



## REPORT OF THE TRAINING WORKSHOP FOR COMMUNITY STRUCTURES (CHIEFS, SUBCHIEFS, POLICE & HEALTH CARE WORKERS) ON THE RIGHTS-BASED APPROACH TO PROGRAMMING WITH A FOCUS ON SEXUAL AND GENDER BASED VIOLENCE

14th – 18th September, 2010

Prepared For Action Aid International Kenya

Submitted By:

Kenya Legal & Ethical Issues Network On HIV & AIDS,  
Kindaruma Road, Off Menelik Road, Ngong Road,

P.O Box 112-002002 Nairobi,

Tel: 254-23861390; 2540202515790

Fax: 2540203861390

Email: [Info@Kelinkkenya.Org](mailto:Info@Kelinkkenya.Org)





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## ABBREVIATIONS

ACHPR . . . . .	African Charter on Human and people’s rights
ARV’s . . . . .	Anti-retrovirals
CAT . . . . .	The Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment;
CEDAW . . . . .	The Convention on the Elimination of All forms of Discrimination against Women
CERD . . . . .	The International Convention on the Elimination of Racial Discrimination
CRC . . . . .	The Convention on the Rights of the Child
CRDPWD . . . . .	The Convention on the Rights and Dignity of Persons with Disabilities
CRMW . . . . .	The Convention on the Rights of Migrant Workers
GBV . . . . .	Gender-based Violence
GIPA . . . . .	The Paris Principles on Greater Involvement of Persons Living with HIV and AIDS
HIV . . . . .	Human Immuno deficiency virus
HR . . . . .	Human resource
HRBAP . . . . .	Human Rights Based Approach to programming
ICCPR . . . . .	The International Covenant on Civil and Political Rights
ICESCR . . . . .	The International Covenant on Economic Social and Cultural Rights
KELIN . . . . .	Kenya Legal & Ethical Issues Network on HIV and AIDS
NGOs . . . . .	Non-governmental Organizations
OVCS - . . . . .	Orphans and Vulnerable Children
PLWHAs . . . . .	Persons Living With HIV
RBA . . . . .	Rights Based Approach
UDHR . . . . .	The Universal Declaration on Human Rights
UNGASS . . . . .	United Nations General Assembly
WOFAK . . . . .	Women fighting AIDS in Kenya

NAME OF TRAINING INSTITUTION	KENYA LEGAL & ETHICAL ISSUES NETWORK ON HIV & AIDS
COUNTRY/SITE OF TRAINING	WESTERN AMBIENCE HOTEL, BUMALA, KENYA.
TRAINING	HUMAN RIGHTS BASED APPROACH TO HIV PROGRAMMING.
DATES OF TRAINING	14th September - 18th September 2010.
<b>TOTAL NUMBER OF PARTICIPANTS</b>	
MALE	27
FEMALE	3
TOTAL	30

## 1.0 EXECUTIVE SUMMARY

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The Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN) is a national network, established to address and respond to Legal, Ethical and Human Rights issues relating to health. It is one of the few organizations in Kenya and East Africa working in this area. KELIN seeks to fully participate in the processes of formulation and implementation of global and regional health policies and programs, in order to influence them to factor the relevant legal, human rights and ethical perspectives for better delivery of the programs.

KELIN with support from Action AID International Kenya (AAIK) and in partnership with Women Fighting Aids in Kenya (WOFAK) conducted a 5-day non residential training on ***The Rights-based approach to programming with a focus on sexual and Gender Based violence.*** The objective of the training was to strengthen the capacities of duty-bearers in identifying human rights violations and ensuring they apply the rights based approach in dealing with these violations within their communities. The training was held at Western Ambiance Hotel, Bumala from 14<sup>th</sup> to 18<sup>th</sup> September 2010.

The target group for the training included health care workers, police officers, chiefs and assistant chiefs from the districts of Samia, Siaya and Busia. WOFAK- Sega was responsible for mobilization of the participants. Mrs. Catherine Mumma, Mr. Allan Maleche and Ms. Melba Katindi of KELIN facilitated the sessions. During the workshop the participants were trained on the basic human rights concepts, the link between Human rights and HIV, the legal system in Kenya, Stigma and Discrimination, the Legal and Ethical issues raised by HIV with a focus on women and children, HIV and gender-related rights, Vulnerable Populations in the context of HIV & AIDS, Introduction and application of the Human Rights Approach in dealing with human rights issues at the community level.

The workshop started on 14<sup>th</sup> September 2010 at 0930hrs with introductory remarks from Ms. Susan Onyango of WOFAK, followed by introductions by the participants; majority of who were chiefs and sub-chiefs. The participants introduced themselves by name, position at work, their location and their expectations for the workshop. Regrettably, this workshop only had 3 women participants; 1 chief, 1 nurse and 1 doctor. Ms. Onyango then familiarized the participants on the work of WOFAK in the area and elaborated on the importance of attending all the sessions over the 5-day period. Susan went further to explain the presence of the videographer and sought the participants' consent for video documentation of the training workshop. The participants thereafter came up with house rules to be observed during the continuation of the training which included punctuality, maintaining their mobiles on silent mode during the sessions, among others. The participants went further to appoint a timekeeper and a house keeper.

Mr. Maleche introduced his team and gave a detailed explanation of KELIN's work. He encouraged the participants to be interactive and seek immediate clarification of anything that was not understood during the sessions to ensure better comprehension of the topics.

The first day's sessions was facilitated by Mr. Maleche. While introducing the participants to human rights, he allowed them to brainstorm on their understanding of the term human rights. He then gave them a brief history of human rights and the development of human rights standards and thereafter had an elaborate discussion on each of the key principles relating to human rights. The discussion continued well into lunch-time.

After the lunch break the discussion went deeper into the international instruments relating to human rights, women and children. The second module which covered stigma and discrimination began with Mr. Maleche giving background

information about HIV & AIDS. Thereafter, he proceeded to have a discussion of the case of Midwa –v- Midwa Case No. 197/2000 [EALR] EA453 (CAK). A case that highlighted the plight of a HIV+ woman who was ordered to stay in the servant's quarter of the main house as she allegedly posed a risk of transmitting HIV to her Husband. This sparked off a heated debate on the various legal and ethical issues brought out in the case. The participants seemed familiar with this topic and shared personal experiences and challenges observed within the community in dealing with stigma and discrimination in the context of HIV. This session ended at 1645hrs marking the end of the first day.



*Mr. Maleche explains provisions of the HIV & AIDS Prevention and Control Act 2006*

The second day began with a recap of the previous day's session by Ms. Joyce Odongo. Ms. Katindi began the first session of the day by giving an overview of Module 3 which dealt with the legal system in Kenya. From their contributions it was clear that the participants were familiar with the importance of law and the sources of laws in Kenya and the facilitator elaborated further on each of them. Ms. Katindi then proceeded to enlighten the participants on the difference between, the Constitution, Statutes, Civil law and Criminal law.

The participants were then divided into 3 groups to discuss the various provisions in law that protect the rights of women and children in Kenya. Group one dealt with the **Constitution**, group two the **Children's Act, 2001** and group three the **Sexual offences Act**. The relevant laws were supplied to the groups for reference and discussion. The deliberations took about 40 minutes with the facilitators attending to each group for assistance and guidance. The selected rapporteurs of each group made presentations on the findings of their group.

While looking into the provisions of the new Constitution a lot of emphasis was placed on Chapter 4 on the Bill of Rights as it contained most of the human rights provisions relevant to the area of work of the participants. The recognition of community initiatives in resolving land disputes was also discussed by the participants. The question of inheritance of property by women was also addressed. The participants were enlightened on the new provisions of the Constitution that provided for equally parental responsibility. A major concern to the chiefs and their assistants was whether they will still maintain their jobs in the soon to be restructured local government.

The discussion on the Sexual Offences Act brought out very significant provisions for protection of women and children. However deliberation on a few of the sections highlighted several loopholes which the participants felt ought to be amended.

The participants from the medical field guided the other participants on the best practice in case of a report of a sexual violence and the importance of preserving evidence. There was concern raised about the link between the police officers and the local administration in securing and ensuring witnesses attended court in matters relating to sexual offences. Ms. Katindi highlighted the importance of the three groups (i.e. local administrative structures, health care workers and law enforcement officers) to complement each other's work to ensure the successful prosecution of sexual offenders.

The presentation on the Children's Act was very clear-cut. It focused on the role of parents to provide and care for children and the role of local government to protect the interest of children. The participants discussed how to handle child offenders and children in need of care and protection. The facilitator emphasized on the importance of Children's Department and explained that they should be involved in challenging cases which the chiefs and assistant chiefs were unable to handle. The participants were then shown a video on the work that KELIN is doing in Nyakach Nyando and Muhoroni districts in relation to working with Cultural Structures to ensure women and children enjoy their right to inherit and own property. The participants were encouraged to come up with innovative ways of resolving disputes within their communities. The morning session ended with participants welcoming the combination of the three groups in one training and appreciated how much they have learnt from each other.



*Participants in a group discussion*

In the afternoon, Mr. Maleche refreshed the memories of the participants with the facts of the case of *Midwa –v- Midwa* and took them through the legal and ethical issues that are raised by HIV. They discussed in detail the issues relating to consent, testing and confidentiality and established the legal position on each. They also discussed gender and cultural issues, criminalization of HIV and the issues raised by bio-medical research. The participants were given copies of the HIV & AIDS prevention and Control Act, and were guided through the act by Mr. Maleche. The session ended at 1715hrs.

Day three's recap was done by Mr. William Lala. Mr. Maleche then took the participants through Module 5 on HIV and Gender related issues. The participants took part in an exercise on gender disparities and discussed what brought about these disparities. Later in the afternoon Ms. Katindi took the participants through Module 6 on vulnerable populations and groups. The participants watched a KELIN video highlighting challenges being faced

by OVCs in the enjoyment of their right to obtaining identification documents and inheritance of property. The participants then discussed the underlying causes of these vulnerabilities among women and children and suggested ways of dealing with them at the community level and mostly drew from the experiences of the participants. The participants watched another short video on human rights violations relating to sex workers. The facilitator discussed the implication of the legal framework and finally highlighted the rights of sex workers in the context of HIV and possible interventions at community level.

On day four, Mr. John Onyango conducted the recap of the previous day's sessions. It was important to establish that the participants had understood all the modules before they could embark on the next module which was basically to enable them embrace the human rights based approach in providing services to the members of the community. With the help of case studies, Ms. Katindi led the participants through a participatory discussion trying to evaluate each case, pick out the issues and deliberate on them until arriving onto a consensus. In total twelve case studies were discussed.

After tea-break Mr. Martin Ogola, a project officer with WOFAK, elaborated on the work of WOFAK in the community and enlightened the participants on several ways in which they could collaborate with WOFAK in ensuring effectiveness of their projects within the 3 districts of Samia, Siaya and Busia. He also noted that he could also link the participants with other CSOs working in the area so that they could see how to best benefit from them at community level.

Just before the lunch break Mr. Maleche introduced Module 7 to the participants. He briefly refreshed the participants' memory on the Human Rights principles earlier discussed and then proceeded to explain the Rights Based Approach and what it was concerned with. He explained in detail the various human rights principles that support the rights based approach.

Mrs. Mumma proceeded with the afternoon session where she explained the people-centered approach. She gave details on the process of causality and power analysis and the benefits which concluded the day's session at about 1645hrs.

On the final day Mrs. Mumma, begun revisiting some of the key issues and principles discussed in the previous sessions on human rights based approach to programming. The participants picked up from the previous day's discussion on power and using personal experiences, tried to identify the different types of power. She then led them into discussions on how they could practically incorporate the Human Rights Approach in their daily work within the community and discussed some desirable outcomes of this.

At the end of the training workshop the participants evaluated the course content and the presenters; all in all a positive feedback.



*Mrs Mumma explains the rights based approach*

## 2.0: SUMMARY OF WORKSHOP MODULES

The course content of the training, the objectives, the duration and the methodology that was to be adopted for the training was explained to the participants. The objectives of the training were:

- Introduce/clarify basic human rights concepts;
- Enable an understanding of the link between Human rights and HIV;
- Understand the legal provisions for the protection of women and children
- Understand and articulate gender and gender related concepts
- Understand the general legal and ethical issues raised by HIV and also specific to certain vulnerable populations; women, children and sex workers
- Introduce and implement the Human Rights Based Approach within the specific context of services offered and fulfillment of duties.

The expectations of the participants prior to the training can be summarized as follows:

- To learn more about how to keep ourselves healthy
- To learn more about human rights
- To know how to go about the challenges of my work
- To share about human rights and health
- To embark on a healthy discussion on human rights of community members and issues of HIV and AIDS affecting our people
- To know how to respect human rights (*haki zinavyokeukwa*)
- To get a certificate
- Perdiem
- Know more about how the WOFAK movement can trickle down to the community

- Know more about gender violence both in men and women
- Know more about the link between human rights and HIV and AIDS
- Know more about the vulnerable groups in the context of HIV and AIDS

For ease of reference during and after the sessions, each of the participants was provided with:

- i. Training manual containing all the presentations
- ii. Handouts for practical exercises in various modules
- iii. A copy of the new Constitution
- iv. A copy of the Sexual Offences Act, 2006
- v. A copy of the Children's Act, 2001
- vi. A copy of the HIV and AIDS Prevention and Control Act, 2006

## 2.1 MODULE 1 - INTRODUCTION TO HUMAN RIGHTS

This module is designed to acquaint the participants with the general understanding of Human Rights, the principles relating to human rights and the international and national frameworks on human rights. At the end of the module the participants were expected to be able to articulate the specific rights relating to HIV and AIDS and understand the linkage between HIV and AIDS, human rights and health. The session specifically discussed the following aspects of human rights: the meaning, characteristics, general principles, underlying principles, history, international and regional human rights regime, human rights abuses and violations, how international human rights norms are created and International Instruments Relevant to HIV e.g. ACHPR, CAT, CEDAW, CERD, CRC, CRDPWD, CRMW, GIPA, ICCPR, ICESCR, etc.

## 2.2 MODULE 2: STIGMA & DISCRIMINATION AND HIV

The presentation made during this session by Mr. Maleche helped to impart on the participants knowledge on issues of stigma and discrimination in the context of HIV and AIDS and further to visualize the effect and impact of stigma and discrimination on HIV and AIDS treatment and prevention. The presentation elaborately dealt with definition of the term stigma, discrimination and the forms and type of stigma that exist. The participants were enlightened on how to support PLWHIV to cope with stigma and how to fight stigma both at an individual level and at community level. There was extensive reference to the *Midwa V Midwa Case No. 197/2000 [EALR] EA453 (CAK)* to illustrate the manifestation of stigma and discrimination faced by PLWHA

## 2.3 MODULE 3: THE LEGAL SYSTEM IN KENYA

The aim of this module was to bring to the attention of the participants some of the legal provisions that protect women and children and familiarize them with the various institutions and procedures of enforcing their rights in the case of violations. Ms. Katindi took the participants through this module explaining the significance of each of the laws in Kenya and their relevance to women's and children's rights. Copies of the Constitution, The Children's Act, The Sexual Offences Act and The HIV & AIDS Prevention and Control Act 2006 were availed to the participants.



*Participants refer to provisions of the constitution*

## **2.4 MODULE 4: LEGAL AND ETHICAL ISSUES IN HIV & AIDS GENERALLY**

This session was also facilitated by Mr. Maleche and it basically encompassed the legal and ethical aspects of HIV and AIDS focusing on informed consent, testing for HIV and the place of confidentiality of HIV results in various fields of life such as medical practice, in the family, at the work place and within the community. There was extensive reference to the *Midwa V Midwa Case No. 197/2000 [EALR] EA453 (CAK)* to illustrate other legal and ethical issues raised by HIV and AIDS. The presenter also addressed legal issues raised by biomedical research, gender issues, and criminal law and the participants had numerous contributions to this session giving their personal experiences.

## **2.5 MODULE 5: HIV AND GENDER RELATED RIGHTS**

The presentation was made by Mr. Maleche. This session addressed gender and the gender related principles. It also addressed the increasing feminisation of the HIV and AIDS epidemic due to the gender gap between men and women. The presentation articulated gender and gender related concepts and further helped the participants appreciate the issues of access and control in relation to the gender roles.

## **2.6 MODULE 6: VULNERABLE POPULATIONS IN THE CONTEXT OF HIV AND AIDS**

The aim of this module was to acquaint the participants with the general understanding of the legal, ethical and human rights issues among vulnerable populations in the context of HIV and to provide knowledge that will facilitate the protection of these groups. This session had specific focus on women, children and sex workers as vulnerable groups. Women because of their perceived inferior status in society, children because of their legal incapacity, and sex-workers because they are regarded as an illegal group in Kenya. The participants were taken

though the legal, ethical and human rights issues raised by HIV and AIDS among each of these vulnerable populations and they discussed how to apply this knowledge in the work they do within the community.

## 2.7 MODULE 7: THE HUMAN RIGHTS APPROACH TO PROGRAMMING

The aim of this module was to build the participants' capacity on the human rights based approach to programming with the objective of developing an understanding of the key principles of the human rights based approach to Programming and adopting the use of the rights based approach in the performance of duties and fulfilment of their obligations in the community level. Mrs. Mumma facilitated this session and she led the participants into a comprehensive discussion on how they could practically incorporate the Human Rights Approach in their daily work within the community and discussed some desirable outcomes of this.

## 3.0 TRAINING METHODOLOGY

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The participants received maximum opportunity for learning through a participatory learning process including structured presentations, case studies and group work. The presentations were made through PowerPoint, flipcharts, video clips and handouts. For efficient delivery and to make the presentations participatory, the facilitators decided to assess and determine the level of understanding of the participants before anchoring the training on every module. In this way, it was possible to assess and determine the level of understanding of the participants before anchoring the training on each module.

## 4.0 COURSE EVALUATION

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At the end of the final day's session, options for narrative comments on the most useful and least useful features of the sessions and the overall course were requested. The following were the key comments that were picked from this evaluation:

The training should be longer for about two more weeks to give more time to discuss the topics in detail.

- a. All the chiefs and sub-chiefs in the three districts should be trained on the rights based approach to programming.
- b. KELIN should advocate for the change/ amendment of the loopholes in the Sexual Offences Act.
- c. There is need to provide more information about the new Constitution through Civic education.
- d. There is need to provide more information on Children's Rights.
- e. The workshop was officially closed at 1345hrs on the 18th of September 2010 by the area chief of Bumala.

## APPENDIX I: TIMETABLE

### HUMAN RIGHTS BASED APPROACH TO PROGRAMMING WITH A FOCUS ON SEXUAL AND GENDER BASED VIOLENCE.

14<sup>TH</sup> TO 18<sup>TH</sup> SEPTEMBER 2010

#### Objectives

- Introduce/clarify basic human rights concepts:
- Enable an understanding of the link between Human rights and HIV:
- Understand and articulate gender and gender related concepts
- Understand the general legal and ethical issues raised by HIV and also specific to certain vulnerable populations, women and children
- Introduce and begin localising the Human Rights Approach to Programming within the specific context of advocating for the right to health by the leaders.

#### PROGRAMME

Date	Time	Session
14/09/2010		
	8:30 - 9:00 a.m.	Registration
	9:00 - 10.30 a.m.	Climate setting: Welcome remarks Participants' introductions (name, title, focus, beneficiaries, key expectation) Interface between expectations and objectives: confirming workshop norms
	11:00 - 11:30 a.m.	Health break
	11:30 - 1:00 p.m.	Module 1: Introduction to human rights (meaning; characteristics; general principles; underlying principles; history; international and regional human rights regime; human rights abuses and violations; how international human rights norms are created: International Instruments Relevant to HIV)
	1:00 - 2:00 p.m.	Lunch break
	2:00 - 4:30 p.m.	Module 2 :Stigma & Discrimination ( Definition of Stigma, meaning of stigma, main causes of stigma, effect of stigma on HIV programmes
	4:30 - 4:45 p.m.	Evaluation
	4:45 – 5:30p.m.	Health Break
15/09/2010		
	8:30 - 9.00 a.m.	Recap (of previous day's sessions)
	9:00 - 10:30 a.m.	Module 3: The legal system in Kenya The New Constitution, the Sexual Offences Act 2006,
	10:30 - 11:00 a.m.	Health break
	11.00 - 1.00 p.m.	Module 3: The legal system in Kenya (continuation) Children's Act 2001, HIV and AIDS Prevention and Control Act 2006

	1:00 - 2:00 p.m.	Lunch break
	2:00 - 4.30 p.m.	Module 4: Legal and Ethical Issues in HIV & AIDS Generally. (Human reactions to HIV & AIDS, Legal issues of testing, confidentiality, gender issues, biomedical research, criminal law and HIV)
	4.30 – 4.45 p.m.	Evaluation
<b>16/09/2010</b>		
	8.30 – 9:00 a.m.	Recap (of previous day's sessions)
	9:00 – 10:30 a.m.	Module 5: HIV and Gender Related Rights ( Definition of Gender and related concepts, Gender Disparities, Gender Discrimination for development
	10:30 – 11:00 a.m.	Health break
	11:00 – 1:00 p.m.	Module 5: HIV and Gender Related Rights (continuation)
	1:00 - 2:00 p.m.	Lunch break
	2:00 - 4:30 p.m.	Module 6: Vulnerable Populations in the context of HIV & AIDS Women & Children
	4:30 – 4:45 p.m.	Evaluation
<b>17/09/2010</b>		
	8.30 – 9.00 a.m.	Recap (of previous day's sessions)
	9.00 – 10.30 a.m.	Module 7 - Introducing the Human Rights Approach to Programming
	10:30 – 11:00 a.m.	Health break
	11:00 – 1:00 p.m.	Understanding of the Human Rights Approach to Programming (revisiting key human rights principles used in programming: steps: power analysis),
	1:00 – 2:00 p.m.	Lunch break
	2:00 – 4:30 p.m.	Operationalising the concepts (group activities)
	4:30 – 4:45 p.m.	Evaluation
<b>18/09/2010</b>		
	8:30 – 10:30 a.m.	Practical application of the Human Rights Approach to Programming Preparation of Action Plans on Advocacy for the right to health)
	10:30 – 11:00 a.m.	Health Break
	11:00 – 1:00 p.m.	Presentation of Plan of Action Challenges and Prospects: way forward Closing Remarks
	1:00 – 2:00 p.m.	Lunch and Departure

## APPENDIX II: LIST OF PARTICIPANTS

No.	NAMES	POSITION AND PLACE OF WORK	LOCATION	TELEPHONE
1	Joyce Adongo	Nangina Dispensary	Nangosya	0722580637
2	Lawerence Achoka	Assistant Chief	Odiado	0729411065
3	Daniel Magero	Assistant Chief	Busire	0720215060
4	Edyth Osire	Resident Clinical Officer	0722121949	Ambira Hospital, North Ugenya
5	Fredrick Okida	Assistant Chief Luchulolo	Nangosia	0725761366
6	Micheal Oudo	Chief	Ukwala	0725772511
7	Joseph Ooko	Chief	North Ugenya	0722929071
8	John O Mboto	Assistant Chief	North Ugenya	0722654693
9	Emmanuel Wandera	Assistant Chief	Lwanya	0735011820
10	Albert Ooko	Assistant Chief	Bujumba	0723679037
11	Mashat Abdi	Police Officer	Bumala	0710698982
12	Antony Wanyama	Assistant Chief	Nangoma	0713107457
13	Charles Gaunya	Assistant Chief	Budalangi	0723043641
14	Francis L Mulamba	Senior Chief	Bujumba	0729793869
15	John Onyango Odhiambo	Assistant Chief	Ukwala	0720943370
16	Francis Baraza	Assistant Chief	North Ugenya	0721934277
17	Richard O Osiago	Assistant Chief	Ukwala	0720820561
18	Boniface O Auma	Chief	Elugulu	0710893635
19	Jonai Makana	Assistant Chief	Emukweso	0734020613
20	William Lala	Assistant Chief	Sihay	0722959819
21	Violet Okongo	Chief	Bumala	0721937992
22	Joseph Ngaira	Police Corporal	Bumala	0735760867
23	Julius Okui	Assistant Chief	Katafmo	0736950693
24	Sylvester O Ohala	Chief	East Ugenya	0736272677
25	Fredrick Alubala	Chief	Nangosia	0725578053
26	Denis Khisia	Chief	Lwanga	0751845829
27	Janet Nekesa	Bumala Health Care Centre Nurse	Bumala	0725304030
28	Thaddeus Okello	Assistant Chief	North Ugenya	0714389464
29	Emanuel Leo	Assistant Chief	Bujumba	0724551504
30	Adiye Okello	Assistant Chief	Nangoma	0722900712

