



**ANNUAL NARRATIVE  
REPORT  
ON  
ENHANCING THE LEGAL ENVIRONMENT FOR AN EFFECTIVE HIV RESPONSE  
IN KENYA**

**Submitted to:**

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## **1.0 BACKGROUND**

This report seeks to give an explanation on the various activities that KELIN was funded to undertake under this project. The report covers the period February – December 2014.

## **2.0 PRINTING OF WORKSHOP REPORTS**

KELIN printed 600 copies of the Judges Dialogue report and 400 copies of the law enforcement officer's report. Over 400 participants and relevant stakeholders have received hard copies of the documents, with the help of the UNAIDS and UNDP country offices in Kenya. This has ensured that the stakeholders are aware of the outcomes of the training. The soft copies of the report have been shared through the KELIN website and social media channels. The [judicial dialogue report](#) and the [law enforcement officers training report](#) are available on the KELIN website.

## **3.0 CONDUCT BASELINE STUDY FOR THE PROJECT**

The overall purpose of the baseline survey was to obtain data that will be used to evaluate the outcomes and impact of the project at the end of the planned interventions; and inform the project interventions and implementation strategies. The baseline study focused on assessing the current levels of knowledge, awareness and appreciation of HIV related laws, policies and practices among key and affected populations; and assessing the current levels of access to legal services and quality representation. This was done in Kakamega County. A total of 143 individual interviews targeting the infected and affected populations were conducted. Key national partners including the Chairperson of the HIV tribunal, the head of the Judiciary Training Institute, a NACC and UNDP representative were conducted.

The results of the baseline survey were shared at the county dialogue forum in Kakamega to inform programming on HIV issues. Gaps identified on issues relating to HIV and law in Kakamega County, which were largely on provision of more awareness and linking those who face violation of human rights to legal services, were integrated in the training sessions that took place for the county level. The final report has been shared on our social media avenues and is available on the [KELIN website](#).

## **4.0 MEETING WITH SENIOR LAW ENFORCEMENT OFFICERS.**

The meeting took place on 16 July, 2014. There were 37 participants in attendance; 20 high ranking officers from Kenya Prisons Service, Two officials from the National AIDS Control Council five representatives from UN agencies and 10 representatives from various civil society organisations. Analysis of feedback forms from the participants indicated that they strongly agreed that the content was relevant and that there is need

to scale up these kind of forums. The meeting identified some of the challenges in prison such dealing with TB patients who are co-infected with HIV. Working conditions for prisons officers living with HIV. The legal issues identified at this meeting were raised during the judicial dialogue and the Kakamega county dialogue. KELIN and ILO have helped in revision of the workplace policy on HIV & TB for the Kenya Prisons Service. The final workshop report is available on the [KELIN website](#).

## **5.0 CAPACITY BUILDING WORKSHOP FOR PLHIV FROM KAKAMEGA COUNTY**

This activity took place from the 24 - 26 June 2014. The training had three main objectives:

- i. To enhance the participants' understanding of the impacts of the provisions of the Constitution of Kenya on PLHIV.
- ii. To understand the legal provisions protecting the rights of PLHIV and available redress mechanisms.
- iii. To enhance practical skills of identifying and documenting HIV human rights violations

The 20 participants were drawn from the various Community Based Organizations (CBO) and networks of people living with HIV who worked in Kakamega County. Other neighboring counties such as Bungoma and Vihiga were also represented. The participants were all members of NEPHAK, which is the national organization for the empowerment for PLHIV in Kenya. The participants identified cases that have been referred to the trained probono lawyers such as the land case before the Kakamega High Court. The trained PLHIV have been involved in the lawyers and healthcare workers training as facilitators. They participated in the county dialogue, where they raised their concerns with the relevant county officials and stakeholders. The workshop report is available on the [KELIN website](#).

## **6.0 CAPACITY BUILDING WORKSHOP FOR HEALTH CAREWORKERS IN KAKAMEGA.**

This activity took place from the 10 - 12 September 2014. The main objective of the training was to enhance the participants' understanding on human rights concept and the link between human rights, the law and HIV. The 19 participants were drawn from six sub-counties representative of clinical officers, nurses and social workers. The post evaluation forms reflect that they found the trainings to be useful and have committed to share the information with other members in their area of work. They expressed the need to be more involved in giving views to laws and policies that are being developed that affect them. It was agreed they would be linked with officials from the Commission on Implementation of the Constitution and were also requested to follow up with their

respective unions. A news item capturing the training is available on the [KELIN website](#). The final workshop report will be uploaded on the KELIN website and shared with the relevant stakeholders.

## **7.0 INTER-COUNTY CAPACITY BUILDING WORKSHOP FOR LAW ENFORCEMENT OFFICERS**

This was conducted as a follow up to the breakfast meeting of the law enforcement. The workshop took place from 14 to 16 October, 2014 at the Silver Springs Hotel, Nairobi. The capacity building workshop targeted senior prison officers from the counties of Kilifi, Mombasa, Nairobi and Kisumu. Officers from prison facilities in Homa Bay, Nakuru and Uasin Gishu and representatives from other law enforcement agencies and key stakeholders working in prison were also invited. The total number of participants at this workshop was 44. The workshop discussed the critical issues relating to law enforcement and HIV and the law. The issue of Sexual and Gender Based Violence was equally discussed and the participants were familiarized with the recently published HIV & TB workplace for the prison. One of the key priority action agreed upon was to develop a plan and design tools for research and documentation for purposes of generating evidence from prisons on gaps and capacity building needs on issues relating to human rights in HIV and TB covered during the workshop. The final workshop report is available on the [KELIN website](#).

## **8.0 INTER-COUNTY CAPACITY BUILDING WORKSHOP FOR LAWYERS**

The three-day residential workshop took place from 15 - 17 October, 2014. The training sought to strengthen the capacity of lawyers on understanding the needs and rights of infected and affected communities so as to enable them advise and represent their clients effectively on HIV and health related laws. The 20 participants were lawyers from Kakamega, Bungoma, Vihiga, Busia and Trans Nzoia Counties who demonstrated interest in human rights and HIV. At the end of the workshop, the trained lawyers committed to providing pro bono services on litigation, legal advice, research, legal aid clinics and advocacy. They agreed to engage in activism to ensure that human rights of PLHIV are respected. A post news item is available on the [KELIN website](#) and the final workshop report will be uploaded on the KELIN website and disseminated to stakeholders.

## **9.0 KAKAMEGA COUNTY DIALOUGE FORUM ON HIV & THE LAW**

This activity was undertaken on 28 November 2014, and was attended by 33 participants representing various stakeholders. The participants included representatives of the county assembly committee on health, pro-bono lawyers, PLHIV,

prison officers, health care workers, religious leaders, representatives of key populations and civil society organizations working in the HIV sector. The main objective of the dialogue was to bring together county officials and key stakeholders working on HIV issues, to discuss the key issues around HIV human rights and the law affecting the county's HIV prevention and response with the aim of exploring opportunities for collaborative action in addressing the same. At the end of the dialogue the following commitments were made by the Chairperson of the Health Committee of the County Assembly:

- i. They agreed to involve stakeholders in the development of the County HIV strategy
- ii. The Committee committed to call for a meeting with the Stakeholders in January 2015 to discuss the 1<sup>st</sup> Draft of the HIV strategy
- iii. The Committee committed to follow up on the issue of drug stock outs in the health facilities and to help private health facilities purchase drugs for opportunistic infections for PLHIV
- iv. The Committee further committed to train health care workers on how to communicate to PLHIVs who are deaf and dumb as they face challenges in communicating their health issues

#### **10.0 REGIONAL DIALOUGE FOR NATIONAL HUMAN RIGHTS INSTITUTES ON HIV & THE LAW**

This activity was undertaken on the 25-26 of November 2014. It had a total of 65 participants drawn from 11 countries from Eastern and Southern Africa. They were high level officials from the National Human Rights Commissions, Gender & Equality Commissions and Office of Ombudspersons. In addition to sensitizing the high level officials on issues of HIV & the law, the meeting sought to discuss the roles, responsibilities and possible responses to HIV by national human rights commissions. At the end of the two day dialogue, the participants agreed that HIV is an issue that must be infused in their mandates and programmes and they would prioritize this in their upcoming activities. They also agreed that they needed capacity building on issues of HIV given that this was an area that require special expertise's. The representatives approved the regional concept note to the Global Fund that was presented to them for endorsement. The final workshop report will be uploaded on the KELIN website and shared with stakeholders.

#### **11.0 REGIONAL DIALOUGE FOR JUDICIAL OFFICERS ON HIV & THE LAW**

This activity took place from the 1 – 3 December, 2014. The meeting brought together over 40 participants who were representative of judges, magistrates, legal experts, persons living with and affected by HIV, key populations representatives and UN

agencies representatives. The meeting benefited from the presence of senior judicial officers from Uganda, Tanzania and Burundi. Justice David Majanja, Lady Justice Martha Koome and Lady Justice Monica Mbaru, who had been previously on matters relating to HIV & the law were facilitators at this dialogue.

Justice Majanja, who is the resident Judge in Homabay, the county with the highest HIV burden, shared his experience noting that the previous judicial dialogue had helped him to be more aware on matters relating to HIV. He explained how he uses his knowledge on matters relating to HIV and the law to ensure that those who present documents relating to succession matters are the correct beneficiaries especially in cases involving orphans. Earlier in the year while at the Constitutional Division of the high Court, Justice Majanja pronounced [a judgment](#) affirming the rights of PLHIV to enter into surrogacy agreements for purposed of enjoying their right to family. This decision equally affirmed the right to privacy for persons living with HIV. Justice Mbaru and Koome were equally able to share their experiences on the need to have a pool of trained judicial officers, based on their workshop in Johannesburg. One of the key recommendation that was made at this meeting was the need to work with the court users committees and have similar dialogues at the county level, which would be led by the trained judicial officers.

## **12.0 COMMUNICATION SUPPORT TO THE PROJECT**

The team of consultants have continued to provide communication and editorial support to the implementation of the UNDP Grant. The activities that they have provided support during this time period include:

- i. Editorial support and messaging on social media for all the project activities undertaken under this grant.
- ii. Three implementation status update meetings have been held with regards to updating the content and information regarding the HIV.org website. Information relating to the trained probono lawyers and the cases they are working on has been compiled and will be uploaded to the reworked website.
- iii. Provision of mentorship on communication aspects to staff working on the project, and particularly the communications and fundraising officer.

The outcome of this support has been more visibility on the project work on social media that have sparked useful discussion among stakeholders in the HIV and human rights field globally. This is evident from the twitter handle and Facebook page of KELIN.



## **12.0 SUPPORT FOR LITIGATION OF CASES.**

We are giving litigation support to six cases dealing with HIV, TB and Human Rights. The cases are as follows:

- i. *VM v Governing Board Blesco Schools*- Nakuru Industrial Court-pertaining to dismissal on the basis of HIV status. The matter came up for hearing on 3 December 2014 and will be mentioned on 20 February 2015 as the respondents are keen to have the matters settled.
- ii. Two cases before the HIV Tribunal-both in relation to breach of confidentiality. The cases have been partly heard and are scheduled to proceed for further hearing on 10 February 2014.
- iii. A case was reported by the trained participants from Kakamega regarding wrongful dismissal from employment. The case is currently being reviewed to see the possible legal action to be undertaken.
- iv. *CN v Karen Hospital*. A case relating to testing a patient for her HIV status without her written consent. We are in the process of completing the drafting of the court papers and the case will soon be filed at the high court.
- v. We have enjoined onto a case before the land and Environmental Court in Kakamega- land dispute between a widow living with HIV and her brother.
- vi. We have filed court documents in one TB cases reported in Nyeri-relating to prisoner who are alleged not to have completed.

All the cases are being handled by lawyers who have been trained by KELIN, on HIV & Human rights issues, to provide support for HIV and TB legal related services.

## **13.0 PROJECT STEERING COMMITTEE.**

Three project steering committee meetings have been held through the grant period. The meetings have provided an opportunity to give updates of the activities implemented so far and the activities planned for subsequent quarters. The members of the committee were updated on the following initiatives that contribute to the implementation of the project document.

- i. A Regional judicial dialogue in Johannesburg that took place from 14-15 October, 2014. Where the KELIN ED was a resource person on various topics.
- ii. A meeting that took place in Addis Ababa, in September,2014 with the following partners, ARASA, ENDA, SALC, UNDP with regard to developing a regional proposal for the global fund focusing on key populations and human rights issues.

- iii. A three year project that is currently being directly implemented by UNDP-Kenya for a project titled: "Accelerating Efforts to Prevent and Respond to Sexual and Gender Based Violence

#### **14.0 CONCLUSION.**

KELIN has completed the activities that were set out in the grant. We further sought to ensure that all the activities build up to each other to achieve the larger outcomes set out in the project document. There is however need ensure the impact of the trainings, dialogues and any activity undertaken is measured to show the usefulness of the project in ensuring human rights protect those who are living with and affected by HIV. KELIN will continue to use its social media avenues to popularize the activities it has undertaking under this project to provide the much needed evidence that human rights and the law are critical enablers in the fight against HIV.