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# **ENHANCING THE LEGAL ENVIRONMENT FOR AN EFFECTIVE HIV RESPONSE IN KENYA**

**2014-2017**

**PROJECT DOCUMENT**

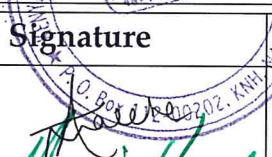
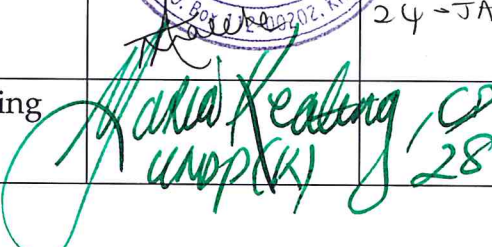
<b>Project Title</b>	Enhancing the Legal Environment for an Effective HIV Response in Kenya
<b>UNDAF Outcome</b>	Evidence Informed and Harmonized National HIV Response is Delivering Significant Reduction in New Infections, Scaled Up Treatment, Care, Support and Effective Impact Mitigation
<b>Expected CO Outcomes</b>	Poverty Reduction and Achievement of MDGS
<b>Expected Output</b>	Strengthened Frameworks in Place for Protection of Human Rights in the Context of HIV and AIDS
<b>Implementing Partner</b>	KELIN
<b>Responsible Parties</b>	KELIN/UNDP

### Brief Description

The legal environment, law enforcement and justice systems have an immense potential to better the lives of people living with HIV (PLHIV). The law and its institutions can protect the dignity of PLHIV, and in so doing fortify those most vulnerable to HIV. The law can open doors when these people's rights are trampled. The above project seeks to achieve **four outcomes**: 1 empowerment of communities to influence laws and policies and to access justice 2. Law enforcement. 3. Law reform. 4. Institutional capacity strengthening. **Project outputs include**; 1. capacities of infected and affected communities on their rights as well as to influence laws and policies strengthened 2. Capacities of legal professionals to address HIV through quality services strengthened 3. Provision of legal aid and litigation 4. Capacities of judicial officers to address HIV through quality judgements improved 5. Capacities of law enforcement officers on HIV, human rights and the law strengthened 6. Dialogue forums conducted at regional, national and county levels 7. Advocacy materials produced and disseminated on law reforms 8. Capacities of the media on HIV, Human Rights and the Law strengthened 9. Best practices on HIV, Human Rights and the law produced. **A number of activities** are proposed to contribute to each of the outputs: some of these include; training and capacity building of the identified constituencies, development of advocacy materials, research, media forums, county, national and regional dialogues, legal aid clinics, litigation, and publication of documents, among others.

2014 AWP budget:	500,000 USD
Total resources required	2,700,000 USD
Total allocated resources (2014):	
• Regular	<u>80,000 USD</u>
• Other:	
o RSC	<u>100,000</u>
o KELIN	<u>20,000</u>
o Donor	_____
o Government	_____
Unfunded budget:	<u>300,000</u>
In-kind Contributions	

CPAP Period (2009-2013) & (2014-2018):
Atlas Award ID: 00078953
Project ID: 00089083
Start date: 2014
End Date 2017
PAC Meeting Date: 10 <sup>th</sup> Dec 2013
Management Arrangements: NGO EXEC

Institution	Signatory	Signature	Date
KELIN	Allan Maleche Executive Director		24 - JANUARY - 2014
UNDP	Maria-Threase Keating Country Director		28 Jan 2014

## **Acronyms**

<b>AIDS</b>	Acquired Immuno-Deficiency Syndrome
<b>HIV</b>	Human Immuno-deficiency Virus
<b>IDU</b>	Injecting Drug User
<b>ILO</b>	International Labour Organization
<b>Key Populations</b>	Populations disproportionately impacted by HIV
<b>KTN</b>	Kenya Television Network
<b>MSM</b>	Men Having Sex with Men
<b>NACC</b>	National AIDS Control Council
<b>NASCOP</b>	Kenya National AIDS and STI Control Programme
<b>NEPHAK</b>	National Empowerment Network for PLHIV in Kenya
<b>NGO</b>	Non-Governmental Organization
<b>PLHIV</b>	Persons Living with HIV
<b>PWP</b>	Persons with Disability
<b>TB</b>	Tuberculosis
<b>UNAIDS</b>	United Nations Joint Programme on HIV & AIDS
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UNDAF</b>	United Nations Development Assistance Framework
<b>UNDP</b>	United Nations Development Programme

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### 1.1 Situation

According to the UNAIDS 2011 global report at least 34 million people are living with HIV, 7,400 are newly infected daily and 1.8 million died in 2010 alone. According to the preliminary report of Kenya AIDS Indicator Survey (KAIS, 2012),<sup>1</sup> the prevalence rate is at 5.5 %. Approximately 1.2 million Kenyans are infected with HIV. Kenya's epidemic disproportionately affects women, who account for 59.1% of adults living with the virus. Among people between 15 and 49 years, HIV prevalence among women (8.0%) is nearly twice that among men (4.3%) (Kenya National Bureau of Statistics, 2010). Since the epidemic began, HIV has claimed the lives of at least 1.7 million people in Kenya. The Kenyan epidemic is the fourth highest in the world in terms of the number of persons living with HIV after South Africa (5.6 million), Nigeria (3.3 million), India (2.6 million) and Kenya (1.2 million) as at the year 2012.

The recently published HIV county profiles published by the Ministry of Health with support from UNAIDS, reveal that out of the 47 counties, nine are contributing to more than half of the new HIV infections in the country. The nine high incidence counties identified are Nairobi, Homa Bay, Kisumu, Siaya, Migori, Mombasa, Turkana, Busia and Kisii. The county of Nairobi, which ranks last, in the county HIV profiling has approximately 199,100 persons living with HIV and recorded at least 13,510 new HIV infections and 639 new TB cases in the year 2011 only. The HIV prevalence in this county is 8.6%, against the national prevalence of 6.2. The report further reveals that different factors drive the epidemic in the counties, with the prevalence in Malindi and Mombasa counties largely driven by members of key populations. One overarching factor however is that in a majority of the counties, the women are more vulnerable to HIV infections, largely occasioned by their biological anatomy, cultural practices, lack of empowerment and respect for human rights.

Understanding the rate and distribution of new HIV infections is critical to effective HIV prevention planning. According to Kenya's first-ever study to estimate infections by modes of transmission, new infections derive from the following sources (Gelmon et al., 2009):<sup>2</sup>

- Heterosexual sex within a union or regular partnership (44.1%);
- Casual heterosexual sex (20.3%);
- Sex workers and clients (14.1%);
- Men who have sex with men and prisons (15.2%);
- Injecting drug use (3.8%)
- Health facility related (2.5%).

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<sup>1</sup> NACC & NASCOP, KAIS, 2012

<sup>2</sup> Gelmon et al, Modes of Transmission Study, 2009

## 1.2 Response

Kenya's response to HIV is currently guided by two documents: Vision 2030 and the second Medium Term Plan 2013-2018. Vision 2030 outlines the country's goal to become a globally competitive and prosperous nation with a high quality of life by 2030<sup>3</sup>. The Medium Term Plan outlines national indicators and targets for HIV. In addition, the Kenya National AIDS Strategic Plan for 2009/10–2012/13 (KNASP III)<sup>4</sup> provides guidance on how to implement the national response and reach agreed-upon targets. KNASP III is organized around four primary delivery mechanisms, namely: integrated health sector HIV service delivery, sectoral mainstreaming of HIV, community-based HIV response and governance and strategic information.

KNASP III is implemented on the backdrop of a progressive constitution with an expanded bill of rights that recognises socio-economic rights, and outlaws discrimination on the basis of one's HIV status. There also exists the HIV & AIDS Prevention and Control Act 2006, which largely compliments the provisions of the Constitution.

Coordinated by the National AIDS Control Council (NACC), the HIV response builds on a robust engagement of civil society and people living with HIV. The National AIDS and STI Control Programme (NAS COP) administer the bulk of HIV related services in Kenya. The country has developed a series of performance indicators to drive progress and promote accountability in the response.

The National AIDS Control Council is in the process of developing the Kenya National AIDS Strategic Plan IV that will run from 2014 -2017.

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## 2.0 PROBLEM ANALYSIS

### 2.1 Key Problem Issue 1. Stigma and Discrimination

Despite progress that has been made in the national HIV response in practice, rights continue to be violated and there is little meaningful participation of those who are infected and affected. Characterized by, lack of access to life-prolonging treatment and little if any legal recourse to address such injustices that threaten their lives and the family and community members who care for them . Pervasive stigma and discrimination continue to surround PLHIV especially women with HIV and key populations such as men who have sex with men (MSM), injecting drug users (IDUs) and sex workers (SW).. Furthermore, the un-equal social status of women and the social marginalization of vulnerable groups make it difficult to break the silence surrounding their lives and generally address behaviours that place all people at risk. In a nutshell discriminatory practices including job loss, property disinheritance, home eviction, school expulsion and child abandonment have marked the human rights violations PLHIV have faced in Kenya.

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<sup>3</sup> Kenya Vision 2030

<sup>4</sup> Kenya National AIDS Strategic Plan III

## **Key Problem Issue no. 2: Access to Justice**

People living with HIV often do not know about their rights, or how to claim them through the legal system. Furthermore a majority of Kenyans do not have access to the formal and informal justice systems. The government is yet to actualise the provision on legal aid services in light of Article 48 of the Constitution that obligates it to provide access to justice to all citizens. Legislation required for the enforcement of Article 43 of the Constitution, which is the enabling provision for the enjoyment of socio- economic rights has not been enacted. The same is still in draft form. Few cases related to HIV have come before Kenyan courts and the country has very limited jurisprudence on issues around HIV and human rights yet the country has the most progressive articles in the bill rights in the Constitution. In the absence of a fully functional national legal aid program, most low cost legal services fall to specialized non-governmental organizations that are largely funded by donors. These organisations are not able to reach everyone that requires their services. The HIV tribunal which is a court that was specifically set up to address the issue of violation of the rights of PLHIV remains under-utilized. Where cases have been presented to the Judiciary, on matters relating to the rights of the PLHIV, the courts have always upheld these rights, only in few situations

## **Key Problem Issue no 3: Orphans and Vulnerable Children as well as a Generation of Youth Born with HIV**

Children and youth who lose their parents due to HIV have the most to lose from HIV: they are far more likely to become poor or homeless, drop out of school, face discrimination and violence, see their opportunities dwindle, and grow ill and die long before their time. Their legal problems are many and complex and include, expulsion from school on the basis of their HIV status, denial to inherit parent property, denial of access to health services, particularly those relating to sexual health, inability to obtain birth certificates and other crucial identity documents. Furthermore, a generation of youth born with HIV presents another challenge to the HIV response. They face stigma in educational institutions and are faced with issues of sexual reproductive health needs and rights.

## **Key Problem Issue 4: Punitive Law Enforcement Approaches - Ineffectiveness of the Legal Sector**

Police harassment of sex workers, people who use drugs, transgender people and MSM continues unabated and is always a significant barrier to effective, peer –based HIV responses. Such actions increase stigma and alienate these populations, with the result that they are more difficult to reach with HIV services. Key populations may be reluctant to present for testing or to identify themselves to providers of HIV services for fear of discrimination, or that their identify will be disclosed to police or media.



Fear of arrests, harassment by police, discrimination and stigma contribute to low self-esteem and social marginalization. Low self-esteem is often associated with behaviors that increase risk for HIV. People with low self-esteem may fail to protect themselves or their partners from HIV, and avoid identifying themselves to services.

### **Key Problem Issue 5: Greater Alignment of Law (Legal Provisions) and Health Ministry HIV Responses**

The HIV response of the legal sector has often lagged behind that of the health sector with science moving much faster than the law. Greater coordination between law and the health stakeholders is required to ensure the legal sector response complements and supports the health sector response as defined by the national HIV and AIDS strategy. The differences in legal and health policy provisions act as a barrier to ensure access to HIV services for all. Legal institutions and professionals can provide leadership by supporting efforts of the judiciary, prosecutors and the police to create human rights – based legal frameworks for effective national HIV responses.

### **Key Problem Issue 6: Punitive Laws that Hinder Access and Provision of HIV Services**

Despite the existence of a progressive legal framework and judiciary, the country still has some old punitive laws that hinder the access and provision of HIV services to key and affected populations, specifically, sexworkers, men who have sex with men and intravenous drug users. Some of these laws include the Narcotic Drugs and Psychotropic Substances (Control) Act, 1994, which has largely been used to arrest persons found in possession of needles and syringes as evidence of possession and use of drugs. The provisions of the Penal Code and the county bylaws in Mombasa and Nairobi have been used by law enforcement officers to arrest and harass sex workers as was documented in a study done by FIDA<sup>5</sup>. A different picture is, however, told of the policy situation on provisions of health services of key affected populations. The Ministry of Health has developed HIV guidelines for provision of services to sex workers<sup>6</sup> and injecting drug users<sup>7</sup>. The government has commenced and continues to roll out a needle and syringe exchange programme in the counties of Kilifi and Mombasa. A conflict thus exists between the Constitution, the laws, and the policies: with the Constitution and policies guaranteeing access to services for the key populations, under Article 43(1) a and Article 27(4) while the old penal laws are being utilized to arrest and harass those members of the key affected populations who are accessing these services, which are useful to help prevent the spread of HIV to others and realize their right to health.

The question of criminalisation of deliberate transmission of HIV, equally poses a challenge to epidemic with the existence of such provisions at Section 24 of the HIV &

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<sup>5</sup> The study report is available at <http://kelinkenyana.org/wp-content/uploads/2010/10/Documenting-Human-Rights-Violations-of-Sex-Workers.pdf>

<sup>6</sup> The Guideline is available at <http://nascop.or.ke/library/Marps/Sex%20Worker%20Guidelines.pdf>

<sup>7</sup> The guideline is available at <http://nascop.or.ke/library/Marps/MAT%20Book-SOP-Medical%20Assisted%20Therapy.pdf>



AIDS Prevention and Control Act and Section 26 of the Sexual Offences Act, though there is a pending court case that is challenging the constitutionality of the provisions of Section 24 HIV & AIDS Prevention and Control Act 2006.

Furthermore, access to treatment and other HIV commodities has continuously been threatened by on and off laws whose aim is to derail the overall goal of HIV treatment. These include the Anti-counterfeit Act, Value Added Tax Act and the Railway Import Levy introduced under the Finance Act 2013. There is need to challenge the existence of these laws to have them repealed or amended.

### **Key problem Issue 7: Generation of Strategic Information and Documentation**

There has been limited documentation of the strides and efforts being made in response to HIV, human rights and the law. Yet generation of strategic information and building solid evidence would be a key tool in enabling the legal environment for effective HIV and AIDS responses.

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## **3.0 JUSTIFICATION**

Over three decades of experience in addressing the HIV epidemic has confirmed that the promotion of human rights constitutes an essential component in preventing the transmission of HIV and reducing the impact of HIV and AIDS as articulated in the following international and regional instruments:

- The United Nations General Assembly (UNGASS) Declaration of Commitment on HIV and AIDS 2001;
- The United Nations General Assembly (UNGASS) Declaration of Commitment on HIV and AIDS 2006;
- The High Level meeting in June 2011 that led to the adoption of The Political Declaration on HIV & AIDS 2011; “Intensifying our Efforts to Eliminate HIV”;
- the Paris Principles on Greater involvement of Persons Living with HIV and AIDS (GIPA) 1994; the UNAIDS strategy 2011 – 2015;
- The Abuja Declaration on HIV, TB and other opportunistic infections 2001; Pillar number 3 of the African Union road map –

All these underscore the centrality of human rights in national responses to HIV. They are evidence of the realization that human rights must be protected if governments are to achieve concrete, time bound targets and overcome HIV.

The recent findings of the Global Commission on Law and HIV, in their report entitled “Risks, Rights and Health,” indicate that the legal environment can play a powerful role in the well-being of people living with, and those vulnerable to, HIV. Good laws, fully resourced and rigorously enforced, can widen access to prevention and health care services, improve the quality of treatment, enhance social support for people affected by

the epidemic, and protect human rights that are vital to survival, and save the public money. The commission calls upon countries to improve their efforts and enhance the legal environment in the following areas among others; empowerment of communities to influence laws and policies and to access the legal system, law enforcement as well as law reform. The Commission further calls upon civil society organisations to educate people about the law and human rights in an effort to combat stigma and discrimination. The Commission's report also advocates for the adaptation of traditional legal systems to promote equality for women and their children, and recruitment of respected community members to mediate inheritance disputes between widows and their in-laws.

The promulgation of the new Constitution on the 27<sup>th</sup> of August 2010 provided a new milestone in the field of HIV. Being the supreme law in the Country, the Constitution sets standards that all other laws and policies must conform with. Article 27 has made clear provisions that outlaw discrimination on the basis of one's health status. The Constitution has also made provision for a more expansive and progressive bill of rights that can be relied on by persons living with and affected by HIV. The Constitution provides for reliance on provisions of treaties that Kenya has ratified, and it outlaws all customary practices that contravene the provisions of the Bill of Rights. The Constitution of Kenya 2010 provides for the right to the highest attainable standards of health for everyone in Article 43(1) a. It has also brought about key changes, including the introduction of devolved governance. It is a system that is aimed at giving powers of self-governance to the people; enhance participation of the people in the exercise of the powers and their involvement in making decisions that affect them. This is done while taking into account the principles of equity and equality. However, HIV remains one of the issues that will be managed both at the national level, in terms of laws and policies, and service delivery at the county level. The provisions of the Constitution in relation to human rights, give backing to a majority of the provisions of the HIV & AIDS Prevention and Control Act (HAPCA) 2006 which is a key piece of legislation that provides an enabling legal environment to address HIV related human rights violations. The HAPCA 2006 creates an HIV and Equity tribunal that seeks to address human rights of persons living with HIV in the context of the provisions of the Act.

Although Kenya boasts a vibrant national HIV response, the programme addressing HIV, Law and Human Rights has not received adequate attention. Furthermore, there exist gaps in knowledge between the law implementers, enforcers and affected communities even where appropriate legal provisions are available to protect their rights.

The findings of a study undertaken by KELIN, UNDP, NEPHAK, the National AIDS Control Council and the Kenya AIDS NGO Consortium in 2012, entitled "Documenting the human rights violations of persons living with HIV<sup>8</sup>" found that human rights violations and discrimination against PLHIV occur in the family, community, workplace, schools, and in prisons. The family is the context within which most human rights violations occur: health and medical centres routinely fail to recognize the right to privacy of PLHIV. The study found that though there is awareness of legal institutions and

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<sup>8</sup> Report is available at <http://kelinkenya.org/wp-content/uploads/2010/10/Human-Violation-book-final.pdf>

instruments dealing with rights violations and HIV issues, the awareness is not accompanied by knowledge on their provisions or functions. The study further found that a majority of PLHIV fail to report cases of human rights violations because they do not believe that proper action will be taken, and that there is poor awareness of the channels of redress when individual's rights are violated.

The project seeks to address the legal and human rights gaps identified above. By so doing the project will contribute to an enhanced legal and human rights environment for an effective HIV response in Kenya.

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## 4.0 PROJECT COMPONENTS

The project aims to achieve the following outcomes:

1. Outcome area 1: Access to Justice
2. Outcome area 2: Law enforcement
3. Outcome area 3: Law reform
4. Outcome area 4: Institutional strengthening

These outcome areas and the corresponding component and project outputs are described further below.

### 4.1 Outcome Area 1: Access to Justice and Redress

This outcome area seeks to ensure that people living with and affected by HIV including members of key populations are empowered to seek and demand remedies from the justice system. This will lead to improved access to prevention, treatment, care and support and in the long term contribute to the major goal of improved quality of life for people who are infected and affected with HIV. Outputs under this outcome area include;

**Output 1:** Capacities of infected and affected communities on their rights as well as to influence laws and policies strengthened

**Output 2:** Capacities healthcare workers on their rights as well as to influence laws and policies strengthened

**Output 3:** Capacities of legal professionals to address HIV through high quality services improved

**Output 4:** Infected and affected communities provided with accurate advice and quality legal services

**Output 5:** Capacities of Judicial officers to address HIV through high quality judgements improved

When conducting trainings for infected and affected communities, efforts will be taken into account to ensure selection and participation of various groups such as female sexworkers, female injecting drug users, persons living with disability, men who have sex

with men and other members of key population. A balance between men and women will also be taken into account when selecting participants. Outputs 1- 4 will be done at the county levels while output 5 will be implemented at a national level and in partnership with the Judiciary training institute.

#### **4.2 Outcome Area 2: Law Enforcement**

This outcome area seeks to ensure that law enforcement officers are sensitized on HIV and human rights, and their role in creating an enabling environment for prevention, care, support and treatment for infected and affected communities. This in the long term will see infected and affected communities, particularly members of key and affected populations, enjoying improved quality of life, and are better able to claim their rights including access to prevention, treatment, care and support.

Output 1. Law enforcement officers have increased awareness of HIV and human rights and their role in creating an enabling legal environment

KELIN will build up from its already existing relationship with the Kenya Police Service and The Prisons Department based on a previous regional training. KELIN will work with partners from the police and prison academies to ensure that the human rights topics are part of their training modules.

#### **4.3 Outcome Area 3: Law Reform**

Punitive laws that undermine HIV responses should be repealed. Laws promoting gender equality and providing protection from gender based violence, discrimination and human rights violations should be enacted. In a country such as Kenya, law reforms to enable harm reduction services to operate effectively for people who inject drugs and to decriminalise drug use and sex between men may not be feasible in the short term due to religious and political factors. In advance and in addition to law reform, this project will seek to negotiate pragmatic solutions at the operational level by working in partnership with community leaders, religious leaders, police and media through the following outputs:

Output 1: Dialogue forums conducted at regional, national and county levels with all key stakeholders.

Output 2: Advocacy materials produced and disseminated.

Output 3: Media exposure of HIV related human rights abuses.

Output 4: Documentation of best practices and experiences within the Kenyan context on use of provisions of the law to create an enabling environment.

#### **4.4 Outcome Area 4: KELIN's Institutional Capacity Strengthened**

This outcome area seeks to ensure that KELIN as an organization is effective, efficient, professional and accountable to deliver on its mandate through the following outputs;

Output 1: Reviewed and updated governance documents under implementation

Output 2: Adequate staffed and skilled human resource effectively delivering on its programmes recruited.

Output 3: Partnerships with like minded organisations, in the public, private and civil society sector, to contribute more effectively to the response created.

### **Counties of Operation**

This project will be implemented in nine counties, over a period of four years. The counties have been chosen based on their high burden of HIV, number of incidences of new infections, the information around human rights violations based on the study conducted by KELIN <http://kelinkenya.org/wp-content/uploads/2010/10/Human-Violation-book-final.pdf> and building up on the work of KELIN and UNPD with the support of the Regional Service Center. The counties are as follows: Isiolo, Kakamega, Kilifi, Kisii, Machakos, Meru, Muranga, Nairobi and Nyeri. In the case of activities that focus on national level reform, additional representatives from other counties will be selected to participate at the national level to beef up the discussions. The representative counties to participate at the national level will include Busia, Homabay, Kisumu, Mombasa, Nakuru and Uasin Gishu.

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## **5.0 KELIN'S NICHE AND PREVIOUS INTERVENTIONS**

KELIN is a human rights NGO working to protect and promote HIV-related human rights in Kenya. KELIN does this by providing legal services and support, training professionals on human rights, engaging in advocacy campaigns that promote awareness of human rights issues, conducting research and influencing policy that promotes evidence-based change. KELIN's core mandate is to ensure the promotion and protection of HIV related human rights

It is against this background that KELIN has been partnering with like-minded organisations to educate people living with HIV or their rights with the parallel effort to strengthen the capacities of those mandated to promote and enforce these rights. Currently, KELIN, with support from UNDP Kenya, has conducted successful training sessions on HIV, law and human rights for lawyers and health workers. The trained lawyers are now a part of the pool of KELIN's pro bono lawyers who provide legal services to PLHIV while the trained health workers are expected to observe and champion the rights of PLHIV in the sector. Furthermore KELIN has, successfully engaged the Justice sector, particularly the judges and magistrates, through a judicial dialogue, which was held in October 2013.

A successful regional training for law enforcement officers on sensitisation sessions on HIV and human rights was successfully concluded in June 2013. The trained partners, lawyers, healthcare workers and law enforcement officers have been involved in at least three community dialogues in Mombasa, Kilifi and Kisumu counties to discuss issues affecting PLHIV and concerns on access to justice as well as areas for collaboration between the communities and duty bearer. These dialogue forums have provided a useful platform where matters of HIV and the law have been openly discussed. KELIN hopes to build up on the gains made so far from these activities. The counties that KELIN proposes to work in are informed by the findings of this study and the prevailing HIV prevalence.

A research undertaken by the UNAIDS & IDLO on scaling up HIV related legal services found that KELIN's Cultural Structures Project demonstrates an effective approach whereby cultural processes are harnessed to resolve disputes in a manner that promotes human rights, while disregarding those aspects of traditional culture that are inconsistent with human rights and which contribute to HIV risk and vulnerability. The approach has succeeded in identifying positive aspects of Luo culture that can be used to strengthen women's ability to claim their rights to own and inherit land. The full report is available at <http://kelinkenya.org/wp-content/uploads/2010/10/100901-HIV-Legal-Services-Case-Studies-IDLO-UNAIDS2.pdf>

The partnership between KELIN, UNDP, UNAIDS and NACC has taught us five key lessons that we find to be important to build onto this project and the proposed objectives and activities. The key five lessons are:

- a) There is need to provide education and information to right holders on what their rights are, how they can claim and enjoy them and be involved in formulation of laws and policies that affect them, while providing similar information to duty bearers to be cognisant of what is expected of them in the upholding of the rights that are provided by the law.
- b) There is need to provide a forum at the national and county level that allows all the stakeholders to interact and have candid dialogue on the key HIV and human rights issues affecting them, and form locally owned solutions to them.
- c) The need to link persons living with HIV to pro bono legal services and interventions remains critical if they are to ensure that their rights are protected and respected by challenging human rights violations that they face as well as punitive and discriminatory laws that affect their access to health and HIV related services.
- d) The Judiciary remains a key stakeholder to work with as it is the last line of defence in cases where the rights of persons living with and affected by HIV have been violated, particularly so by discriminatory and punitive laws.

- e) When information about human rights is provided to persons living with and affected by HIV and they are linked to trained lawyers who present the cases in a forum where a judge has been sensitized on matters relating to HIV, then a positive outcome is eminent as demonstrated in the recent case of *VMK vs. Catholic University of Eastern Africa, industrial court of Kenya cause number 1161 of 2010*.

## 5.1 Achievements of KELIN

### Litigation and Legal Services

Over 1,500 people who are either living with or affected by HIV and have faced human rights violations, have been served by KELIN during the conduct of legal aid clinics in cooperation with various partners

Some of the cases in which KELIN provided litigation support and legal advice include:

- a) J. A. O. vs. Home Park Caterers & Metropolitan Hospital HCC No. 38 of 2003 Nairobi. KELIN successfully represented a waitress in challenging HIV discrimination in the work place.
- b) P.A.O and 2 others vs. The Attorney General of Kenya Petition N.o 409 of 2009 Nairobi. KELIN provided support to lead cases on this landmark cases that ensured access to generic medicines for people living with HIV.
- c) D.N and 2 others vs. The Attorney General of Kenya Petition N.o 3 of 2010 Eldoret. KELIN secured the release of TB patients who had been jailed in Kapsabet for failing to take their TB medicine. The case is still ongoing.
- d) SMG vs. Republic Misc., CR, APP. NO. of 24 of 2011 HC. EMBU: KELIN secured the release of another TB patient in Eldoret who had been wrongfully jailed for allegedly failing to take his treatment.
- e) VMK vs. Catholic University of Eastern Africa, industrial court of Kenya cause number 1161 of 2010. A case in which a KELIN pro bono lawyer successfully represented a woman living with HIV who had been discriminated at the workplace. She was awarded 6,000,000 as damages.

KELIN through its cultural structures project in the Counties of Homabay and Kisumu has been able to resettle 156 widows and their children back to their matrimonial homes and land.



## **Research and Documentation**

- a) Support towards preparation and development of Sessional paper No. 4 of 1997 on HIV in Kenya. This resulted into the first policy document on HIV that spoke to legal, ethical and human rights issues in Kenya.
- b) Members of the taskforce on legal and ethical issues relating to HIV in Kenya resulting into HIV and AIDS Prevention and Control Bill and finally the Act.

## **Advocacy and Lobbying**

- a) Advocacy and lobbying towards increase in health funding in Kenya, both at the domestic level and international level.
- b) Advocacy and lobbying towards rights of OVC resulting in securing of birth certificates for most vulnerable orphans. Furthermore KELIN submitted recommendations to the National Taskforce on Citizenship with respect to OVCs that influenced the formulation and implementation of changes in laws and policies to accommodate the special circumstances of OVCs.
- c) KELIN has held a number of forums with the Attorney General and the ministers concerned to advocate for the operationalization of the HIV & AIDS Prevention and Control Act 2006. The act was given a commencement date in March 2009.
- d) Advocacy towards the operationalization and the funding of the Equity Tribunal under the HIV & AIDS Prevention and Control Act 2006. The members of the Equity Tribunal were sworn in on the 21st of June 2011 to begin their operations.
- e) KELIN has issued two advisory notes to the government, addressing the effect of the provisions of Section 24 of the HIV & AIDS Prevention and Control Act 2006 and also addressing remarks by a government officer on the need to strip HIV of its special status. This has resulted in the Ministry for State and Special Programmes calling for a roundtable stakeholders meeting to discuss the provisions of Section 24, and consequently reaffirming that HIV still remains a priority in Kenya.
- f) KELIN participated in the sub regional meetings (Eastern and Southern Africa) and the African meetings that were working towards adopting a common African position on the upcoming High Level Meeting (HLM) in New York. This has led to development of a strong African Position Paper that has formed the basis of advocacy at the HLM in New York.
- g) KELIN has equally been a key participant in the discussions leading up to the development of the Country Ownership for a sustainable AIDS response in Kenya. This has led to the development of a country position paper which will be presented to the NACC board and high level government officials.

## 6.0 STAKEHOLDER ANALYSIS AND ROLES

A careful approach and in-depth analysis of those stakeholders who are going to be involved and benefit from this project has been undertaken in different forms. The stakeholders will be involved at the four outcomes levels of the project. The institutions identified below are based on their constitutional and legal mandates and specialised skills within the areas of implementation.

No.	Name	Mandate	Role in project
1	National Empowerment Network of Persons Living with HIV (NEPHAK)	A national network that seeks to promote greater and meaningful involvement of people living with HIV in the national response to HIV & TB	NEPHAK will provide the link to the networks of all the persons living with and affected by HIV who we intend to work with. These will include members of the key and affected populations. KELIN will seek to work with the Kenya Sexworkers Alliance (KESWA), Health Options for young men on HIV/AIDS & STIs and the OMARI and Reach Projects to have links to the key and affected populations.
2	Judiciary Training Institute (JTI)	It has a mandate to offer education and training to staff involved in the administration of Justice	JTI will provide a link to the judges and magistrates and will work in partnership with KELIN & UNDP to conduct the judicial dialogues
3	Law Society of Kenya (LSK)	To advise and assist members of the legal profession, the government and the larger public in all matters relating to the administration of justice in Kenya	LSK will provide a link to registered and licensed lawyer in the counties that the project will be implemented and will work in partnership with KELIN, NEPHAK & UNDP.
4	Commission on Implementation of the Constitution	The mandate of CIC is stipulated in Section 5 (of the same schedule and of The Commission for the Implementation of the Constitution Act, 2010. They have the mandate to monitor, facilitate and oversee the development of legislation	The CIC will be invited to participate in the county dialogues all stakeholders. It will also be lobbied on to incorporate comments / recommendations taken during the dialogues and debates in the bills that it is

	(CIC)	and administrative procedures required to implement this Constitution.	reviewing.
5	The National Gender and Equality Commission	The key functions of the commission include promoting gender and equality and freedom from discrimination principles in accordance with Article 27 of the Constitution and promoting integration of the principles of equality and freedom from discrimination in national and county policies, laws and	The NGEK will help address through joint efforts in ensuring that gender issues are considered and reflected in the laws. It will also be lobbied on to incorporate comments / recommendations taken during the dialogues and debates in the bills that the CIC is reviewing.
6	The Commission on Administration of Justice	The Commission has been given a wide mandate both by the Constitution and the Act, perhaps arising from the pressing need to address the rampant rise in maladministration and promote good governance and efficient public service delivery by enforcing the right to fair administrative action which is a fundamental right under Article 47 of the Constitution	The CIC will be invited to participate in the county dialogues all stakeholders. Cases of human rights violation relating to administration of justice will be forwarded to them for their action within their legal mandate
7	Office of the Attorney General	The Office of the Attorney-General has the overall responsibility of providing legal advice to the Government and its agencies. The Office of the Attorney-General is responsible for ensuring that the Kenya Legal system effectively offers opportunity for the activities of the Public and Private Sector to be carried out within the ambit of the Law.	The Attorney General will be invited to participate in the county dialogues as stakeholders. It will also be lobbied on to incorporate comments / recommendations taken during the dialogues and debates in the bills that the Commission is reviewing
8	The Kenya Police Service	National body in charge of law enforcement in Kenya	The Kenya police service will provide a link to the Police officers that will be trained on the provisions of the law. They will be invited will be invited to participate in the county and National dialogues as stakeholders

9	The Prison's Department	It derives its mandate from the Prisons Act, Borstal Act and Public Service Commission Act. It seeks to contain and keep offenders in safe custody, rehabilitate and reform offenders, facilitate administration of justice and promote prisoners opportunities for social re-integration. The prisons department is obligated to decongest the prisons; non-custodial sentences such as community service are used by courts as alternative to jail terms.	The prisons department will provide a link to the prison commanders, wardens and prisoners, who will be part of the trainings that will take place. The prison officials will be invited to participate in the county and National dialogues as stakeholders
10	The UN joint team	The UN Joint Programme on HIV in Kenya (JP-HIV) provides a platform for UN agencies to work together to support national partners to implement the national HIV response. The JP-HIV is anchored within the UN 'Delivering as one', and is aligned to the 2011 Political Declaration and the KNASP III	The UN joint members will provide technical support and create a platform to ensure all the relevant agencies work together on the relevant technical expertise.
11	The Ministry of Health	The government body mandated to deal with policy issues around HIV Programmes and other Sexually Transmitted Infections (STIs) Treatment and Management.	NACC & NASCOP which fall under this ministry will be key partners in implementation of the project

## 7.0 ANNUAL WORK PLAN

Year 1: January 2014 – December 2014

Expected Outputs	baseline, associated indicators annual targets	Planned Activities List activity results and associate actions	TIME FRAME				Responsible Party	Planned Budget		
			Q1	Q2	Q3	Q4		Funding Source	Budget Description	Amount US\$
<p>Outcome Area 1: Access to justice and redress</p> <p><b>Baseline</b></p> <ul style="list-style-type: none"> <li>Limited knowledge of communities of PLHIV on HIV related laws</li> <li>Limited knowledge of healthcare workers on HIV related laws</li> <li>Limited capacity of legal professionals to address HIV through high quality services</li> <li>Limited access to legal services and quality representation</li> <li>Limited capacities of Judicial officers to address HIV through high quality judgments</li> </ul> <p><b>Indicators</b></p> <ul style="list-style-type: none"> <li>% of trained infected and affected communities who can identify their rights and report violations</li> <li>% of trained lawyers are confident in understanding the needs and rights of infected and affected communities and able to advise on HIV and health related laws</li> <li>% of the sensitized judicial officers reporting improved knowledge on HIV, law and human rights</li> <li>Number of clients provided with advice during legal aid clinics</li> <li>Number of cases under litigation</li> </ul> <p><b>Targets</b></p> <ul style="list-style-type: none"> <li>60 representatives of PLHIV networks from four counties trained on HIV, law and human rights</li> <li>40 healthcare workers from three counties trained on HIV, law and human rights</li> <li>40 lawyers from three counties trained on HIV, law and human rights</li> <li>40 Judicial officers sensitized on HIV, law and human rights</li> <li>Number of clients receiving legal advice during legal aid clinics</li> </ul>								<p><b>Means of Verification</b></p> <ul style="list-style-type: none"> <li>Annual reports</li> <li>Project process reports</li> <li>News items and postings on the websites</li> </ul>		

<p><b>Output 1:</b> Capacities of infected and affected communities on their rights as well as to influence laws and policies strengthened from four counties trained on HIV, law and human rights</p>	<p><b>Baseline:</b> Limited knowledge of communities of PLHIV on HIV related laws</p> <p><b>Indicators:</b> 50% of trained infected and affected communities can identify their rights and report violations</p> <p><b>Targets:</b> 60 representatives of PLHIV networks</p>	<p>Increase awareness and understanding of representatives of infected and affected communities on how to identify and enforce rights through the formal and informal systems</p> <p><b>Action</b> Conduct training session for 60 representatives of PLHIV from three counties</p>	X			KELIN & NEPHAK	UNDP	<p>Consultant hire</p> <p>Venue hire</p> <p>Printing workshop material</p>	99,514
<p><b>Output 2:</b> Capacities of healthcare workers to understand the rights of infected and affected communities strengthened</p>	<p><b>Baseline:</b> Limited knowledge of healthcare workers on HIV related laws</p> <p><b>Indicators:</b> 50% of trained healthcare workers are confident in understanding the needs and rights of infected and affected communities</p> <p><b>Targets:</b> 80 healthcare workers from three counties trained on HIV, law and human rights</p>	<p><b>Strengthen capacities of 40 healthcare workers from four counties on how to identify and enforce rights through the formal and informal systems</b></p> <p><b>Action</b> Conduct training session 40 healthcare workers</p>	X			KELIN, NACC & KMA	UNDP	<p>Consultant hire</p> <p>Venue hire</p> <p>Printing workshop material</p>	72,076
<p><b>Output 3.</b> Capacities of legal</p>	<p><b>Baseline</b> Limited capacity of legal</p>	<p><b>Strengthened capacities of 40 lawyers from four</b></p>	X			KELIN & LSK	UNDP	Consultant	67,400

professionals to address HIV through high quality services improved	professionals address HIV through high quality services <b>Indicators</b> 50% of trained lawyers are confident in understanding the needs and rights of infected and affected communities and able to advise on HIV and health related laws <b>Targets</b> 40 lawyers from three counties trained on HIV, law and human rights	<i>counties on HIV, law and human rights and how to use the law to safeguard the rights of PLHIV</i>  <i>Action</i> <i>Conduct training for 40 lawyers in on HIV, law and human rights</i>						hire Venue hire Printing workshop material	
Output 4. Infected and affected communities provided with accurate advice and quality legal services	<b>Baseline</b> Limited access to legal services and quality representation <b>Indicators</b> Number of clients provided with advice during legal aid clinics Number of cases under litigation At least 50% of trained lawyers mobilized to serve during conduct of legal aid clinics, provide legal representation, and/or prepare wills and other legal documents	<b>Infected and affected communities in four counties have improved access to justice system</b>  <b>Action</b> Conduct two legal aid clinics for infected & affected communities in two counties  <b>Improved access to quality representation</b>  <b>Action</b>		X		KELIN & LSK	UNDP	Hire of tents and chairs Hire of venue Printing material	11,650
			X			KELIN	UNDP	Court filing fees Photocopying of evidence	3,250



	<p>Number of legal documents prepared by pro bono lawyers for clients with HIV</p> <p>At least 1 strategic litigation ongoing</p> <p><b>Targets</b></p> <p>Number of clients provided advice during legal aid clinics by 50% of the trained lawyers</p> <p>Four 4 legal aid clinics conducted in four counties</p> <p>At least 10 cases filed in courts or tribunals</p> <p>At least 10 legal documents prepared by pro bono lawyers for HIV clients</p> <p>At least 1 strategic litigation ongoing</p>	<p>Mobilise trained lawyer to provide legal representation, including court appearances, for at least 10 cases</p> <p><b>Increased access to legal instruments</b></p> <p>Mobilize trained lawyers to assist infected &amp; affected communities in the preparation off at least 10 wills and other legal documents (i.e. managing property, fiancés and care arrangements)</p> <p><b>Improved access to justice by women living with HIV through the alternative dispute mechanism</b></p> <p><b>Action</b></p> <p>Provide support to at least 10 women in accessing alternative dispute mechanism</p>		X	X		KELIN	UNDP	<p>Printing of wills</p> <p>Transport reimbursements</p> <p>Writing material</p> <p>Refreshments</p>	1,125
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		<p><b>Action</b> Provide support to elders in conducting mediation sessions</p> <p><b>Operational /Updated HIV.org website</b> Update HIV.org website on a monthly basis with lawyers cases and names</p>						KELIN	UNDP	Consultant	8,000
Output 5. Capacities of Judicial officers to address HIV through high quality judgements improved	<p><b>Baseline</b> Limited capacities of Judicial officers to address HIV through high quality judgments</p> <p><b>Indicators</b> 50% of the sensitized judicial officers reporting improved knowledge on HIV, law and human rights</p> <p><b>Targets</b> 40 Judicial officers sensitized on HIV, law and human rights</p>	<p><b>Improved understanding of 40 judicial officers in Nairobi s on HIV, law and human rights</b></p> <p><b>Action</b> Conduct judicial dialogue forums for 40 judicial officers</p>					X	KELIN & JTI	UNDP	Consultant hire Venue hire Printing workshop material	50,000

	Expected Outputs	Planned Activities	Time Frame				Responsible Party	Planned Budget		
			Q1	Q2	Q3	Q4		Funding Source	Budget Description	Amount US\$
	And baseline, associated indicators annual targets	List activity results and associate actions								
<p>Outcome Area 2: <i>Law enforcement</i></p> <p><b>Baseline</b>  Limited knowledge on HIV law and human rights  Limited knowledge on using the law to create an enabling environment</p> <p><b>Indicators</b>  % of the trained law enforcement officers are confident in understanding the needs and rights of infected and affected communities and able to advise on HIV and health related laws  % of the sensitized law enforcement officers reporting improved knowledge on HIV, law and human rights</p> <p><b>Targets</b>  26 high level law enforcement officers from four counties sensitized on HIV, law and human rights  40 law enforcement officers sensitized on HIV, law and human rights</p>							<p><b>Means of Verification</b></p> <ul style="list-style-type: none"> <li>• Annual reports</li> <li>• Project process reports</li> <li>• News items and postings on the websites</li> </ul>			
Output 1. Law enforcement officers have increased awareness of HIV and human rights and their role in creating an enabling legal	<p>Baseline</p> <p>Limited knowledge on HIV law and human rights</p> <p>Limited knowledge on using the law to create an enabling environment</p> <p>Indicators</p> <p>50% of the sensitized law</p>	<p><b>Improved understanding of 26 law enforcement officers in four counties HIV, law and human rights</b></p> <p>Action</p>		X	X		KELIN, The Prison's Department & The Kenya Police service	UNDP	Consultants Venue hire Printing workshop material	80,000

environment	<p>enforcement officers are confident in understanding the needs and rights of infected and affected communities and able to advise on HIV and health related laws</p> <p>50% of the sensitized law enforcement officers reporting improved knowledge on HIV, law and human rights</p> <p>Targets</p> <p>26 law enforcement officers from four counties trained on HIV, law and human rights</p> <p>60 law enforcement officers sensitized on HIV, law and human rights</p>	<p>Conduct training session for law enforcement officers</p> <p>Improved understanding of law enforcement officers from Eastern and Southern Africa on using the law to create an enabling environment</p> <p>Action</p> <p>Conduct regional law enforcement dialogue forums for 40 law enforcement officers</p>					KELIN, The Prison's Department & The Kenya Police service	UNDP	<p>Consultant</p> <p>Venue hire</p> <p>Printing workshop material</p>	
<b>Expected Outputs</b>	And baseline, associated indicators annual targets	<b>Planned Activities</b> List activity results and associate actions	<b>Time Frame</b>				<b>Responsible Party</b>	<b>Planned Budget</b>		
			Q1	Q2	Q3	Q4		Funding Source	Budget Description	Amount US\$
	<p>Outcome Area 3: <b>Law reform</b></p> <p><b>Baseline</b></p> <p>Provisions in certain laws are hindering access to HIV and AIDS services eg:1HIV &amp; AIDS Prevention and Control Act 2006 , Sexual Offences Act 26, Penal code, Narcotic drugs and psychotropic substance control</p>						<p><b>Means of Verification</b></p> <ul style="list-style-type: none"> <li>• Annual reports</li> <li>• Project process reports</li> </ul>			

	<p>Limited knowledge, awareness and appreciation of HIV related laws, policies and practices among key and affected population</p> <p><b>Indicators</b></p> <p>No of initiatives supported to address law reform</p> <p><b>Targets</b></p> <p>three community dialogues conducted in four counties</p> <p>One breakfast meeting with representatives of health regulatory bodies and PLHIV</p> <p>A national forum on laws and policies relating to access to service by prisoners and persons in custody</p> <p>IEC materials produced and distributed</p> <p>Measures identified for redressing legal and policy reform at national &amp; county level.</p>				<ul style="list-style-type: none"> <li>News items and postings on the websites</li> </ul>					
<p>Output 1: Dialogue forums conducted at regional, national and county levels with all key stakeholders</p>	<p><b>Baseline</b></p> <p>Limited knowledge, awareness and appreciation of HIV related laws, policies and practices among key and affected population</p> <p><b>Indicators</b></p> <p>Number of key stakeholders participating in community dialogues</p> <p>Number of initiatives undertaken by healthcare workers to promote HIV related rights</p> <p>Issues raised on laws &amp; policies relating to access to services by prisoners &amp; persons in custody</p>	<p><b>Improved appreciation and robust discussion by county officials on laws and policies affecting people who use drugs</b></p> <p><b>Action</b></p> <p>Conduct high-level county dialogue forum for county officials of Kilifi on laws and issues affecting people who use drugs</p> <p><b>Increased knowledge and improved appreciation of HIV related laws and policies in communities</b></p> <p><b>Action</b></p> <p>Conduct 2 one-half dialogue</p>			<p>X</p> <p>X</p>		<p>KELIN &amp; the relevant county assemblies</p>	<p>UNDP</p>	<p>Venue hire, printing material and consultants</p>	<p>21,769</p>

	<p>Targets</p> <p>Four community dialogues conducted in four counties</p> <p>One breakfast meeting with representatives of health regulatory bodies and PLHIV</p> <p>A national forum on laws and policies relating to access to service by prisoners and persons in custody</p>	<p>forums on human rights and HIV in two counties</p> <p><b>Views of people living with HIV heard on implementation of law and policies relating to access to essential medicines by PLHIV</b></p> <p><b>Action</b></p> <p>Hold a national advocacy forum on the implementation of law and policies relating to access to essential medicines by PLHIV</p>								
Output 2: Advocacy materials produced and disseminated	<p>Baseline</p> <p>Limited knowledge, awareness and appreciation of HIV related laws, policies and practices among key and affected population</p> <p>Indicators</p> <p>Number of IEC materials distributed to target audience</p> <p>Target</p> <p>IEC materials produced and distributed</p>	<p><b>Increased awareness on HIV and human rights and access to essential medicines by PLHIV through information, education and communication (IEC) materials</b></p> <p>Develop, print and distribute IEC materials on laws</p>		X	X	X	KELIN	UNDP	Consultant Design of material Printing of material	7000
Output 3: Media exposure of		<p><b>Improved capacities of 15 journalists from three counties on HIV, Law and</b></p>		X			KELIN	UNDP	Consultant Venue hire	

HIV related human rights abuses.		<b>Human rights</b> <b>Action</b> Conduct training session for 15 journalists from the above-mentioned counties on HIV, Law and Human Rights							Printing	
Output 4: Documentation of best practices and experiences within the Kenyan context on use of provisions of the law to create and enabling environment		<b>Baseline data / common forms of human rights abuse against PLHIV and key affected populations identified</b>  <b>Action</b> Conduct baseline study on the most common forms of human rights abuse against PLHIV and key affected populations  <b>Gains and lesson learnt documented and shared</b> <b>Action</b> Conduct process and photo documentation of all activities with the highlights presented in video and developed into news articles/features for uploading on KELIN's website and featured in quarterly newsletter  Action					KELIN	UNDP & KELIN	Consultant	5,700

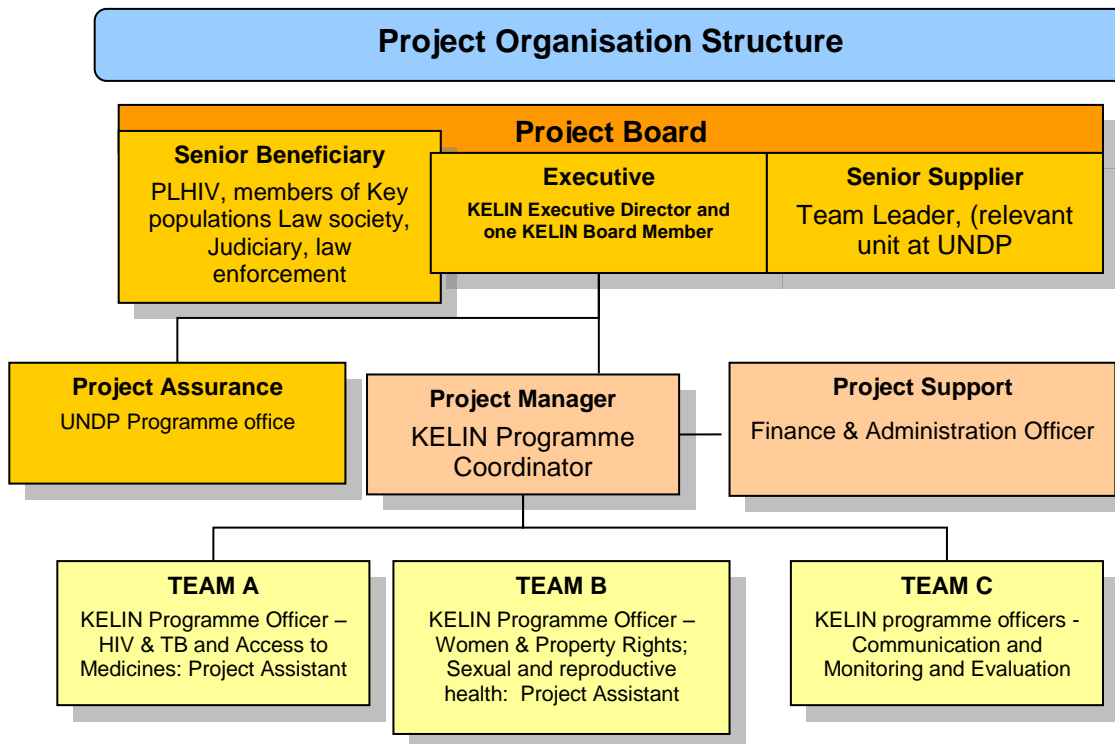


		Share communication materials (case studies, success stories, updates on activities, photos) on social media platforms (i.e. Facebook and Twitter)									
<b>Expected Outputs</b>	And baseline, associated indicators annual targets	<b>Planned Activities</b> List activity results and associate actions	<b>Time Frame</b>				<b>Responsible Party</b>	<b>Planned Budget</b>			
			Q1	Q2	Q3	Q4		Funding Source	Budget Description	Amount US\$	
	<p>Outcome Area 4: <b>KELIN's Institutional Capacity strengthened</b></p> <p>Baseline Limited institutional capacity to effectively deliver on mandate</p> <p><b>Indicators</b> Improved capacity within KELIN staff to deliver effectively on KELIN mandate % increase in training to KELIN staff that translates to expeditious delivery of mandate; Improved research, knowledge sharing, best practice documentation</p> <p><b>Targets</b> Revised governance manual, operational plans; gender responsive staffing plans; thematic training plans; leadership and management guidelines; ME framework</p>					<p><b>Means of Verification</b></p> <ul style="list-style-type: none"> <li>• Annual reports</li> <li>• Project process reports</li> </ul>					
<b>Output 1:</b> Reviewed and updated governance documents under implementation	<p><b>Baseline</b> Limited institutional capacity to effectively deliver on mandate</p> <p><b>Indicators</b> Improved capacity within KELIN staff to deliver effectively on KELIN mandate</p> <p><b>Targets</b> Number of revised</p>	<p>Reviewed governance documents</p> <p><b>Action</b> Hire consultant to review relevant governance document and operational documents</p>	X				KELIN	KELIN	Consultant	3,000	

	governance documents under full implementation									
<b>Output2:</b> Adequate staffed and skilled human resource effectively delivering on its programmes recruited	Baseline Limited institutional capacity to effectively deliver on mandate <b>Indicators</b> Improved capacity within KELIN staff to deliver effectively on KELIN mandate <b>Targets</b> Number of skilled staff retained during the life time of the project document	One programme staff with experience in human rights and law and one technical staff with finance experience hired and retained to deliver on mandate of KELIN during life time of project	X	X	X	X	KELIN	UNDP	Hire of staff	39,519
Output 3: Partnerships with like mined organisations, in the public, private and civil society sector, to contribute more effectively to the response created		Create partnership with likeminded organisations to ensure sustainability and continuity of the project	X	X	X	X	KELIN	KELIN	Venue Memorandum of Understanding	
	Overheads and Administration costs		X	X	X	X	KELIN	KELIN& UNDP		30,000
	<b>TOTAL YEAR ONE</b>								<b>500,000</b>	

## 8.0 MANAGEMENT ARRANGEMENTS

Below is a presentation on the project implementation structure with relationships between the project board, project assurance and the implementation team



KELIN shall dedicate a team of nine employees to this project: The Executive Director who shall be responsible for the overall implementation of the project and equally serve on the project board. One board member of KELIN with expertise on HIV, Law and Human rights will equally serve on the project board. The programme officers heading the HIV and TB, the sexual and reproductive rights, access to medicine will take the lead in the activities in their respective thematic areas with the Executive Director overseeing the timely implementation of all activities. The coordinator of the cultural structures project will take the lead on the aspect of mediation of cases. A senior project officer will be hired to oversee and provide support to the Executive Director in ensuring timely implementation of the project activities and reporting. The communications officer shall be responsible for the quality of awareness material developed, documentation of any success stories from the project and supervision of the work of any external consultants hired within the communication component of the project. The monitoring and evaluation officer shall be responsible for the monitoring aspects of the project on a quarterly basis and will liaise with the external consultants on the midterm review and final evaluation of the project. The finance officer shall be responsible for the finance aspects relating to this project and the administrative assistant shall provide logistical support to the project staff. Two project assistants will be assigned to this project to provide support to advocacy and training officer and the litigation and legal services officer. KELIN will equally tap on the expertise and human resource of its professional volunteers, including those coming from Voluntary Service Oversees and UN Volunteers.

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## 9.0 MONITORING FRAMEWORK AND EVALUATION

The project is aimed at enhancing the legal enabling environment for PLHIV by strengthening capacities of rights holders and duty bearers and will run through 2016. The project will be core part of KELIN's agenda and intends to strengthen the capacities of legal professionals, law enforcement officers, judges, magistrates, healthcare workers, PLHIV, key affected population (particularly sex workers and MSM), youth representatives, religious leaders and traditional elders on their roles in creating an enabling legal environment for the national HIV response; to improve access to justice and legal services by communities of people living with HIV; to engage in advocacy work for change to HIV related laws, policies and practices that affect PLHIV and key affected populations; to document and share best practices and experiences within the Kenyan context on using the provisions of law to create an enabling environment for the national HIV response.

As the project scale-up to other counties in the next phase, KELIN plans to strengthen the monitoring and evaluation (M&E) of the project using the M&E Framework. These improvements will allow KELIN to better monitor and report upon the output and outcome progress as well as evaluate rigorously whether or not the project has met its stated objectives.

### **M&E strategy**

**Data collection:** Data collected through the reporting, MIS and evaluation will feed into management decision-making and also allow the project to report upon the performance indicators as listed in the Results Framework.

Dependable baseline data will be needed in the initial phase to serve as a point for future comparison. Unfortunately, existing information in the project areas are not in a format that can be readily used for M&E purposes. It is proposed that indicators for M&E of key activities be developed within the first six months after the project agreement is signed.

**Reporting and Monitoring.** KELIN currently has a comparatively extensive reporting and management information system. Project Officers regularly report on a monthly, quarterly, and annual progress. Under this next phase, the Project will further strengthen the capacity of the Project Officers and the M&E team, to allow them to undertake several improvements. Comprehensive, formal, project reporting would be three-monthly, and based on the activities schedule, with integral tracking of progress towards key results, established at project set-up.

The reporting tools in place will be further reviewed, so that they are: (i) consistent with the new target groups as well as new geographical areas; and (ii) streamlined. The tools will be more analytical, focusing upon issues and trends to inform adaptive management.

**Performance monitoring and evaluation (M&E)** are essential elements of project implementation. The project will focus on specified activities as contained in the annual work-plans. At one level, project implementation monitoring will help track, for example, whether planned activities are operating on schedule.

**Evaluation:** Two external evaluations are proposed – mid-term and final.

- A mid-term review, after one and a half years of operation will be designed to obtain an external view on progress made in relation to the objectives sought and outputs chosen. It will provide recommendations for the subsequent work plans and project constraints/opportunities to be addressed.
- A final evaluation, during the final year of the programs, will also seek external expertise to examine the overall effectiveness of the project towards objectives sought. The final evaluation will also recommend future steps to ensure viability of key activities, or for other challenges to be addressed.

**Impact Evaluation:** In this phase, the Project plans to undertake an impact evaluation using both quantitative survey methods as well as qualitative techniques. The impact evaluation will be implemented by a competitively selected independent consultant guided by the M&E Officer and the Project Manager. During this process, the Project will also build the capacity of Project staff to oversee and manage a rigorous impact evaluation. The evaluation will measure impacts on the outcome areas.

An end of project report will provide an analytical analysis of the project's impact over the four-year implementation period.

In accordance with the programming policies and procedures outlined in the UNDP User Guide, the project will be monitored through the following:

#### Within the annual cycle

- On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on quality criteria and methods captured in the Quality Management table below.
- An Issue Log shall be activated in Atlas and updated by the Project Manager to facilitate tracking and resolution of potential problems or requests for change.
- Based on the initial risk analysis submitted (see annex 1), a risk log shall be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- Based on the above information recorded in Atlas, a Quarterly Progress Reports (QPR) shall be submitted by the Project Manager to the Project Board through Project Assurance, using the standard report format available in the Executive Snapshot.

- a project Lesson-learned log shall be activated and regularly updated to ensure ongoing learning and adaptation within the organization, and to facilitate the preparation of the Lessons-learned Report at the end of the project
- a Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events
- Annually
- **Annual Review Report.** An Annual Review Report shall be prepared by the Project Manager and shared with the Project Board and the Outcome Board. As minimum requirement, the Annual Review Report shall consist of the Atlas standard format for the QPR covering the whole year with updated information for each above element of the QPR as well as a summary of results achieved against pre-defined annual targets at the output level.
- **Annual Project Review.** Based on the above report, an annual project review shall be conducted during the fourth quarter of the year or soon after, to assess the performance of the project and appraise the Annual Work Plan (AWP) for the following year. In the last year, this review will be a final assessment. This review is driven by the Project Board and may involve other stakeholders as required. It shall focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes.

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## 10.0 LEGAL CONTEXT

This document together with the CPAP signed by the Government and UNDP which is incorporated by reference constitute together a Project Document as referred to in the SBAA and all CPAP provisions apply to this document. Consistent with the Article III of the Standard Basic Assistance Agreement, the responsibility for the safety and security of the implementing partner and its personnel and property, and of UNDP's property in the implementing partner's custody, rests with the implementing partner.

The implementing partner shall:

- a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried;
- b) Assume all risks and liabilities related to the implementing partner's security, and the full implementation of the security plan.

UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this agreement. The implementing partner agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document".