supposed to be devolved. A good example was the refusal to devolve management of water resources.

Lastly, Mr. Kituku finished his session by urging EHRDs to:

- Take an interest in politics to ensure environmental protection is enhanced. He stated devolution was more than finances and that that it was important that EHRDs understand and monitor functions and powers allocated to counties.
- Partner with CECs and civil society organizations to assist with resource mobilizations
- Advocate for effective public participation framework at national and county level
- Consider having an annual award ceremony where the awards are given to outstanding CECs to encourage good performance and accountability among CECs in Kenya.

Mr. Wambua also made the following recommendations:

- Advocate for stronger institutional integration, devolution of environmental issues
- Capacity building of CECs in HRBA [human rights based approach]
- Forge partnerships between EHRDs and CECs
- Advocacy for more secure and predictable funding for CECs
- Continuous data collection on CECs as the country currently has a gap in data collection
- Promote info sharing and excellence among CECs
- Advocate for effective Public Participation at national and county levels

During the plenary session headed by Yusuf Bashir, it was noted and agreed that public participation is not an event but that it is a process that must involve all actors from the beginning to the end. It was noted that small group meetings where reports are done and decisions circulated did not qualify as public participation and so it is the duty of the CECs to properly consult the communities before engaging in any activities concerning the environment.

The next session was a break out session in which participants discussed strategies of engagement with CECs. The following were identified as possible avenues of engagement:

- Start by finding out which members of the CECs are to promote relationship building.
- Have integrated meetings between EHRDs and CECs to promote one on one engagement. Since CEC and EHRDs have shared goals, EHRDs can identify crises and challenges and have more information and documentation of what is happening on the ground. They can forge partnership and work with CECs to ensure they are updated.
- Adopt best practices from other counties that have good working relationships between EHRDs and CECs. This can be expanded to research on EHRDs outside the country.
- Identify strengths of each actor and apply where necessary to increase legitimacy and impact. For example, the Survey Report published by CJGEA may have had more impact if a partnership was forged with other actors such as the Council of Governors and other government officials.
- Development of communication strategies that involves interaction between EHRDs and CECs, at the beginning of every financial year.
- Capacity Building sessions of CECs and EHRDs to also involve County Assembly members.
- Explore the goodwill of certain CEC officials to push certain agendas such as lobbying for sufficient allocation of funds. To complement this, CECs and EHRDs can also work together on joint resource mobilization to promote sustainability. An example was given of Amkeni Wakenya Project which is considering ways of engaging in social enterprises that can plough back profits into environment related activities.
- Joint financing for public participation instead of various actors having their own sessions. This can increase the reach and impact on communities.
- EHRDs to consider dialogue with CECs and other relevant government agents whenever there's an environmental conflict before going the litigation way which takes time and requires a lot of resources.
- Partner with the Kenya School of Government to include in their curriculum training of government staff on environmental rights issues. This will enhance the understanding on the role of CECs.
- EHRDs and CECs to recognize and award the best performing CECs in the country.
- EHRDs and CECs to come up with joint strategies on how to productively engage the private sector.

At the end of the session, which was also the last activity of the day, it was noted that all strategies discussed were county focused and so the participants were encouraged to also consider strategic engagements with national officials to promote good environmental management at the national level too.

2.0 Recap of day one

Day two of the conference began by a recap of the previous day where it was evident that people were very critical of NEMA and the kind of responses they gave. Also one participant expressed that from the baseline survey he got the opportunity to learn about CECs and that their functions can be slowed down by corruption.

2.1 Environmental Conflicts and Environmental Rights Mobilization

The session was led by Israel Bionyi, Monitoring and Evaluation, Learning and Communication Coordinator, International Land Coalition (ILC).

His presentation was focused on environmental conflicts and the ways in which communities and EHRDs can mobilize themselves to address the conflicts. He began by explaining what ILC is all about. He thereafter moved into an exercise about filling in some phrases which had the beginning but were lacking the other parts of the statement that required the participants of the workshop to fill in. the following are the phrases after being filled in.

- “EHRDs are at risk of being seen as... saboteurs, due to money, corruption, economic interests”.
- “The government can protect environmental rights because... it is their duty, to ensure that each individual has access to a healthy environment that supports their livelihood”.
- “Government can protect EHRDs because... they are the key to success and achievement of sustainable development goals”.
- “If I was a business, my ultimate goal would be... to try and balance the needs of all stakeholders but in reality a business is trying to maximize profits”
- “If I was a business, my ultimate goal would be.... to try to make profits in ways that do not harm the environment”
- “If I was a business, my ultimate goal would be... to realize economic goals and at the same time to protect the environment and safeguard the human rights of EHRDs”
- “EHRDs are targeted... because the government thinks they are working against them. But it is not true, because they are working to support the environment and EIAs”
- “EHRDs are targeted ...because they seem to work against the government”
- “Mining and extractive industries are a trap because... they have vested interested”
- “Mining and extractive industries are a trap because... their entry point is always corruption.”
- “Mining and extractive industries are a trap because... the harm the environment but they offer jobs, so people are confused about whether to support the environment or support jobs.”
- “We can go to... other like-minded organizations that champion the same agenda and try to find solutions”
- “We can go to... the National Commission on Human Rights is we have a problem”
- “We need to raise awareness of EHRDs... because of their importance”

- “If EHRDs receive capacity building and training on advocacy... they can be of great help to the CECs and the community.

2.1.1 Community testimony, Ogiek Land Conflict

The case study for this session on environmental conflicts and environmental rights mobilization which was presented by Leonard Mindore was the Ogiek community who suffered evictions from their ancestral land, the Mau Forest, in what the government of Kenya insisted was a move to protect forest cover. This was challenged at the High Court of Kenya in 1997 and after a long court battle that lasted fourteen years, the court ruled in favor of the Ogiek community. The court ordered the Kenya Land Commission to return to the Ogiek Community their ancestral land within the next 100 days, an order which was not implemented. Government’s failure to implement this decision led to the filing of a case at the African Court on Human and People’s Rights (African Court) in Arusha and to bring it before the African Commission on Human and People’s Rights (ACHPR). In 2017, the African Court decided that the Mau Forest is the ancestral land of the Ogiek community and that preservation of the forest was not reason enough to evict them as there was no evidence that their stay there had destroyed the forest. In fact, the court stated that the government had over the years allocated the land to other persons who had been involved in activities that did not contribute towards the protection of the forest. Thus, the denial of access to ancestral land had amounted to a violation of the rights of the Ogiek community.

The decision has to date not been implemented by the Government of Kenya. A taskforce has been constituted to implement the decision but the Ogiek community is unhappy about this as it is alleged that this taskforce is consulting everyone including the perpetrators who were illegally assigned land within Mau Forest. It is believed that this will interfere with the transparency of the implementation process.

Some of the issues that came up during the plenary session were as follows:

- Litigation is a long process that sometimes may not lead to the desired outcome as quickly as it is needed. It is therefore important to strongly consider all other forms of conflict resolution before going to court.
- Lack of political will is a big impediment to the enforcement of orders or decisions given in favour of environmental rights.
- EHRDs and communities must continue to motivate each other to keep fighting environmental rights violations however long it takes to acquire justice. Case in point, the EHRDs involved in the Ogiek case.
- Other strategic interventions that will lead to implementation of the African Court decision need to be applied. For example, it was suggested that EHRDs seek audience with the Law Society of Kenya (LSK) and the Chief Justice of Kenya.

2.2 Land and Environmental Defenders (LED) Incident Data Survey

Results

CJGEA and LED Coalition commissioned a study on emergency and non-emergency support for Land and Environmental Defenders (LEDs). The purpose of the study was to better understand the challenges faced by LEDs and to assess the various forms of support required. The results of the study were presented by Mr. Tom Bicko Ooko from CJGEA.

The objectives of the study included:

To better understand how to ensure greater support for land and environmental defenders (LEDs), particularly those who belong to rural and indigenous communities.

To have an idea on the challenges faced by LEDs so as to better understand their needs and come up with concrete measures to address them.

Tom stated that the study applied the methodology of field study, online survey, interviews, local meetings and desktop review during the data collection process. Thereafter the data collected was organized and analyzed with the project report expected to be written after the workshop meeting. The data collection process targeted data collection from the whole country on these incidents that were leveled against the LED's in 2018 and recorded.

The key findings of the study are as follows:

- LEDs in Coast, Rift Valley, Western, Nairobi, Kisii and North Eastern regions face more incidents and challenges in their advocacy for environmental rights.
- The incidents recorded in 2018 falls in three main categories: land related incidents, environment related incidents and violations of LED rights.
- More than 50 cases/incidents involving LEDs were recorded in 2018 alone. These include death threats, harassment, attempted murder, murder, intimidation, assault, torture, abduction, enforced disappearances, displacements, illegal arrests and detention. This was a clear indictment on the government as these numbers were too high and it only proved that Kenya was a very dangerous country for the LEDs to survive in.
- Types of support required by LEDs include legal representation when falsely accused of crimes due to their involvement in environmental protection and when engaging in public interest litigation cases, financial resources and mobilization strategies, trainings and capacity building, support during advocacy campaigns and physical protection when faced with threats mentioned above.
- Some of the non-governmental organizations identified that offer support to LEDs in Kenya include Kenya Human Rights Commission (KHRC), Katiba institute, CJGEA, Amnesty International and Protection International. Community Based Organizations such as Save Lamu offer the same support. Other institutions that offer support include Kenya National Commission for Human Rights (KNCHR), Independent Policing Oversight Authority (IPOA) and the media. In total 5 CBOs, 22 Local NGOs and 15 International organizations were identified to be offering support to LEDs in the country. Here is the full list of [organizations](#) identified.
- Many LEDs miss out on support from the above-mentioned organizations and many more due to lack of knowledge. It is therefore important to cultivate a relationship

with the support organizations before times of need so as to understand the extent of support that can be achieved at any given time.

- LEDs need to make use of various platforms to create awareness on the support available to them. This can be done during public outreaches and sensitization programs and through the use of mainstream and social media platforms.

The following were the major support offered by the organizations that were identified during the study.

- Legal and/or public interest litigation support.
- Financial/resource mobilization support.
- Capacity building, empowerment, public sensitization and education, trainings.
- Advocacy, lobbying.
- Protection.

On how the LEDs/EHRDs learn about support offered by these organizations, the study realized that the following avenues are common ways through which this information is spread.

- Public participation or sensitization programs
- Mainstream media including the television channels and radio stations.
- Recommendations by word of mouth from people who are aware of these organizations and have got direct links to them.
- References by local partners like the local CBOs who can refer some cases to these organizations to seek for support.
- Social media platforms are very powerful in spreading information and from these platforms important information on support offered by NGOs can be accessed.
- Print media such as newspapers, newsletters, brochures, journals etc.

Finally among the challenges that were faced by the filed officers during the study included:

- Unwillingness to divulge information by some organizations. We realized that NGOs are not easily willing to divulge information on the cases they handle stating sensitivity of the cases despite us assuring them of the confidentiality involved in handling the data that shall be obtained.
- Some incidents could not be verified as they lacked media links or trusted sources where they could be traced back to.
- Last minute Cancellation of our appointments by organizations we earlier booked appointments with and confirmed our planned visits.
- Lack of trust for fear of the unknown as they were not sure of whose hand the information may land despite us assuring them of the safety of data provided.

2.3 Personal Experiences from LEDs/EHRDs on Threats Faced During Activism

2.3.1 Walid Ahmed EHRD from Save Lamu

Save Lamu is a CBO (made up of 32 smaller community groups) whose mission is to engage stakeholders in decision making processes to achieve sustainable and responsible development in Lamu. Ahmed informed the participants about the challenges the people of Lamu have had with the Lamu Port Sudan Ethiopia Transport corridor project famously known as the LAPSSSET project. This is an infrastructure project aimed at developing a transport corridor from the port of Lamu through to Garissa, Maralal, Isiolo, Lodwar, Lokichoggio, Isiolo, Ethiopia and South Sudan. The project was heavily opposed by the people of Lamu for two reasons. Decision to implement the multi-billion project was made without any public information and participation and two, environmental assessments were not conducted to determine the effects of this project on the land and on the people.

Due to lack of information, many community members do not understand the gravity of Ahmed's concerns as many of them believe the project will provide an opportunity for jobs. Ahmed and fellow EHRDs who have been vocal about the negative impact of the project have been subjected to intimidation and harassment by persons with personal interests and gains from the project. This includes investors and politicians who have accused the EHRDs for being against community development. As a result, Ahmed was illegally arrested and accused of engaging in the Mpeketoni massacre which happened in 2014. An accusation which was false but that was meant to intimidate him into silence. He was later released without any criminal charges.

EHRDs in Lamu are currently also engaged in litigation opposing the construction of the Lamu Coal Plant by Chinese investors which will not only pollute the air but will also damage the marine ecosystem and interfere with the livelihoods of fishing communities.

2.3.2 Elijah Anyona, EHRD from Kisii County

Elijah shared pictures of Gucha River in Kisii County which is now dry due to the effects of planting eucalyptus trees on riparian land. Eucalyptus trees use up to 200 litres of water a day and so they quickly dry up surrounding areas wherever they are grown. However, the people of Kisii grow the trees for commercial use as it has a high growth rate and can be sold as fuel or as building material. This has made it extremely difficult for EHRDs in Kisii to convince the community that eucalyptus trees are not good for the environment. Many are against the rehabilitation processes required to get the rivers flowing again.

This is the biggest challenge Mr. Anyona and his colleagues face.

2.4 Protection needs and Risks faced by EHRDs: Building Resilience and Capacity on Environmental Rights:

The session was led by Susan Muriungi from Protection International (PI). Ms. Muriungi's presentation focused on the work of Protection International and the role of the organization in offering protection to human rights defenders engaged in civil and political rights as well as those engaged in economic, social and cultural rights. She urged EHRDs to form

protection networks which are collective efforts between the community and organizations to respond to risks and repression faced by EHRDs in their line of work. This would ensure that EHRDs in rural communities would also be protected. She gave an example of the role played by PI-Kenya in 2016 when they supported Malindi Rights Forum to call for the release of Joel Ogada, a human rights defender who resisted the eviction carried out by Kurawa Salt Company.

Ms. Muriungi finished her presentation by urging CECs to shift focus in the policy debate when advocating for protection by addressing the root causes of the aggressions against EHRDs such as impunity. He also stated that it was important that CECs legitimize the work of EHRDs as this will offer another layer of protection.

2.5 Solidarity Networks for EHRDs Protection and Support

This session was led by Kelsey Alford-Jones from the Land and Environmental Defenders Coalition (LED Coalition). Ms. Jones talked about the importance of building solidarity networks not only in Kenya but at the regional and international levels as this puts more pressure on government who respond differently to external, political and financial pressure. International attention and campaigns also provide a layer of protection to defenders who are at risk because the effect of any harm is likely to gather as much international attention.

Some of the ways in which EHRDs can achieve this international support is through:

- Raising profile of environmental issues through international media
- Advocacy with foreign governments, Embassies and other financiers such as the World Bank
- Engagement at international forums. This can be done with the financial support of local and international donors

Ms. Jones also stated that protection starts with prevention and so it is also important for risk assessment and safety protocols to be in place. This involves having a database of what support can be achieved from who. With this in place, response is more direct and effective. She also urged the participants to be mindful of response measures such as use of social media to denounce attacks and to adopt digital and physical security measures which can go a long way in protecting activists.

During Ms. Jones' session, participants had short group discussions on some of the threats they have faced and the challenges they have faced in seeking protection. Some of the issues that came up include:

- Many of the participants agreed that the best form of support is that from the community members. However, for this to be present, members must be informed on environmental issues at hand. Otherwise where this understanding is lacking they are likely to believe the government narrative which is always false. This puts the EHRDA at risk even more. Best example was the support given to Phyllis with the Owino Uhuru Case.
- Sometimes protection is also required for members of NEMA or government officials who are activists in their own way. An example was given of a NEMA official in

Kibarani who was being threatened for standing up for environmental rights. In Kisii, NEMA officials face criticism from the community for their efforts in stopping the pollution of rivers in the county and demolition of illegal constructions along riparian land.

- EHRDs need to also build their capacity to be able to adopt their own protection measures. This includes being able to meet financial costs of hiring lawyers when needed.
- The EHRDs need to conduct a stakeholders mapping in their regions on available support and ways in which this support can be received.
- For protection, EHRDs need to consider more dialogue with their opponents as opposed to fighting them all the time.
- EHRDs need to fully explore the use of mainstream and social media as a tool of protection. This is especially useful when dealing with high profile politicians.

2.6 Digital Security Protection for EHRDs

This session was led by Fidelis Mudimu of Frontline Defenders who took the team through important tips that can be adopted to enhance security.

These included:

- The use of passwords as phone locks as opposed to finger print, pattern lock security and face recognition
- Deactivation of location services on mobile phones particularly when not in use
- Regular software updates on mobile devices as these enhance security
- Regular monitoring of mobile applications downloaded. This will detect any new/strange apps that may be security risks
- Use of more secure apps such as signal instead of WhatsApp.
- Being mindful of information posted on social media especially where it is likely to put other people at risk.

This session was very interactive and very educative but due to time it had to be concluded as it had already surpassed its time. The EHRDs requested if a separate training on digital security could be organized and CJGEA promised to look into their request and if possible it will hold one depending on whether they will get donor funding to fulfill the same.

2.7 The Use of International Human Rights Mechanisms as Protection Mechanisms

This session was led by Marcella Favretto, Senior Human Rights Adviser, OHCHR. The session was aimed at strengthening EHRDs knowledge on the UN Mechanisms: The Treaty Bodies, The UN Special Procedures and the Universal Periodic Review Process. She stated that states ratify international treaties to commit and comply with the international standards. This offers citizens a double layer of protection. Especially where you find the laws at home are not aligned to the international standards. Ms. Favretto explained to the EHRDs that they can advance advocacy by reaching out to the UN thematic procedures to address any environmental issues they are facing. Any response from the thematic procedures helps to build alliances, legitimacy and to provide historical records.

She touched on the Country visit that was conducted by the UN Working group on Business and Human Rights visit which happened in June 2018 and the report which will be presented before the Human Rights Council in June 2019. The report touches on the Owino Uhuru Lead Poisoning case, Solai Dam breach, Turkana Oil Exploitation and other environmental impact assessments.

Ms. Favretto also spoke about the Universal Periodic Review which happens every five years and is very crucial for civil society organizations to create awareness and conduct advocacy on human rights issues they'd like to bring to the attention of the UN and other human rights bodies. She explained how CSOs can prepare reports, take part in the sessions, strategies on how to raise sensitive issues if there's fear of reprisals, strategic partnerships in submissions and lastly what to expect after submission of reports.

After the presentation above, it was agreed that the EHRDs would submit a joint report that would cover the following thematic areas.

- Business and Human Rights: Plastic pollution and recycling in Kenya
- Access to Information: e.g. the land and environmental injustice that is ongoing at Athi River Mining Company and the gazettment of the renewed license of the industry despite complaints from the community.
- Environmental pollution: Owino Uhuru lead poisoning case
- Public participation
- Toxic waste: Athi River and Kajiado.
- Coal mining in Lamu – Violations of right to life, no public engagement, arbitrary arrests and intimidation.
- Indigenous Peoples Rights – failure to implement the decisions on the Ogiek case
- Right to water: interference with the livelihood of the people of Turkana and others who live around Lake Turkana
- Displacement: Identification of the LAPSET corridor without community consultation.
- Protection of EHRDs
- Civic space. Threat of deregistration, delay in gazettment of PBO Act

In order for the UPR submission to pass the committee stage, it was agreed that the partner organizations would lobby international states to support the submission. Phyllis of CJGEA would lobby Finland; Kelsey of the LED coalition would lobby Washington DC with US state department or Embassies; Susan from PI would lobby the Belgian embassy; NHRCD-K would lobby EU working group on HRDs; others would lobby Norway, US etc.

The day ended with a brief review of the day conducted by Tom Bicko of CJGEA.

3.0 Recap of day two

This was the third and the final day of the workshop. It started with a review of the previous day which was day two. Some of the stories that people identified were interesting included the Ogiek story, technology/digital security session, UN system helped create response to

several environmental issues and more about Lamu and how UNESCO heritage site is being infringed into currently.

3.1 EHRD Break out session on accessing resources

In this session, the participants broke out into groups, discussed and made presentations on the following the following three questions.

1. Who are the key actors in EHRD protection?

Those listed included OHCHR, Donors, Legislators, Law Enforcement Agents, The Judiciary, Media, The Ombudsman's Office (CAJ), KNCHR, Coalitions of EHRDs, NEMA, International NGOs and local NGOs and the Community

2. How can EHRDs influence conversations on environmental rights?

They noted that this can be done through local baraza meetings; social media campaigns and one on one dialogue/lobbying meetings with politicians, NEMA or other state officers with decision making power on environmental issues

3. What measures can be adopted to increase resources and support EHRDs?

This is possible through networking and building of alliances, undertaking of joint activities by EHRDs, creating visibility on work and impact made by EHRDs, partnerships with research institutions, support from well-wishers and philanthropists.

3.2 National Protection and Support Systems for EHRDs

This session touched on the role of the National Coalition of Human Rights Defenders Kenya (NCHRD-K) in national protection and the kind of support provided by the Coalition.

The NCHRD-K clarified that they only offer protection to HRDs at risk and not to members of the community. The support offered include psychosocial support, medical support, legal support and where necessary relocation. Relocations are the highest form of protection and are only offered where there are no other options or where it is a high-risk issue.

NCHRD-K informed the participants that it was working closely with KNCHR to develop a policy for the protection of human rights defenders in Kenya. This will cover the risks and vulnerabilities faced by HRDs.

Once cases are received they are verified and either acted upon or forwarded to partners like KNCHR and the Witness Protection Agency. All cases are assessed on an individual basis.

It was also noted that the NCHRD-K has an annual award system for the most outstanding and courageous Human Rights Defender of the year and that last year in the 2018 awards two EHRDs were awarded. She also acknowledged that they have worked with organizations like CJGEA and Ms. Phyllis Omido.

Lastly she expressed that as NCKRD-K they have conducted Capacity building trainings and currently they are introducing the concept of Business and Human Rights so as to infuse the two and promote environmental sustainability as business greatly affects the environment.

3.3 Conclusion

At around 4.00 p.m. on Friday the 14th of June the workshop was coming to an end and the final speeches were given. What arose from those speeches were the following comments that the participants were told to reflect on.

3.3.1 Comments for reflection at conclusion:

- Appreciated flexibility.
- Put voices of voiceless first.
- From COG: “listening is a journey of resilience fight for your space, if you need something it is your right, you need to lobby for it. Keep lobbying for it.”
- From NEMA, Alexander: Urged EHRDs to coordinate with them as they can provide information. He expressed that some of them were actually activists in government. Their mission in Kisii County as stated by him is to see a clean and safe environment for all and on this, he promised not to betray us as some of the EHRDs always think the government does.

The session on speeches marked the end of the sessions and it was agreed that the EHRDs will work together towards a joint submission report to the upcoming UPR session. Organizations interested in submitting individual reports were also encouraged to do so as there are no limitations to this.

The participants were asked to help fill in the evaluation forms for the workshop and thereafter they were thanked and presented with certificates by Ms. Phyllis Omido the Executive Director CJGEA for their active participation in the workshop after which the gathering was closed with a word of prayer and singing of the National Anthem.

4.0 Outcomes of the workshop

- Improved the understanding of EHRDs on joint needs, threats and emergency and non-emergency supports that exist at the national and international level.
- Improved and strengthened the network of EHRDs in Kenya and their capacities to take action jointly on advocacy.
- Ensured agreement for EHRDs to engage in County Environmental Committees at each county level and bring in views and ideas on the strategic County planning initiatives with an objective to enhance environmental governance monitoring.
- Enhanced appreciation and recognition of the work and role of EHRDs by county officials.
- The EHRDs agreed to submit a joint UPR submission at the end of the workshop.
- The participants of the workshop jointly released a press statement concerning the implementation of CECs.
- EHRDs got assurance from the CoG and the government officials in charge of environment like NEMA to look into some of the environmental concerns expressed.
- A workshop report.

5.0 PICTORIALS

