KAKAMEGA COUNTY DIALOGUE FORUM ON HIV, LAW AND HUMAN RIGHTS AT GOLF HOTEL- KAKAMEGA

28 NOVEMBER, 2014
TABLE OF CONTENTS

1.0 BACKGROUND .................................................................................................................. 1

2.0 EXECUTIVE SUMMARY ...................................................................................................... 3

3.0 DELIBERATIONS AT THE FORUM ..................................................................................... 5

   3.1 Introductions and Climate Setting .................................................................................... 5

   3.1 Objectives of the Forum .................................................................................................... 5

   3.2: Opening Remarks ................................................................................................................ 5

   3.3 Kakamega HIV Profile and HIV Drivers ........................................................................... 7

   3.4 Incidences of HIV Legal and Human Rights Violations .................................................. 8

   Plenary ......................................................................................................................................... 9

   3.6 Legal and Human Rights Issues Concerning the Key Populations .................................. 10

      3.6.1 Sex Workers (SWs) ..................................................................................................... 10

      3.6.2 Men having Sex with Men (MSMs) .......................................................................... 11

      3.6.3 Injecting Drug Users (IDUs) ...................................................................................... 12

4.0 RECOMMENDATIONS AND WAY FORWARD .................................................................... 12

   4.1 Recommendations ............................................................................................................... 12

   4.2 Way Forward and Action Points ....................................................................................... 13

   5.0 Closing Remarks ............................................................................................................... 14

6.0 METHODOLOGY ................................................................................................................ 15

7.0 REFERENCES ....................................................................................................................... 15

8.0 ANNEXURE ........................................................................................................................ 16
### ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIDS</td>
<td>Acquired Immuno-Deficiency Syndrome</td>
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<tr>
<td>CCC</td>
<td>Comprehensive Care Centres</td>
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<tr>
<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>HCF</td>
<td>Health Care Facilities</td>
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<td>HCW</td>
<td>Health Care Workers</td>
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<td>HIV</td>
<td>Human Immuno-deficiency Virus</td>
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<td>IDUs</td>
<td>Injecting Drug Users</td>
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<td>MCA</td>
<td>Member of the County Assembly</td>
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<td>MSM</td>
<td>Men who have Sex with Men</td>
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<td>NACC</td>
<td>Kenya National AIDS Control Council</td>
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<td>NASCOP</td>
<td>Kenya National AIDS and STI Control Programme</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>PLHIV</td>
<td>Persons Living with HIV</td>
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<td>UNAIDS</td>
<td>United Nations Joint Programme on HIV &amp; AIDS</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>VCT</td>
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1.0 BACKGROUND

Globally, it is estimated that 34 million people are living with HIV. Sub-Saharan Africa accounts for 69% of this population with the Kenyan epidemic being the fourth highest in the world. HIV has confronted countries the world over with serious health, social, economic and human challenges. According to the Kenya HIV Estimates Report, the National HIV prevalence rate among adult population (15-49) stands at 6%. An estimated 1.6 million Kenyans of which 1.4 million are adults (15-19) are living with HIV. Annual AIDS related deaths stood at 58,465 in 2013 which is a decline from the 167,000 reported in 2003. This decline is directly attributable to the wider access to ARV and the ability of NASCOP and other organization to cover treatment needs for HIV and AIDS, co-infections and provide health care services. Although Kenya is slowly on the track to achieving the global target of zero new infections, zero discrimination and zero HIV related deaths; a lot still needs to be done to sustain the gains.

The Kenya HIV Estimates Report indicates that Kakamega County ranks 11 out of 47 counties in Kenya with HIV prevalence rate of 5.9%. This is a huge upsurge from the 5.6% reported in 2011 in which the county was ranked 33 out of the 47 counties. The drivers of these infections are reported to include the stable and married couples and key populations, the latter including female sex workers and their clients, men who have sex with Men (MSM) and Injecting Drug Users. According to the National AIDS Control Council (NACC) key populations contribute to HIV infection as follows: MSMs, 15% female sex workers and their clients 14%, and IDU 4% in Kakamega County. The Kenya government; through NASCOP, Ministry of Health, NACC as well as Civil Society Organizations (CSOs) with support from various development partners; have made great strides in combating the HIV epidemic. Despite this development, there are punitive laws and practices that increase human rights violations, discrimination and
stigma that continue to frustrate HIV interventions. The protection of human rights of PLHIV and key populations is now recognized as critical to efforts towards ensuring access to HIV prevention, treatment, care and support.

In light of the above, KELIN, a legal NGO promoting and protecting HIV related human rights in Kenya, in partnership with UNDP undertook to implement the recommendations of the Global Commission on HIV and the Law in Kakamega County. The activities in this project have ranged from a baseline survey to collect data that would be used to evaluate the outcomes and impact of the project, capacity building workshops for networks of PLHIV, healthcare workers, lawyers and finally this county dialogue forum on HIV, human rights and the law. This forum aims at providing a strategic platform for open discussions between county officials and relevant stakeholders working on HIV within the county. It also serves as a platform for establishment of new partnerships and enhancing existing partnerships amongst different stakeholders for promotion of a rights-based multi-sectoral county response to HIV.
2.0 EXECUTIVE SUMMARY

On the 28 November 2014, KELIN convened the Kakamega County Dialogue Forum on HIV, Law and Human Right at Golf Hotel that was attended by 33 participants representing various stakeholders. The participants included representatives of the Kakamega County Assembly Committee on Health, lawyers, PLHIV, prison officers, health care workers, religious leaders, representatives of key populations and civil society organizations working towards the HIV response within Kakamega County.

The core objective of the Kakamega County Dialogue forum 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.

Presentations, plenary and Question and Answer sessions moderated by the conveners were used to facilitate the forum. The forum provided interactive and unique opportunity for stakeholders to share their experiences, thoughts, opinions and suggestions for promoting and protecting the rights of PLHIV and the key populations. Major deliberations included the situational analysis of HIV & AIDS in the county; the responses to HIV so far, punitive laws and practices affecting HIV responses in Kenya; issues and concerns of key populations, role of stakeholders especially the County Government in ensuring that prevention, response and initiatives are coordinated, participatory, efficient, sustainable, effective, evidence-based and properly financed; initiatives and programs aimed at reducing HIV related stigma and discrimination.

As a result of the increasing rates of HIV infection in the county and challenges presented by PLHIV and key populations, participants emphasized that there is an overarching need to intensify actions by stakeholders including increased spending by the County Government on HIV related programs, research, community awareness
creation, provision of commodities such as condoms, provision of affordable and accessible health care services, formulation of HIV sensitive legislations, increased capacity of health care workers and stakeholder collaboration to realize the target of Getting to Zero.

There was consensus from the forum that the County Assembly together with the Executive wing of the County leadership needs to come up with a policy to steer prevention, service delivery and response to HIV with key focus to the challenges faced by PLHIV and the key populations. Support to sex workers’ groups by the county and other stakeholders was recommended as one way of empowering the sex workers with skills and capacities to enable them have alternative sources of income, be assertive and protect themselves from abuses and violations faced from clients and rogue police officers.

The participants were furnished with the extracts of the constitutional protections of HIV related rights and a report on the punitive laws and practices affecting HIV response in Kenya. Through the sharing of different stakeholders the participants also got valuable insight into the experiences of key populations and PLHIV through an open forum where representatives discussed the human rights violations they experience in the hands of the community, policy, family members and in health care facilities.

Participants agreed that there is urgent need for the county government to work closely with all stakeholders to scale up HIV prevention and response interventions including awareness creation and increased sensitization of all key stakeholders and provision of quality, effective and non-discriminatory services to PLHIV and the key populations. The leadership of the County Assembly Committee on health promised to take the lead in coordinating efforts that provide a platform for deliberating and taking action on issues related to HIV in the county.
3.0 DELIBERATIONS AT THE FORUM

3.1 Introductions and Climate Setting
The Kakamega County Dialogue forum was officially called to order by welcoming remarks from KELIN’s Ms. Belice Odamna. The participants who were drawn from across the county were taken through a round of self-introductions. From the introductions, the participants represented diverse stakeholders in the HIV sector including the prisons departments, CSOs, county assembly health committee, MCAs, *pro bono* lawyers, Health Care Workers, Female Sex Workers, Men who have Sex with Men (MSM) and PLHIV among others.

3.1 Objectives of the Forum
Ms. Belice Odamna highlighted that the strategic objectives of the forum as follows:

- To provide a platform for open discussions between county officials and relevant stakeholders working on HIV in Kakamega county.
- To provide a platform for partnership amongst different stakeholders for promotion of a rights-based multi-sectoral county response to HIV.

3.2: Opening Remarks
In her opening remarks, Ms. Odamna-KELIN took the participants through a brief introduction of KELIN pointing out that the organization focuses on addressing and responding to Legal, ethical and human rights issues relating to health and HIV & AIDS in Kenya. She also explained that the activities being conducted in Kakamega county were to take forward the findings of the Global Commission on HIV and the Law and the study that was conducted by KELIN to document human rights violations in Kenya.
Ms. Odamna highlighted key issues in relation to this initiative as follows:

- The rights of people living with HIV continue to be violated in both public and private quarters including health care facilities, schools, workplace and the family among others.

- That for effective management and responses on HIV, all actions and intervention MUST take the human rights based approach and be based on evidence.

- That legal tools and policies that are well formulated and fully enforced at all levels of government (National and County) can help 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 crucial to survival and subsequently save public resources.

- That there are several punitive laws and practices affecting responses to HIV in Kenya. She pointed out Section 24 of the HIV and AIDS and Control Act, 2006 (HAPCA, 2006), Section 26 of the sexual Offences Act, 2006 (SOA, 2006) and section 27 & 28 of the Public Health Act, 1921 among others. These laws hinder an effective HIV response.

- That laws and practices that promote effective response and management of HIV should be formulated and enforced by both the national and county governments.

- That the Kakamega county needs to put in place proper strategic, legislative and governance process that respects the rights of persons living with HIV and those vulnerable to HIV infection.

- All leaders in the county level, elected, nominated and appointed, can challenge stigma and discrimination against PLHIV if they display positive stance, attitudes and behaviours towards HIV related issues.
3.3 Kakamega HIV Profile and HIV Drivers
Dr. John A. Aswani, the Kakamega County AIDS/STI Control Coordinator made an elaborate presentation on the HIV profile and HIV drivers in the county. He indicated that Kakamega County ranks 11 among 47 counties in Kenya with HIV prevalence rate of 5.9%, up from 5.6% as reported in 2011. The county is therefore experiencing higher rates of new HIV infections. This he reiterated is an alarming trend that should attract the concern and attention of all stakeholders. Dr. Aswani pointed out that the key drivers of new HIV infections include stable and married couples (44%), MSMs (15%), female sex worker and their clients (14%), and IDU (4%).
By the end of 2011, there were 55,540 people living with HIV in Kakamega County with children constituting 16% of those living with HIV in the county. In his words, HIV disproportionate affects women than men. The proportion of women living with HIV in the County is significantly higher than that of men. Over the years, the women living in the county have been more vulnerable to HIV infection than the men. The entry point to HIV care is highest through VCT, followed by PMTCT and TB. However of all those who test positive for HIV, 63% of them delay before joining a care and treatment programme. In Kakamega County, low condom use may pose a significant risk of HIV infection. According to the county statistics about 42 per cent of people in Kakamega County had never tested for HIV by 2009 despite the huge importance of HIV testing as a way to increase prevention and treatment.
In regards to discrimination and stigma, Dr. Aswani indicated that most PLHIV and Key populations still go through a lot of discrimination in both private and public spheres including health care settings. In conclusion Dr. Aswani reiterated that there is a need to scale up HIV testing in the county, to counsel and reduce the risk for those who test negative, and to link those who test positive to care and treatment programmes.
3.4 Incidences of HIV Legal and Human Rights Violations.

Ms. Odamna presented the results of a baseline study recently conducted by the organization. The survey sampled PLHIV in the county with the key objective of understanding reasons for the current upsurge in HIV prevalence rates in the county. The survey revealed pertinent information including:

- Verbal and physical abuse in both private and public spheres such as health care providers, the police and relatives continue to be in the rise.
- Some insurance companies discriminate against PLHIV when it comes to provision of insurance services because they claim that they impose high insurance burden on the companies.
- Disclosure of one’s HIV status without their consent: This disclosure causes discrimination and stigma making a lot of people shy away from seeking health care services.
- Disinheritance of widows of their land and other property by their in-laws upon the death of their husbands. This makes the widows and the orphans lose their residence and income therefore compelling some of them to engage in menial jobs and other dangerous activities including sex work to earn a living.
- Denial of the right to marry by some churches that insist on a couple intending to get married to present a HIV free certificate before they can enter matrimony. As a result, some couples get fake certificates without being tested which then increase the chances of infection if either partner was living with the virus. The respondents pointed out that couples should undergo counselling so that they can take the test voluntarily.
- Limited access to ARV and medication for opportunistic diseases. The survey revealed that some of the reasons include that the medication for the opportunistic infections are unaffordable to some PLHIV or the sites where they
pick their ARVs from are too far and at times they fall out of the treatment programme.

- Some service providers testing clients without promptly informing or counseling them. This results in shock when results are revealed and drives away people from seeking further treatment services.

- Compulsory testing- the survey revealed that the PMTCT program implemented by the Ministry of Health and NASCOP, even though providing an opt-out option, many women are never prepared for the outcome. On this matter one HCW pointed out that the opt-out principle is not working properly because NASCOP always demand reasons why some women who had been counseled were not tested.

- On the issue of employment and HIV, the survey revealed that in many incidences the employers dismiss those workers who are living with HIV, claiming that they are less productive. Some employers go to the extent of testing their employees without consent. KELIN pointed out that they are presently following up such cases reported to them in the course of the project.

### Plenary

Some PLHIV pointed out that they do not get proper services at the health centers such as information and education and the drugs. This negatively affects how they respond and manage the condition.

Health care providers in the forum pointed out that they spread too thin because they attend to many patients yet they are very few in the facilities. One pointed out that some health facilities have only one nurse who attends to all the patients. This compromises the quality of services they give to the CCC section which obviously requires more attention. The Chairman of the county committee on health explained that they have already conducted interviews for additional Health Care Workers who will be posted in the various health centers to fill the staff shortfall.
3.6 Legal and Human Rights Issues Concerning the Key Populations

In her introduction of this session, Ms. Odamna indicated that key populations are the populations that are disproportionately impacted by HIV. This category includes sex workers, men who have sex with men, Injection Drug Users and the prison population. This is critical population that often faced with a lot of discrimination and stigma. She added that if the needs and the concerns of these key populations and not appropriately handled, the hope of “Getting to Zero” may remain a mirage.

3.6.1 Sex Workers (SWs)

Jane, a representative of sex workers within the County shared her experiences on conflict with the law and law enforcement officers, HCW and the public. She mentioned that she got involved in sex work because her marriage irretrievably broke down but she needed to fend for herself and her children.

She explained that the police harass, strip and assault sex workers whenever they are arrested for loitering on the streets. Strangely, the police also proffer false charges on them including disorderliness and possession of drugs and extort bribes from them before they are released. Often, some policemen ask for sex or even rape them in the street or at the police cells. She added that most of the time they never end up in court but are put in police custody until they comply with the conditions demanded by the officers. She further pointed out that this long stay under custody usually puts the health of sex workers who are PLHIV and are using ARV and who cannot have access to their medication.

In the community, on the other hand, sex workers are considered and treated as AIDS carriers who do not deserve to be treated with respect and should be subjected to intense violence, discrimination rejection and trauma until they quit the trade. As a result sex workers are less likely to come out and access health services whether for HIV, sexually transmitted infections or even sexual assault. In her own word she said
'the community believes that we are bad people, but we are also human'. She further pointed out that sex workers are also discriminated by the health care workers who think that they do not deserve to be offered health care services. She narrated that one day one nurse called her a ‘devil’ when she told her that she was a sex worker. Sometimes HCWs call their colleagues to come and see how a sex worker ‘looks like’. Upon concluding her presentation, participants asked a number of questions including why she chose sex work instead of selling grocery, whether she would wasn’t to exit from sex work someday, whether she uses condom during sex with the clients. A huge debate on the moral aspect of sex work ensued, with the moderator clarifying that the issues of concern is not whether sex work is right or wrong but that sex workers, like all of us, have rights that should be respected in both public and private spheres.

3.6.2 Men having Sex with Men (MSMs)

Men having sex with men also go through a number of challenges faced by female sex workers in the county. Because of homophobia that is still rife in the society, they remain hiding in secrecy and are afraid of being exposed to the public. A presenter pointed out that MSM are shunned by the public and are considered as misfits and a disgrace to themselves and the society. They have very limited access to information or health services. A representative of MSMs in the forum refused to make a presentation possibly for fear of negative reaction and stereotyping from the participants. Reporting on the experiences of MSMs, Ms. Odamna reiterated that, MSMs are treated worse when they go to health care facilities seeking services for infection in the anal area or with a ‘queer’ symptom. Complicating the equation is that some of the MSMs have female sexual partners in addition to their male partners, further increasing infections.
3.6.3 Injecting Drug Users (IDUs)

Even though injecting drug users have been associated with other regions in the county such as coastal region, the habit is slowly getting its way into Kakamega County. IDUs contribute to 4% of new infections in the county. In addition such persons also have male or female sexual partners, thereby increasing the possibility of infections.

4.0 RECOMMENDATIONS AND WAY FORWARD

4.1 Recommendations

At the end of the forum, the following recommendations were agreed upon by the participants.

1. Initiate and strengthen collaboration and partnership opportunities to enhance prevention and response to HIV by all stakeholders in the county.
2. The county government should expedite the formulation of a HIV policy to help in management of HIV related issues in the county.
3. The county needs to ensure sufficient budgetary provision to support HIV services in the county including awareness creation, research, provision of medication for opportunistic diseases, ARVs and strengthening capacity of CCCs in the county.
4. Partners and stakeholders should ‘devolve’ HIV related deliberation to the community level and minimize the number of ‘guest house’ forums to increase community awareness and response.
5. The County assembly to push for the repeal of the punitive laws that impede prevention and response to HIV in the county.
6. Partners such as KELIN should help fund the facilities to enable the County to allocate more funding to employment of more health care workers and other recurrent expenditure.
7. County leaders and stakeholders need to work closely with representatives of the key populations in the county to identify, prioritize and find the most effective way of addressing their specific needs.

8. The county government should support private-based health care providers because such facilities contribute immensely to the provision of HIV related health care and preventive services in the county.

**4.2 Way Forward and Action Points**

During the forum, the participants agreed to undertake the following:

1. The county assembly health committee to mobilize partners and stakeholders for consultative meeting to discuss the issues around HIV.

2. The county assembly shall bring on board stakeholders to help in the formulation of the HIV policy for the county that will focus on prevention, delivery of services and response.

3. The county assembly health committee shall have a meeting with sex workers support group to deliberate on how they can be supported for alternative income generation.

4. KELIN to discuss possible collaboration areas with the county assembly health committee to facilitate informed evidence based legislation and policy formulation related to HIV, human right and the law.

5. The county assembly, KELIN and other partners to support capacity building of local partners and key stakeholders on the legal and human rights provisions addressing the rights of PLHIV including key populations.

6. The county assembly health committee shall make funding available to groups working in prevention and response to HIV in the county.
5.0 Closing Remarks

Hon. Malala, the Vice Chairperson of the Kakamega County Assembly Health Committee, delivered Closing remarks in which he highlighted the following:

➤ That his committee is committed to ensuring that HIV related issues are given a priority in the county including increased budgetary allocation for preventive, legislation, service delivery and response activities.

➤ That the county assembly is in the process of formulating HIV policy in which he will be calling on stakeholders for participation and contribution so as to come up with a more responsive policy that can as far as possible meet the needs and expectation of PLHIV, key populations, the interest groups and the general public.

➤ He pointed out that the county was aware of the need for more HCWs and that the county public service board had conducted interviews for the new staff who would be posted to their duty stations soon. He appealed to the existing HCWs to continue being committed to their work and deliver quality services to the public.

➤ He encouraged the key populations and persons living with HIV to continue to boldly express their needs so that stakeholders and the government can address them.

➤ He urged the stakeholders to take discussions to the grassroot level and do few ‘guest house based’ workshops.

➤ In his conclusion he urged health care workers to always adhere to the rules, procedures and principles guiding management of HIV.

He finally thanked KELIN for convening the forum and the participants for their contribution during the forum reiterating that in ‘unity there is success’.
6.0 METHODOLOGY

Presentations, plenary and Q&A were used in the forum. Individuals representing various interest groups made short presentation on various areas of concern. During plenary sessions, participants discussed various issues on HIV, human rights and the law in a relaxed environment. Question and Answer sessions were also used in between presentations, in which participants sought further information, clarification or direction from the various stakeholders and participants. The forum was moderated by KELIN staff.

7.0 REFERENCES

### Agenda

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Facilitator</th>
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<tbody>
<tr>
<td>8:30 - 9:00 am</td>
<td>Arrival and Registration</td>
<td>KELIN</td>
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<tr>
<td>9:00 - 9:30 am</td>
<td>Introduction, climate setting and welcome remarks</td>
<td>KELIN</td>
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<tr>
<td>9:30 - 9:45 am</td>
<td>Opening Remarks</td>
<td>UNDP</td>
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<td>9:45 - 10:30 am</td>
<td>Setting the agenda</td>
<td>Moderator</td>
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<tr>
<td></td>
<td>• Kakamega County HIV Profile and discussions on HIV drivers</td>
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<td>• Results of a recent baseline survey</td>
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<td>• Presentation on key interventions in place and existing gaps</td>
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<td></td>
<td>• Emerging issues on governance and legislation on HIV issues</td>
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<td>10:30-11:00 am</td>
<td>Tea Break</td>
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<td>11:00-12:45 pm</td>
<td>Moderated panel discussion: Key Populations representatives</td>
<td>KELIN</td>
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<td>• Exploring opportunities for collaborative action by stakeholders on HIV</td>
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<td>12:45 - 1:00 pm</td>
<td>Closing Remarks</td>
<td>Kakamega County Official</td>
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<td>1:00-2:00 pm</td>
<td>Lunch and Departure</td>
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**KAKAMEGA COUNTY DIALOGUE FORUM ON HIV, LAW AND HUMAN RIGHTS**

**DATE:** 28 November, 2014

**VENUE:** GOLF HOTEL, KAKAMEGA COUNTY

**Supported by a grant from**

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