



NATIONAL ACTION PLAN WORKSHOP ON STRENGTHENING LEGAL AND POLICY ENVIRONMENT FOR HIV RESPONSE

9 – 10 MARCH, 2017, WINDSOR GOLF HOTEL, NAIROBI

CONCEPT NOTE

A. Introduction and background

HIV and Tuberculosis (TB) remain the major public health and development challenges in Kenya. In 2015, an estimated 1.5 million people were living with HIV while 36,000 people died from AIDS related illness. Despite the progress made in reducing HIV prevalence rates and AIDS related deaths, Kenya has the joint fourth-largest HIV epidemic in the world (alongside Mozambique and Uganda). It is also one of the 22 high burden TB countries that account for more than eighty percent (80%) of global TB cases. Further, up to thirty eight (38%) of people with TB are co-infected with HIV.

The HIV epidemic is deeply concentrated amongst key populations such as Persons Who Inject Drugs (PWIDs), sex workers, women, prisoners, Men who have Sex with Men (MSM) and lesbian, gay, bisexual and transgender communities. These groups disproportionately contribute to new infections relative to their population in the country. Thirty percent (30%) of new annual HIV infections in Kenya are among key populations with 65% of all new infections occurring in 9 out of 47 counties among them the major urban centers of Nairobi, Kisumu and Mombasa. HIV prevalence among certain key populations groups such as MSMs, female sex workers (FSW) and PWIDs) is more than three times the national prevalence rates of 5.9%¹.

As part of an Africa Regional HIV Grant for Removing Legal Barriers to Access, KELIN conducted a *political scan of the legal, regulatory and policy environment for HIV & TB for key and affected populations in Kenya* and identified the various legal and human rights challenges that hinder the fight against the epidemic. These include discriminatory laws policies and practices that criminalize populations at higher risk of HIV. Punitive laws such as Sexual Offences Act, Public Health Act, the Penal Code and The Narcotic Drugs

¹ See for instance IOM (2010) 'Integrated Biological and Behavioural Surveillance Survey among Migrant Female Sex Workers in Nairobi, Kenya'; National AIDS Control Council of Kenya (2014) 'Kenya AIDS Response Progress Report 2014: Progress towards Zero'

and Psychotropic Substances Act perpetuate stigma and discrimination against key populations and create barriers to access to HIV testing, prevention, treatment care and support. Reversing the HIV trends and patterns to zero infections, zero discrimination and zero deaths require effective response predicated on a supportive and protective environment in the country² including improving protection of rights, enhancing access to HIV services and mitigating the impacts of the epidemic.

B. Justification

Over three decades of experience in addressing the HIV epidemic has confirmed that the promotion and protection of human rights constitutes an essential component in preventing the transmission of HIV and reducing the impact of HIV and AIDS. The legal environment (laws, enforcement and justice systems) has immense potential to better the lives of all and to help turn the crisis around. However, laws that safeguard rights of People Living with HIV (PLWHIV) remain underutilized to protect key populations underscoring the need to remove existing legal and policy barriers that undermine their ability of key and affected populations to enjoy their human rights.

KELIN's *Political Scan of the Legal, Regulatory and Policy Environment for HIV & TB for Key and Affected Populations in Kenya*, has identified various advocacy actions that civil society actors and other stakeholders can pursue to ensure that that key populations are not left behind in national HIV response. These include follow up on implementation of court decision in *Daniel Ng'etich & 2 others v. Attorney General & 3 others*³, advocacy for decriminalization of sex work, and engaging with key state agencies to advocate for formulation of policies that guarantee key populations access to HIV prevention and treatment services. Similar recommendations have also been made by other institutions including the National AIDS Control Council (NACC)⁴. KELIN has also developed a media policy brief to inform policy and advocacy on legal rights of key populations.

However, the country still lacks nationally agreed upon action plans for law and policy reform and for strengthening access to justice and law enforcement. It is in this regard that KELIN in partnership with the UNDP Regional Office will be conducting a national action plan meeting to carry forward the recommendations from the legal environment assessments. The workshop will critique recommendations made in the legal environment assessment and formulate action plans and timelines for law reform.

² UNAIDS (2010) Getting to Zero: 2011-2015 Strategy

³ Nairobi High Court Constitutional Petition no. 329 of 2014

⁴ NACC (2013), *the Law and the Most at Risk Population in Kenya: Analysis of the Legal Statutes and By-Laws In Kenya and How They Impact on Effective Programming and Human Rights of MARPS*

C. Objectives

1. To develop a national action plan that should guide efforts at strengthening the legal environment for HIV response
2. To build strategic partnerships among stakeholders for policy, strategy and law reforms for effective HIV response in Kenya

D. Expected outputs

1. A national action plan on strengthening legal and policy environment for HIV response developed
2. National platforms to address legal barriers to access to services for key populations established and/or strengthened

E. Methodology

The forum will involve presentations from experts, interactive panel discussions and group discussions. Representatives from judiciary, law enforcement agencies, county governments, persons living with HIV and/or affected by TB and key populations will be among the resource persons.

F. Participants

A total of 60 participants representing various stakeholders including law enforcement agencies, Ministry of Health, NACC, NASCOP, judiciary, Council of Governors, national human rights institutions, CSOs, key population groups, persons living with HIV and/or affected by TB, community representatives from Nairobi, Kisumu and Mombasa.

G. Date and Venue

The two days' forum will be held at Windsor Golf Hotel, Nairobi on 9 – 10 March 2017.

Annex 1: Proposed Agenda



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DRAFT PROGRAM

WORKSHOP OBJECTIVES

1. To develop a national action plan that should guide efforts at strengthening the legal environment for HIV response
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WORKSHOP MODERATOR: NERIMA WERE

Time	Session	Facilitator
Day 1	Thursday, 9 March 2017	
8.00 am – 8.30 am	Registration	
8.30 am – 9.00 am	Workshop introductions and expectations	Nerima W
8.30 am – 9.00 am	Opening remarks <ul style="list-style-type: none">• Mr Ambrose Rachier, Chairman, KELIN (TBC)• Dr Nduku Kilonzo, Executive Director, NACC (TBC)• Dr Enos Masini, Head, NTLD• Ms Amanda Serumaga, Country Director, UNDP (TBC)	Nerima W

9.30 am – 10.45 am	<p>Session 1: Political scan of the legal, regulatory and policy environment for HIV & TB for Key and affected populations in Kenya</p> <p>Presenter: Commissioner Catherine Mumma</p> <p>Summary of key recommendations of the:</p> <ul style="list-style-type: none"> - <i>Political scan of the legal, regulatory and policy environment for HIV & TB for Key and affected populations in Kenya (KELIN),</i> - <i>The Law and the Most at Risk Populations in Kenya</i> - <i>Media policy brief</i> <p>Plenary discussions</p>	Nerima W
10.45 am – 11.00 am	Health Break	
11.00 am – 1.00 pm	<p>Panel session 2: Proposed Community Actions for Strengthening National Response to HIV& TB in Relation to Key Populations</p> <p>Panelists:</p> <ul style="list-style-type: none"> • Carol Omondi, Teens Watch • Fatma Jeneby, Muslims Education and Welfare Association (TBC) • Phelister Abdalla, Kenya Sex Workers Alliance (TBC) • Kennedy Abot, NYARWEK (TBC) • Gigi Louisa, GALCK (TBC) • Barbara Muruga, EATHAN (TBC) <p>Plenary discussions</p>	Anne Ileri
1.00 pm – 2.00 pm	Lunch Break	
2.00 pm – 3.30 pm	<p>Session 3: States' Commitment to Strengthen protection of Key populations at the national and county levels: Way forward</p> <p>Panelists:</p> <ul style="list-style-type: none"> • Dr Martin Sirengo, NASCOP (TBC) • Dr Enos Masini, NTLTD (TBC) 	Rtd Justice Violet Mavisi (TBC)

	<ul style="list-style-type: none"> • Mr Joseph K Boinnet, Inspector General of Police, National Police Service (TBC) • Mr Isiah Ougo, Commissioner General of Prisons, Kenya Prison Service (TBC) • Ms Anne A. Amadi, Chief Registrar of the Judiciary (TBC) • Hon Prof Githu Muigai, Attorney General of the Republic of Kenya (TBC) • Hon Gov Peter Munya, Chairman, Council of Governors (TBC) <p>Plenary discussions</p>	
3.30 pm – 4.45 pm	<p>Session 4: Proposed actions by independent commissions and other key actors to promote state accountability for enhanced protection of key populations in national HIV & TB response</p> <p>Panelists:</p> <ul style="list-style-type: none"> • Ms. Patricia Nyaundi, Commission Secretary, Kenya National Commission on Human Rights – (TBC) • Comm. Winfred Lichuma, Chairperson, National Gender and Equality Commission – (TBC) • Dr. Regina G Mwatha, Ag. Chairperson, Commission on Administrative Justice – (TBC) • Mr. Jotham Arwa, Chairperson, HIV and AIDS Tribunal – TBC • Mr. Isaac Okero, President, Law Society of Kenya (TBC) <p>Plenary discussions</p>	Rtd Justice Violet Mavisi (TBC)
4.45 pm	Tea Break and departure	
Day 2	Friday, 10 March 2017	
8.30 am – 9.00 am	Recap	Rapporteur
9.00 am – 10.45 am	<p>Session 5: Prioritizing key recommendations and priority actions for the national action plan on strengthening legal and policy environment for HIV response: Group discussion</p>	Anne Ileri

	<ul style="list-style-type: none"> i. Communities ii. Health care workers iii. Law enforcement agencies iv. Civil society v. National human rights institutions 	
10.45 am – 11.00 am	Health Break	
11.00 am – 1.00 pm	<p>Session 6: Prioritizing key recommendations and priority actions for the national action plan on strengthening legal and policy environment for HIV response: Group presentations</p> <ul style="list-style-type: none"> i. Communities ii. Health care workers iii. Law enforcement agencies iv. Civil society v. National human rights institutions 	Anne Ileri
1.00 pm – 2.00 pm	Lunch Break	
2.00 pm – 3.30 pm	Session 7: Review and Adoption of National Action Plan	Nerima W
3.30 pm – 4.00 pm	<p>Session 8: Closing Remarks</p> <ul style="list-style-type: none"> • Sandra Ochola, Deputy Executive Director, KELIN • Vote of thanks by participants 	Nerima W
4.00 pm	Tea and departure	