

# Second Regional Capacity Strengthening Convening for African Human Rights Institutions

---

Promoting and Protecting the  
Rights of Key Populations:  
Making Rights a Reality

4 – 7 September 2017  
Johannesburg, South Africa

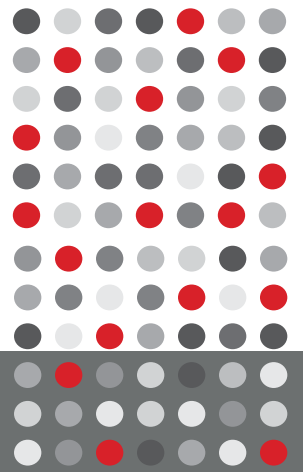




## TABLE OF CONTENTS

---

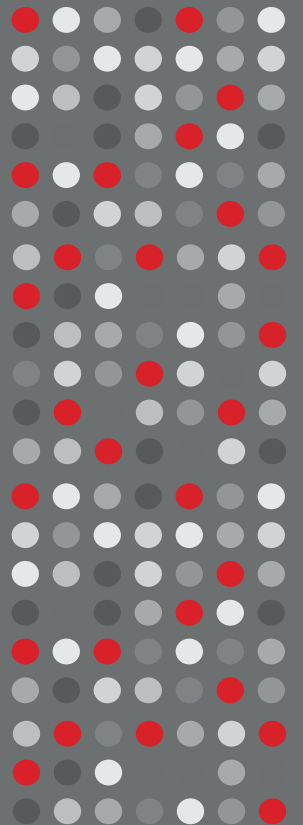
<b>INTRODUCTION</b>	<b>3</b>
<b>BACKGROUND</b>	<b>4</b>
<b>DAY ONE: Monday, 4 September 2017</b>	<b>6</b>
Keynote Address	6
Morning Session	6
Recap of the 2016 convening	6
Key populations primer	8
Equality and non-discrimination	10
Afternoon Session	11
HIV, TB, human rights and criminalisation	11
<b>DAY TWO: Tuesday, 5 September 2017</b>	<b>12</b>
Morning Session	12
Collaborations, challenges and opportunities	12
Practical experience from NANHRI SOGIE project	13
Access to Justice for KPs in places of detention	13
Afternoon Session	14
Intersectionality panel: Unique challenges of vulnerability in detention	14
<b>DAY THREE: Wednesday, 6 September 2017</b>	<b>15</b>
Morning Session	15
Present lessons from the report on the role of NHRIs in the context of Key Populations	15
NHRI promotion and protection mandate	15
Afternoon Session	16
Action Planning	16
<b>CONCLUSION</b>	<b>17</b>
<b>ANNEXURE</b>	<b>18</b>
<b>ANNEX 1: meeting agenda</b>	<b>18</b>
The Second Regional Capacity Strengthening Convening for African National Human Rights Institutions: “ Promoting and Protecting the Rights of Key Populations: Making Rights A Reality ”, 4 - 7 September 2017 in Johannesburg, South Africa.	
<b>ANNEX 2: Participants List</b>	<b>21</b>

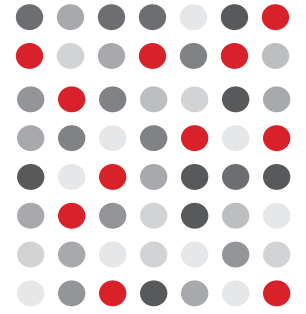


# INTRODUCTION

The AIDS and Rights Alliance for Southern Africa (ARASA) and the Network of African National Human Rights Institutions (NANHRI), under the Africa Regional Grant on HIV: Removing Legal Barriers hosted the second four-day regional capacity strengthening convening for National Human Rights Institutions (NHRIs) in Johannesburg, South Africa, from 4 to 7 September 2017.

Recognising that NHRIs have a significant role to play in creating an enabling legal environment and strengthening access to HIV and TB prevention, treatment, care services for key populations (men who have sex with men, transgender persons, people who use drugs and sex workers), the Regional Capacity Strengthening convening for NHRIs brought together 35 senior NHRI representatives from across Africa. The overarching theme of the meeting was “Promoting and Protecting the Rights of Key Populations: Making Rights a Reality”. The meeting focused on multiple topics including access to justice for key populations, collaboration between NHRIs, civil society, legislators and regional human rights mechanisms and strengthening the efficacy of NHRIs.





## BACKGROUND

### THE FIRST REGIONAL CONVENING FOR AFRICAN NATIONAL HUMAN RIGHTS INSTITUTIONS

In November 2016, ARASA and NANHRI hosted the first Regional Capacity Strengthening Convening for NHRIs on key populations and HIV, under the Africa Regional Grant on HIV: Removing Legal Barriers.

The convening provided a platform for NHRI representatives from different African countries to engage in evidence-informed discussions on human rights, HIV and TB in the context of key populations and provided introductory information on key population issues. The second convening built on these efforts by reflecting on strategies and plans to ensure that African NHRIs are capacitated to promote and protect the rights of key populations.

### GLOBAL FUND AFRICA REGIONAL HIV: REMOVING LEGAL BARRIERS

In 2015, the AIDS and Rights Alliance of Southern and East Africa (ARASA), Enda Santé, the Southern Africa Litigation Centre (SALC), Kenya Legal & Ethical Issues Network (KELIN) and UNDP secured funding from the Global Fund to fight AIDS, TB and Malaria (GFATM) for a first of its kind regional programme to be implemented in ten countries in West, East and Southern Africa, with the aim of:

1. Strengthening evidence-based law reform to support improved delivery of and access to HIV and TB services for key populations;
2. Improving the legal environment that provides rights-based protections through access to justice and enforcement of supportive laws for key populations;
3. Protecting key populations in the event of human rights crises, which impede access to HIV and TB services.

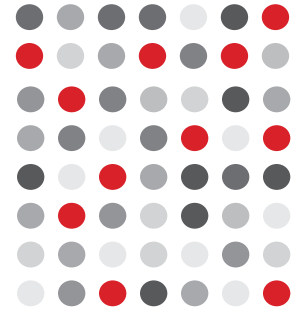
The overall goal of the Africa Regional Grant on HIV: Removing Legal Barriers is to work with parliamentarians, policy makers, law enforcement officials, cultural leaders, lawyers and the judiciary to strengthen access to services for key populations in 10 countries – Botswana, Côte d'Ivoire, Kenya, Malawi, Nigeria, Senegal, Seychelles, Tanzania, Uganda, and Zambia.

### NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIs) AND THEIR ROLES

In most African countries, the rights of key populations are often contested and seen as controversial. NHRIs have a special duty and responsibility to assist and defend specific groups, including key populations, that experience human rights violation from both state actors and non-state actors. In order to ensure that the state complies with its own laws and other legal instruments, as well as regional and international norms, NHRIs need to ensure effective interactions with legislators, human rights systems, regional networks and civil society.

### OBJECTIVES OF THE MEETING

1. To provide an environment for NHRI representatives from different African countries to engage in evidence-informed discussions on human rights, HIV/TB and other issues in the context of key populations;
2. To increase the capacity of NHRIs in Africa to increase access to justice for key populations;
3. To increase the capacity of NHRIs to identify laws and policies which inhibit the rights of key populations, and advise governments on the amendments needed to facilitate access to HIV/TB services by key populations; and
4. To share good practices, lessons learned and experiences on promoting and protecting the rights of key populations.



## OUTCOMES

1. Increased understanding and awareness of the HIV, AIDS and TB, law and human rights issues that affect key populations;
2. Increased understanding on the role of NHRIs in promoting and protecting the rights of key populations; and
3. Strengthened capacity of NHRI representatives to prevent and address human rights violations that impede key populations access to HIV/TB services.

## METHODOLOGY OF THE CAPACITY STRENGTHENING CONVENING

The regional capacity strengthening was a four-day interactive workshop, which included facilitated discussions, presentations by expert resource persons and group work sessions.

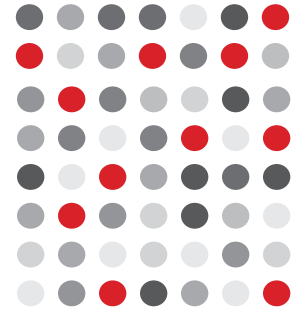
The use of case studies related to criminalisation of key populations, public health and human rights were utilised for the purpose of deepening knowledge and considering avenues that the participants could use to promote reforms in their countries.

## TOPICAL ISSUES FOR THE CONVENING

- Health and human rights of imprisoned and detained persons
- Access to justice for key populations
- The Paris Principles and their impact on African NHRIs
- The role of NHRIs in monitoring and implementation of recommendations by regional and international human rights mechanisms and bodies
- Collaborative efforts between NHRIs and legislators in promoting and protecting the rights of key populations
- Collaborative efforts between NHRIs, civil society and key populations groups
- Strengthening the capacity of NHRIs to intervene across the uneven constitutional landscapes based on evidence and scientific data
- Sustainable Development Goals and their linkages to health, human rights and key populations



*NHRI representatives from different African countries engaged in evidence-informed discussions on human rights, HIV and TB in the context of key populations.*



# DAY ONE

## MONDAY, 4 SEPTEMBER, 2017

### MORNING SESSION

#### KEYNOTE ADDRESS

Marie Ramtu, Programme Officer at the Network of African National Human Rights Institutions (NANHRI), opened the meeting. She welcomed everyone present and thanked ARASA and all NHRIs present for making the convening possible.



*Marie Ramtu, Programme Officer at the Network of African National Human Rights Institutions*

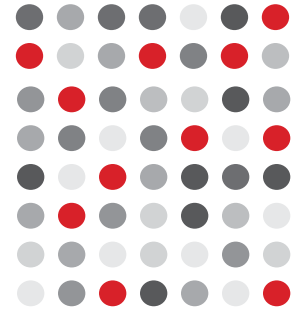
In an opening address, ARASA Director, Michaela Clayton, extended a further word of welcome to all delegates, encouraging everyone present to boldly pursue learning in a non-threatening manner, which all the while remains critical and engaging. She further encouraged all delegates to pay special attention to issues confronting key populations, particularly issues related to sexual orientation and gender identity and expression (SOGIE). Finally, she emphasised the importance of being open to learning from the experiences and unique perspectives offered by everyone.

#### FIRST REGIONAL CAPACITY STRENGTHENING CONVENING RECAP

Nthabiseng Mokoena, ARASA Regional Advocacy Officer gave a recap of last year’s convening which was hosted with a specific focus on key populations (KPs), human rights and HIV. Lesbian, gay, bisexual, transgender, intersex (LGBTI) rights including issues related to dignity, validation and clarifying related definitions and concepts stood out from last year’s convening. There was also a strong focus on understanding persons who use drugs as a key population as opposed to understanding them only and ever as ‘criminals’ or ‘addicts’. The convening also addressed the challenges faced by Commissioners in seeing through the progress of their work.



*ARASA Director, Michaela Clayton*



The prominent themes from 2016 included the institutional independence of NHRIs and the efficiency of NHRIs in the handling of cases pertaining to key populations regarding knowledge, capacity and complaint tools as well as a thorough understanding of key populations. The meeting objectives included providing an environment for NHRI representatives from different African countries to engage in evidence-informed discussions on human rights, HIV/TB and other issues in the context of key populations; increasing the capacity of NHRIs in Africa to increase access to justice for key populations; increasing the capacity of NHRIs to identify laws and policies which inhibit the rights of key populations, and advise governments on the amendments needed to facilitate access to HIV/TB services by key populations; sharing good practices, lessons learned and experiences on promoting and protecting the rights of key populations.

The outcomes of the 2016 Regional Capacity Strengthening Convening for African National Human Rights Institutions meeting were as follows:

- Increased understanding and awareness of HIV/AIDS, TB, law and human rights issues that affect key populations.
- Increased understanding on the role of NHRIs in promoting and protecting the rights of key populations.
- Strengthened capacity of NHRI representatives to prevent and address human rights violations that impede key populations from accessing HIV/TB services.

Nthabiseng also shared the work done by ARASA following the convening in 2016. This included hosting a National Advocacy Meeting aimed at reducing

violence against key populations in Kenya together with Kenya National Commission on Human Rights (KNCHR). This was also hosted in Malawi Human Rights Commission (MHRC). ARASA also hosted the 2nd Africa Regional Dialogue on HIV, TB and the law.

Some key goals achieved thus far include the following:

- Ghana has a SOGIE project that allows them to empower and enhance themselves.
- The Ombudsman of Botswana has partnered with civil society organisations (CSOs) to build the capacity of the Commission as well that of its staff members.
- Swaziland is in the middle of conducting their baseline surveys; they now have specific recommendations for key populations and are already at work with the police and other relevant stakeholders.
- Namibia has started conducting hearings on racism, discrimination and human rights violations as they relate to key populations. They are submitting recommendations to Parliament.
- Kenya has a protection and promotion mandate; which includes mainstreaming SOGI and promoting key populations. They are working with the Gay and Lesbian Coalition of Kenya, the judiciary and parliament to ensure that issues confronting key populations are addressed.



*Nthabiseng Mokoena, ARASA Regional Advocacy Officer*



## KEY POPULATIONS PRIMER

The session led by Lynette Mabote from ARASA together with Evelyn Kibuchi from the Stop TB Partnership in Kenya, highlighted critical information useful in better understanding vulnerable groups, particularly with regards to HIV, sexual and reproductive health and rights, TB, health and human rights. Lynette's presentation focused on the paradox of the information available, while Evelyn focused on TB, HIV and human rights.

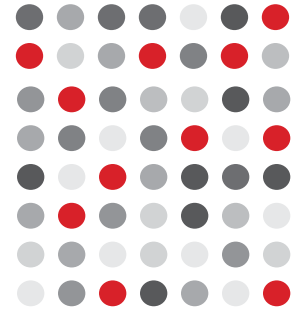
Lynette began her presentation, entitled Framing Risk, Vulnerability in the HIV/TB Response, by challenging participants to “imagine a world where HIV and TB vaccines were available. A world where citizens were notified that ‘anyone diagnosed with HIV and/or TB should register to receive these vaccines’. A world where Sustainable Development Goals (SDG) target 3.3 on HIV to end the epidemics of AIDS, tuberculosis, malaria, neglected tropical diseases as well as combat hepatitis, water-borne diseases and other communicable diseases by 2030 were met.” The question she posed was whether this would signal the end of HIV and TB. She expounded on the (highly advanced) biomedical interventions available for effective treatment. The point of emphasis was that with sufficient political and social will, coupled with a commitment to sourcing relevant data for vulnerable groups, treatment in and of itself can in fact, be an effective form of prevention. Focusing particularly on vulnerable groups, i.e. key populations, helps us understand the dynamics of specific population groups, and in this way targeted interventions are made possible. However, legal and policy environments pose barriers to this by criminalising people for hosting a virus or bacteria, which results in people who need to access HIV, TB and sexual and reproductive health services (SRH) not being able to access them.

Elaborating on the ‘data paradox’, she explained that the where key populations are concerned, the greatest obstacle where structuring effective interventions is concerned is that organisations do not know where the data is or how to get it. According to UNAIDS, as many as 50% of all new HIV infections worldwide occur in people from key populations. Sub-Saharan Africa estimates for HIV prevalence are 10% in Uganda, 30% in Burkina Faso, 34% in Kenya, 37% in Nigeria, 43% in Ghana and 45% in Benin. Key population size estimates are a central tool for planning & resourcing national HIV programming. However, there are barriers to data when key populations are hidden and political leaders deny their existence. Lynette pointed out this grossly undermine efforts to end HIV/AIDS. She further contended that to convince policy makers and funders of the existence and magnitude of any public health problem, organisations need to have a good estimate of the size of the population at risk. Thus, highlighting once more the importance of sourcing accurate, targeted data, ultimately overcoming data paradox between moral discourse, law enforcement and public health.



*Lynette Mabote, ARASA Regional Programmes Lead*





Evelyn Kibutchi began her presentation titled Human Rights Violations in TB Responses with an overview of the TB burden globally and across the African continent. Tuberculosis (TB) is among the world's leading cause of death among infectious diseases. It is also a leading cause of death for people living with HIV, responsible for 35% of deaths in 2015. In Africa, TB accounted for 28% of cases globally. The continent also has 74% of the estimated 1.2 million people co-infected with TB and HIV. She reiterated Lynette's point regarding the importance of data. She also emphasised that stigma-related obstacles (which lead to human rights violations) continue to undermine efforts to eradicate TB.

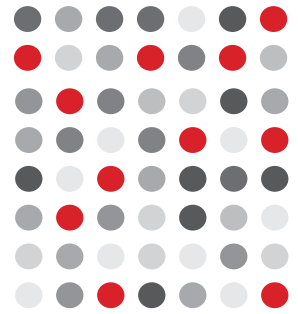
Evelyn also expanded on the work being done by the Stop TB Partnership in Kenya. She explained that their role is to spearhead a nationwide, year-round, doorstep-reaching platform, for a healthy and prosperous Kenya free from TB and other poverty-related diseases. She explained that the violation of human rights among key populations begins with a lack of data. Lack of TB specific data resulted in a lack of recognition of key populations as a TB vulnerable population in Africa. This means that there are no interventions relevant to and targeting this specific population, despite their increased vulnerability. Evelyn highlighted that infection rates among key populations globally are over five times higher compared to that of the general population. Sex workers for example, have multiple TB risk factors—socioeconomic marginalisation, crowded workplaces, limited healthcare access, and high HIV infection risk.

Evelyn noted that lack of representation of key populations in vital decision-making processes in TB programming meant that even instruments such as the National TB Strategic Plans make mention of key populations but this is unfortunately not accompanied by any implementation of strategy which enables positive interventions.

In discussing the current TB burden in Africa, participants were divided on the question of whether TB can be ended by 2035. One of the barriers identified was the violation of human rights. To effectively work towards this vision therefore, there would have to be a human rights and gender sensitive approach that involves the affected communities, particularly key populations. Some recommendations included conducting research able to produce data enabling stakeholders to adequately understand the magnitude of the epidemic. Another one was meaningful involvement of key populations in key decision-making processes and interventions.



*Evelyn Kibuchi, Stop TB Partnership Kenya*



## EQUALITY AND NON-DISCRIMINATION

The session on Equality and non-discrimination was chaired by Nthabiseng Mokoena (ARASA) and led by Dr. Zahara Nampewo.

Zahara, who is from Makerere University spoke about her role in mainstreaming human rights in the School of Law at Makerere University. She emphasised that her approach to non-discrimination is humaneness, acceptability, ubuntu (the way we treat others with dignity) and nurturing the oneness of the human family. She argued that human worth and value as well as promoting essential dignity of all necessitates that all persons be allowed to fulfil their greatest potential. And so, the language of “othering” further fuels discrimination and stigma. This was to drive the point that the basis for human rights is equality and non-discrimination, which then enables access to health services and information. Zahara emphasised that the approach of equality and non-discrimination is critical in advocating the rights of key populations and insisting on their humanity, above all else. That is, before they are prisoners, sex workers, drug users, etc., they are people. This fact alone justifies their treatment with dignity and respect, and in turns their ability to access critical services and basic needs.

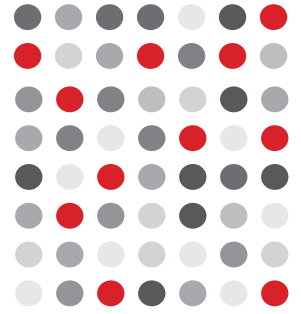
If human rights and human dignity are the foundations of freedom, justice and peace, the key

question to ask, according to Zahara is whether people can access resources from the same point of departure. Equality and non-discrimination then becomes the starting point of human rights. To qualify this, one must establish if there has been unfairness of discrimination. She makes a distinction however between positive discrimination, which is discrimination which is justified, whose ends justify the means i.e. discrimination to foster equity.

The Commissioners face almost similar challenges and have embarked on training, sensitisation campaigns, collaborations and networking with other stakeholders, awareness raising, law and policy reforms and advocacy for key populations and access to TB/ HIV/ AIDS health services.



*Dr. Zahara Nampewo*



## AFTERNOON SESSION

### HIV, TB, HUMAN RIGHTS AND CRIMINALISATION

Professor Lillian Artz from the University of Cape Town led this session focused on understanding HIV and human rights. Lillian engaged the idea of redefining ‘vulnerability’ and what we understand by ‘degrading’ and ‘ill-treatment’. She explained that it was places of detention which helped her expand on and better understand the conversation around dignity, particularly as it relates to what she refers to as the ‘othered others.’ She noted that there is barely any data available on this group of people, i.e. the vulnerable and/or marginalised.

The key question posed by her presentation was how we can begin to better promote access to health, particularly for ‘othered others’ i.e. key populations who live at multiple intersections such as imprisoned women who are HIV positive. Lillian’s presentation called on participants to understand cruelty, inhumanity and torture in their proper definitions, and argued that we could go as far as advocating around these definitions for people to understand their rights, particularly for imprisoned persons living with HIV. Further, we must look holistically at the effects of ARTs particularly in the context of people in places of detention, as owing to multiple factors, medication may further have a negative impact on their health.

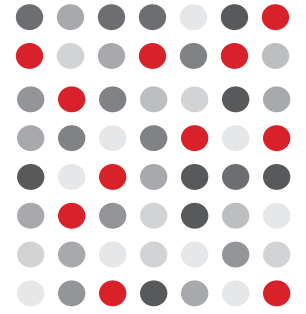
There exist opportunities to deepen our understanding of incarceration, health and human rights which should be taken advantage of to advance greater access and dignity for all persons.

There needs to be increased efforts to document and monitor existing legal frameworks advancing the rights of detained persons.

Michaela Clayton (ARASA) expanded on this by discussing the criminalisation of HIV transmission, exposure and non-disclosure. She emphasised the importance of people understanding the dire consequences of HIV criminalisation which undermine efforts to reduce new infections and effectively manage existing ones. The argument made was that there are no scientific bases for criminalisation and although the intention behind it may be noble, the implementation and/or strategy (i.e. criminalising HIV) is not a solution. African countries such as Malawi who are still looking to legislate criminalisation are taking decade’s worth of work around HIV backwards. A better solution would be prosecution only in the instances where there is intentional transmission with express purpose of causing harm. That is, using existing criminal laws; legislating HIV specific offences is unnecessary and counterproductive. Criminal law should therefore be wholly restricted to truly blameworthy cases. Best scientific evidence and legal principles should guide the assessment of harm.



*Prof. Lillian Artz, University of Cape Town*



## DAY TWO: TUESDAY, 5 SEPTEMBER, 2017

### MORNING SESSION

Deena Patel from UNDP facilitated this session which centered key populations and civil society. She opened by introducing herself and welcoming to the panel, Gift Trapence, Programmes Manager at Centre for the Development of People (CEDEP), Ronny Arnephy, LGBTI Officer at Lesbian Gay Bisexual Transgender & Intersex of Seychelles (LGBTI Sey), and Ted Wandera, Programme Officer at Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN). They shared their experiences working with NHRIs, particularly challenges, lessons learnt and functional models.

Gift began by noting the tireless work of the Commission, its independence and opportunities which exist for reporting directly to members of parliament. Gift also emphasised that the composition of the Commission and its representation matters; it is important to be cognisant of the various backgrounds from which people come and their different skills and related contexts. The Commission itself is however not united owing to differences. Often the Secretary of the Commission is often technical about the approach to solving issues. Gift also commented that Commissions can use different mechanisms to highlight SOGI issues and better advance gender justice.

There is also an issue of trust (between the Commission, civil society and the LGBT community) as well as a lack of commitment. It is difficult to tell the position of the Commission, particularly on issues concerning LGBTI persons.

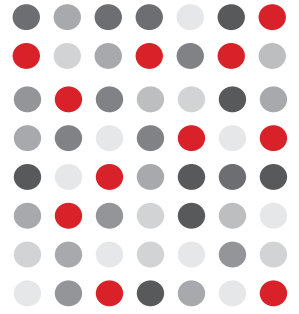
On the question of conducting public inquiries, Gift commented that it is problematic for the commission to conduct such inquiries especially when there are no clear guidelines and proper understanding of how to conduct them. What is urgent is a process that will protect vulnerable communities; not one that risks further violating them.

In discussing the work of KELIN, Ted noted that their focus is on the right to health for all. They are sometimes faced with cases they do not have a mandate for. According to Ted, the Commission would not work if it were not independent. Ted further noted that there is a need to call on key populations to unite to protect and promote the independence of the Commission and protect it against government. Equally, the government must provide adequate funds for the Commission so that it is able to conduct its work effectively. Ted closed off with a recommendation that communities engage more with the Commission.

Ronny highlighted that LGBTI-Seychelles has worked extensively with the media. They have also used social media and television as a vehicle to raise awareness and advocate for LGBTI rights. Ronny also noted the intersections of key populations; in Seychelles for example, many people who use drugs are also men who have sex with men (MSMs). Ronny concluded that the implementation of laws and policies is not happening and that the political climate provides a great opportunity to lobby for meaningful change.



*Deena Patel facilitated a session on key population Collaborations, Challenges and Opportunities with Gift Trapence (CEDEP), Ronny Arnephy (LGBTI-Sey), Barbra Muruga (EATHAN) and Ted Wandera (KELIN).*



## **PRACTICAL EXPERIENCE FROM NANHRI SOGI PROJECT**

Marie Ramntu (NANRHI) started this session by giving an overview of the NHRIs, their roles and the success of their projects thus far. She also commented that it is unfortunate that people do not approach Commissions because they view them as government bodies.

Panelists highlighted that they have to work tirelessly to ensure the Commissions are accessible, as well as useful and responsive to the needs of the communities. One of the ways this is done is by working with civil society organisations, community based networks and activists to better understand the issues, as well as the best possible approaches for the Commissions to help solve the issues.



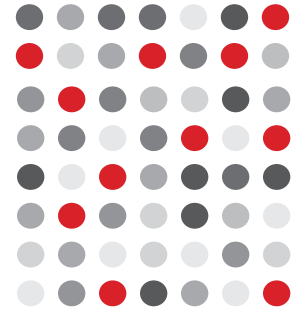
*Marie Ramntu*

Panelists further acknowledged that Commissions have worked with LGBTI groups, sex workers groups and MSMs (men who have sex with men) to strengthen their capacity to respond swiftly to their challenges. In addition, on going engagements ensure that the NANHRI SOGI Project remain relevant to the people who it is established for.

## **ACCESS TO JUSTICE FOR KEY POPULATIONS IN PLACES OF DETENTION**

Melody Kozah began by showing a short video that gave an overview of the experiences of detainees and key populations. She also discussed the Luanda Guidelines developed to address pre-trial detention challenges. Key challenges include detained persons being unable to access a lawyer or legal representative and overcrowding which exposes people to violence and ill-health. The African Union has a mandate to provide guidelines regarding issues of arrest and pre-trial detention.

Melody also discussed the poor understanding of key concepts related to gender identity. There's a need to train police to be gender-sensitive particularly towards LGBT and their placements in detention. For persons living with HIV, provisions must be made for them to access medication and health care services. The role of NHRIs and CSOs in enforcing the Luanda guidelines was also discussed by Melody and the participants.



## AFTERNOON SESSION

### INTERSECTIONALITY PANEL: UNIQUE CHALLENGES OF VULNERABILITY IN DETENTION

This panel discussion included diverse perspectives of persons living at multiple intersections and their experiences with incarceration.

Ricky Nathanson, a transgender woman, shared her experience of being arrested in Zimbabwe (2014) for using the women's restroom. She further explained that because of the case she has suffered psychologically, emotionally and financially. As a businesswoman, she had to close her business due to threats and intimidation. Transgender persons are subjected to some of the most dehumanising forms of violence, especially

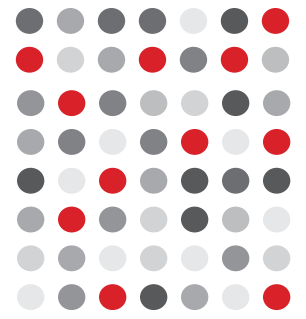
As a sex worker, Mary Mwangi detailed her experience of being raped by a police officer in police custody. Her friends helped to get her released but she has been severely traumatised by that experience. It was also highlighted that sex workers experience great difficulty accessing treatment and health services. They are further stigmatised in detention owing to assumptions which lead to accusations of spreading HIV/AIDS. Bribery is also a big problem for sex workers when they interact with police officials. The importance of decriminalising sex work was highlighted as remaining very critical.

The experiences and perspectives of persons representing women, people with disabilities and children was shared during this discussion.

Jennifer Williams shared her experiences of being in detention in Zimbabwe following her arrest. As WOZA they are subjected to state-sponsored violence. There is little to no right to privacy and good hygiene for inmates is a crisis. They also experience being made to clean the houses of prison bosses as well as starvation. Prisoners are malnourished and do not receive basic healthcare. Jennifer pleaded with the Zimbabwean Commission to work with WOZA to eradicate some of the challenges raised.

Felicia Mburu shared some challenges owing to outdated laws and disregard for the full dignity of persons living with disabilities. In Kenya, there are laws which prohibit people from marrying someone with a temporal or permanent disability, lest they risk arrest. There are also chapters in the penal procedure codes that assert that sex with a person living with a disability is rape.





## DAY THREE: WEDNESDAY, 6 SEPTEMBER, 2017

### MORNING SESSION

The day began with an overview of the previous day's engagements and activities. Delegates were also invited to reflect on their experiences of the day and to raise any questions or concerns that they may have had.

#### PRESENT LESSONS FROM THE REPORT ON THE ROLE OF NHRIS IN THE CONTEXT OF KEY POPULATIONS

Nthabiseng Mokoena (ARASA) facilitated this session. They opened the session by creating room for NHRIs to share their experiences and challenges (particularly as they relate to working with CSOs). Nthabiseng noted how NHRIs are almost always on the receiving end of criticism which can be unfair.

There was robust engagement among NHRI representatives. Some of the challenges communicated by NHRIs when working with CSOs can be briefly summarised as follows:

- The radical nature of CSOs owing to their strong composition of activist employees and volunteers conflicts with NHRIs who have a specific mandate to be thorough, practical and collaborative with other stakeholders in their approach. NHRIs commented that they are often accused of CSOs to be 'sell outs' because of this.
- CSOs expect rapid responses followed by quick results which are seldom possible for NHRIs. The outrage, impatience and quick-to-act approach of CSOs is often in conflict with the slower, longer term and strategy based approach of NHRIs.
- Many NHRIs are new, under capacitated and underfunded. This is a big factor which limits the ways in which they are able work.
- CSOs are often not willing to collaborate with other stakeholders, including government and NHRIs. This compromises the work of Commissions because they cannot act on matters they do not know. And often, CSOs hold critical information and perspectives, however lack of collaboration means there can be no middle ground found, which greatly limits the work.
- The scope of NHRIs is often broader than that of CSOs i.e. they have a larger demographic to

consider whereas most CSOs are group or issue focused. CSOs are seldom neither understanding nor sympathetic to this in their critiques.

- There have been differences on strategies and ways of working, more notably as these relate to LGBT issues.

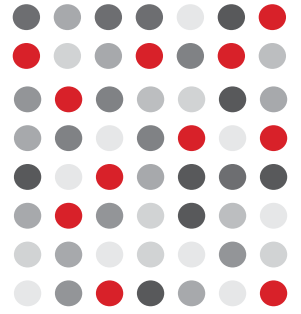
The main point emphasised during this engagement was that CSOs should not be too quick to dismiss and discredit the work of NHRIs and instead be open to more collaboration and strengthening the integrity and impact of each other's work. Nthabiseng responded to the comments and highlighted key lessons learnt from previous meetings.

This was followed by further discussion on the various challenges as well as an exercise on SOGIE/LGBTI because some delegates pointed out that they did not fully grasp/understand the content.

#### NHRI PROMOTION AND PROTECTION MANDATE

Kamanda from Kenya talked participants through processes involved in handling, investigating, monitoring, documenting and reporting investigations and complaints. He further highlighted that using a human rights based approach to facility for people living with HIV, recognising and fighting stigma against HIV. He reiterated that there were a number of key areas that prompted action into the state of Mental health in Kenya. There were also cases about intersex persons who were searched in public in front of the public and went to court and was awarded 200,000 for damages and ordered that they should be kept separately. A similar case with a robber that was kept in a male facility where they were molested and assaulted, they went to court and won on the basis that their rights were violated and awarded damages and recommendations were that they should be kept in different area and not with the general prison population.

Kamanda noted that a lot of significant work has been done for Transgender persons, including the registration of the Transgender Education and Advocacy Organisation. In addition, Transgender persons can change their identity documents to their preferred names.



# AFTERNOON SESSION

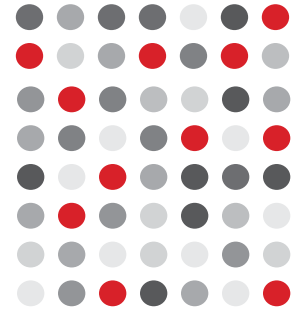
## ACTION PLANNING

The session was led by Lynette Mabote (ARASA), who requested NHRIs and CSOs to think through and commit to realistic and actionable goals for 2018. NHRIs and CSOs were also encouraged to identify ‘SMART’ goals and to also consider who they would work with to achieve them.

A summary of the report back by NHRIs following from this exercise follows below. NHRIs and CSOs committed to the following:

Botswana	Engage with national NGOs to advance the rights of key populations.
Burkina Faso	Expand on their work of monitoring human rights in prisons by extending this to focus on key populations as well.
Ghana	Owing to big gaps in knowledge within institutions, they will work to mainstream and tackle SOGIE issues, and ensure effective collaborations with relevant NGOs.
Ivory Coast	Strengthen capacity for vulnerable groups. Conduct sensitisation training and workshops for key stakeholders in 2018.
Kenya	Will work with key populations to include those who have previously been excluded.
Liberia	Committed to working more with NGOs servicing key populations.
Madagascar & Tanzania	Will disseminate the Luanda guidelines with colleagues in the national Commissions as well as other institutions, particularly the police, Ministry of Justice and relevant civil society organisations (CSOs)
Malawi	Continue with the last program developed that dealt with handling complaints, and investigating incidents. They will work with CEDEP to handle complaints.
Mali	Conduct training on policies relating to key populations. Work with the Police Commission.
Mauritius	Improve inter-communication among CSOs, and the Commission. Host coordinated and collaborative sensitisation workshops on HIV and TB for the public.
Mozambique	Create focal points in various provinces that are going to work with LGBT persons to popularise the plight of the LGBT community and key populations as well as put necessary pressure on government.
Namibia	Lobby to recommend re-opening publishing the white paper. They will conduct workshops to publicise this.
Niger	Conducting a workshop for strengthening the rights of vulnerable group's i.e. key populations suffering from HIV and TB in prisons, is beginning in 2018. The intention is to publish a training manual following this workshop.
Nigeria	Work aggressively with identified CSOs, key populations, and other relevant stakeholders in government agencies, working together to pressure the National Assembly to provide for and protect their rights.
Senegal	Conduct a baseline survey on the relationship between human rights, TB and HIV.
Seychelles	Recently appointed a new Human Rights Commission. They will thus work to establish a working relationship with them and establish a reporting mechanism.
Swaziland	Operationalize baseline survey activities, and continue with the work they have already started of working with a coalition of NGOs and disseminate the findings.
Zambia	Mainstream key populations' issues with on going activities. Train commissions on the rights of key populations
Zimbabwe	Widely disseminate information made available during this convening. They will engage with chairpersons of thematic groups and embark on sensitisation workshops.
Zimbabwe (CSO)	Approach Zimbabwe commissioner and request to form thematic groupings. Commit to getting a coalition of CSOs to engage the new commissioner.





## CONCLUSION

Over the course of three days, representatives from National Human Rights Institutions, activists and media practitioners from various parts of the African continent gathered to share and strengthen their capacity to better promote and protect the rights of key populations. From the beginning of the convening, delegates acknowledged that the solutions proposed need to be multifaceted, as well as contextual to ensure the realisation of the collective vision to end violence and stigma.

Building on the first regional convening, delegates highlighted that significant work had been to address the needs and challenges of key populations in Africa. However, the lack of comprehensive data around key populations hindered responses to some of the human rights violations experienced by key populations. This, delegates argued, could be solved, in part, by including key populations in key decisions making processes. It was then agreed that NHRIs must use an intersectional frameworks that not only deepens understanding of HIV and human rights violations, but also presents an opportunity to advance greater access and dignity for all persons.

The convening also noted that NHRIs, civil society organisations, activists and the media have a crucial role to play, especially in communities where human rights violations go undocumented. There needs to be more critical efforts invested in ensuring that human rights institutions are accessible, and the people within these institutions are capacitated with enough skills and knowledge to support key populations.

In conclusion, delegates restated that the regional convening provided a significant theoretical and practical platform to share, question and collaborate on ways to achieve goals to end violence and stigma as related to key populations in the continent. It is important, delegates raised, to have on going dialogues about the risks, challenges and solutions, and how better to improve programming targeting communities affected by TB and HIV. Furthermore, delegates committed to the strengthening efforts to work with civil society organisations, activists and media practitioners working specifically with key populations, to promote and protect the right of all persons.



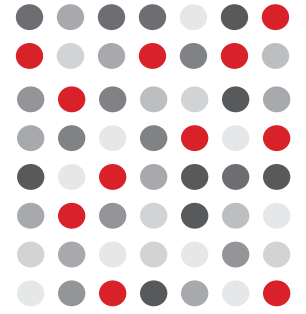


# ANNEX ONE

## THE SECOND REGIONAL CAPACITY STRENGTHENING CONVENING FOR AFRICAN NATIONAL HUMAN RIGHTS INSTITUTIONS: “PROMOTING AND PROTECTING THE RIGHTS OF KEY POPULATIONS: MAKING RIGHTS A REALITY”

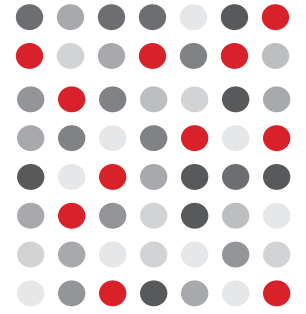
Monday 4 September 2017

08:30-09:30	<b>Registration</b>	
09:00-09:30	<b>Introduction</b> Welcome and introductions	Michaela Clayton (ARASA) Margaret Muthee (NANHRI)
09:45-10:30	<b>Recap of the 2016 convenings</b> (Followed by plenary discussions)	Nthabiseng Mokoena (ARASA)
10:30-11:30	<b>Key Populations Primer:</b> Who are Key Populations? -Key Populations in the context of HIV, SRHR and Human Rights -Key Populations in context of TB, Health and Human Rights	Lynette Mabote (ARASA) Evelyn Kibuchi (Stop TB Partnership Kenya)
11:30-12:00	<b>HEALTH BREAK</b>	
12:00-13:00	<b>Equality and non-discrimination</b> Dr. Zahara Nampewo (Makerere University)	Nthabiseng Mokoena (ARASA)
13:00-14:00	<b>LUNCH</b>	
14:00-15:00	<b>HIV, TB, Human Rights and Criminalisation</b> -Understanding HIV and Human Rights-Prof. Lillian Artz (University of Cape Town) -Feminisation of HIV Criminalisation-Michaela Clayton (ARASA)	Lesley Odendal (ARASA)
15:00-16:00	<b>Collaborations, Challenges and Opportunities</b> -Gift Trapence (CEDEP) -Ronny Arnephy (LGBTI-Sey) -Barbra Muruga (EATHAN) -Ted Wandera (KELIN)  -Key Populations groups and civil society share their experiences of working with NHRIS -Challenges, lessons learned and functional models	Facilitator: Deena Patel (UNDP)



**Tuesday 5 September 2017**

08:30-09:00	<b>Introduction, recap and overview</b>	
09:00-10:00	<b>Practical Experience form NANHRI SOGIE Project</b> Project updates, followed by panel discussions by the 5 participating NHRIs	Marie Ramtu (NANRHI)
10:00-11:00	<b>Access to Justice for KPs in places of detention</b> Presentation by APCOF on the State of Detainees and KEPHRC on key populations <b>Access to Health</b>	
11:00-11:30	<b>HEALTH BREAK</b>	
11:30-12:30	<b>Intersectionality Panel: Unique challenges of vulnerability in detention</b> - Transgender persons- Ricky Nathanson and Barbra Muruga - People who use drugs- Kunal Naik - Sex workers- Mary Mwangi - Intersex persons-Colbert Ojiamo	Margaret Muthee (NANRHI)
12:30-13:30	<b>Intersectionality Panel: Unique challenges of vulnerability in detention (Part 1)</b> - Women- Jennifer Williams - Persons with disabilities- Felicia Mburu - Children- Benyam Mezmur	Nthabiseng Mokoena (ARASA)
13:30-14:30	<b>LUNCH</b>	
14:30-16:00	<b>Panel: International and regional standards on the health rights and treatment of prisoners</b> -An overview of international norms and standards- Annabel Raw (SALC) -An overview of regional and sub-regional norms and standards- Esther Gumboh -The Jurisprudence of the African Commission on Human and People's Rights- Alice Maryvonne Toro	Lynette Mabote (ARASA)



**Wednesday 6 September 2017**

08:30-09:00	Introduction, recap and overview	
09:30-11:00	<p><b>Present lessons from the Report on the role of NHRIS in the context of key populations –(ARASA)</b></p> <ul style="list-style-type: none"> <li>-NHRI and Key Populations (media briefs, reference reports and training tools from 2016 and 2017)</li> <li>-Findings from the reports and activities</li> <li>-Plenary discussion</li> </ul>	Nthabiseng Mokoena (ARASA)
11:00-11:30	HEALTH BREAK	
11:30-13:00	<p><b>NHRI promotion and protection mandate</b></p> <p>Complaints handling, investigations, monitoring, documentation, reporting</p>	Marie Ramtu (NANRHI)
13:00-14:00	LUNCH	
14:00-15:00	<p><b>Action Planning:</b></p> <ul style="list-style-type: none"> <li>-Prioritisation of actions for 2018</li> <li>-The role of NHRIs</li> <li>-The role of CSOs</li> </ul>	Facilitator: Lynette Mabote
15:00-16:00	Feedback Session	Facilitator: Nthabiseng
16:00-16:30	Close and Way Forward	Nthabiseng Mokoena (ARASA) and Margaret Muthee (NANRHI)

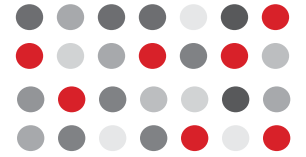
**Thursday 7 September 2017**

08:30-13:00	<p><b>Optional visit to the Constitutional Court of South Africa, Constitutional Hill and the South African Human Rights Commission</b></p> <ul style="list-style-type: none"> <li>- A visit to Constitutional Hill, a living museum that tells the story of South Africa's journey to democracy and home to South Africa's Constitutional Court</li> <li>- A brief visit to the South African Human Rights' Commission in Johannesburg</li> </ul>	Nthabiseng Mokoena (ARASA)
13:00-14:00	LUNCH	

# ANNEX 2: PARTICIPANTS LIST



	Name and Surname	Country	Name of Institution	Contact details
1	Mompati Setlhabi	Botswana	Office of the Ombudsman	mompatiburna@gmail.com
2	Ms Karen Tlhalerwa Senior Legal Investigator	Botswana	Office of the Ombudsman	karentlhalerwa@gmail.com
3	Mr. Somitie Sougue, Secretary General	Burkina Faso	Commission nationale des droits humains	somitie@yahoo.fr
4	Ms Marie Claire Konkombo, Regional Officer	Cameroon	Commission nationale des droits humains	konkombo@yahoo.fr
5	Mr. Avit M'boa Benoit Commissioner	Cote d'ivoire	National Human Rights Commission	avitmboa@gmail.com
6	Mwamba Mushikonke Mwamus, President	Democratic Republic of Congo	Commission nationale des droits del home RDC	honmwamba2014@gmail.com
7	Mr. Saleban Omar Oudin, President	Djibouti	Commission nationale des droits del home	cndhdjibouti@gmail.com
8	Mr Issac Lartey Annan	Ghana	Commission on Human Rights and Administrative Justice	rquayson1228@yahoo.com
9	George Morara Monyoncho, Commissioner	Kenya	Kenya National Commission on Human Rights	gmorara@knchr.org
10	Atty Fetor Siakor, Director complaints department	Liberia	Independent National Commission for Human Rights	orethasnyder@yahoo.com
11	Mireille Rabenoro, President	Madagascar	Independent National Human Rights Commission	mireille.rabenoro1@gmail.com
12	Rev Patrick Semphere	Malawi	Malawi Human Rights Commission	patricksemphere@gmail.com
13	Harry Migochi	Malawi	Malawi Human Rights Commission	harrymigochi@gmail.com
14	Dr. Djibril Coulibaly, Commissioner	Mali	Commission nationale des droits del home du mali	djibycul@yahoo.fr cndhmali@yahoo.fr
15	Ms Yarah Allah Seniya, Expert	Mauritania	Commission nationale des droits del home	abdah67@yahoo.fr
16	Mr. Samoullah Lauthan, Member	Mauritius	National Human Rights Commission	ghasowa@govmu.org
17	Amil andela, Commissioner	Mozambique	National Human Rights Commission of Mozambique	amilcar311@gmail.com
18	Avelina Olivia Muchacha	Mozambique	National Human Rights Commission of Mozambique	
19	Mr. Hendrick Mauyoma	Namibia	Office of the Ombudsman	hmauyoma@ombudsman.org.na
20	Mr Andilo Laowali	Niger	Commission nationale des droits humains	andillomahamanelaouali@yahoo.fr
21	Mr. Omodara Olaniyi	Nigeria	National Human Rights Commission of Nigeria	info@nigeriarights.gov.ng
22	Linda Nxumalo	Swaziland	Swaziland Human Rights Commission	lnxumalo7@gmail.com
23	Florence Chaki	Tanzania	Tanzanian Human Rights Commission	florencechaki@ymail.com
24	Mr. TCHASSANTE Tchédre Gbati Commissioner	Togo	Commission nationale des droits del home	cndhtogo@yahoo.fr
25	Ms. Mweelwa Muleya	Zambia	Human Rights Commission	mmuleya@yahoo.com
26	Ms. Patience Ndlovu	Zimbabwe	Human Rights Commission of Zimbabwe	pndlovu@zhrc.org.zw
27	John Kamanda Much eke	Kenya	Kenyan Human Rights Commission	kamanda@knchr.org
28	John Faoum Niel	South Sudan	South Sudan Human Rights Commission	johpanom@hotmail.com
29	Tatenda Muranda	South Africa	South African Human Rights Commission	tmuranda@sahrc.org.za
30	Gift Kgomotso	South Africa	South African Human Rights Commission	gkgomosotho@sahrc.org.za



## KP AND RESOURCE PERSONS

	Name and Surname	Country	Name of Institution	Contact details
31	Gift Trapence	Malawi	Centre for the Development of People	gtrapence@yahoo.co.uk
32	Teddy Ralph Wandera Odunga	Kenya	Kenya Legal and Ethical Issues Network on HIV & AIDS	twandera@kelinkkenya.org
33	Felicia Mburu	Kenya	Mental Disability Advocacy Centre	felicia@mdac.org
34	Colbert Ouma Ojiambo	Kenya	Ojiambo & Company Advocates	colbertojiambo@gmail.com
35	Ronny Anerphy	Seychelles	HASO	rarnephy@gmail.com
36	Esther Gumbo	South Africa	University of Witwatersrand	nyagumboh2@gmail.com
37	Annabel Raw	South Africa	Southern Africa Litigation Centre	AnnabelR@salc.org.za
38	Manbode Nicholas	Mauritius	CUT	n.manbode@cut.mu
39	Ricky Nathanson	Zimbabwe		rickynathanson@gmail.com
40	Jennifer Williams	Zimbabwe	Woza	wozajenni@gmail.com
41	Alice Maryvonne Yoro	Uganda	Gateway Medical Alliance	yoromaryvonne@yahoo.fr
42	Mary Mwangi	Kenya	Bar hostess empowerment and support program (bhesp)	marymwangi@gmail.com
43	Melody Rumbidzai Kozah	South Africa	APCOF	louise@apcof.org.za
44	Prof. Lilian Artz	South Africa	UTC	lillian.artz@uct.ac.za
45	Evelyn Kibuchi	Kenya	Stop Tb Partnership Kenya	ekibuchi@gmail.com
46	Dr. Zahara Nampewo	Uganda	Human Rights and Peace Centre (HURIPEC) Makerere University	znampewo@gmail.com, znampewo@law.mk.ac.ug.

## MEDIA

	Name and Surname	Country	Name of Institution	Contact details
47	Rachel Ngoma	Botswana	Botswana Guardian Sun	ngoma@guardiansun.co.bw
48	Michel Patrick Joubert	Seychelles	The Nation, Seychelles	pmjoubert@yahoo.com
49	Kondwani Kamiyala	Malawi	The Nation, Malawi	kamiyala@gmail.com
50	Asterius Banzi	Tanzania	The East African	asteriusbanzi@gmail.com
51	Benedict Tembo	Zambia	The Daily Mail, Zambia	benedict.tembo@gmail.com

## STAFF

	Name and Surname	Country	Name of Institution	Contact details
52	Michaela Claton	Namibia	ARASA	michaela@arasa.org.na
53	Lynette Mabota	South Africa	ARASA	lynette@arasa.info
54	Nthabiseng Mokoena	South Africa	ARASA	nthabiseng@arasa.info
55	Lesley Odendal	South Africa	ARASA	communications@arasa.info
56	Lynn Lyoba	South Africa	ARASA	communications@arasa.info
57	Marie Ramtu	Kenya	NRHI	mrantu@nanhri.org
58	Silinganiso Chatikobo	South Africa	Consultant	jacob@segaleinc.co.za
59	Sivusiswa Kumkani	South Africa	Consultant	sivusiswa@gmail.com
60	Deena Ptael	Turkey	UNDP	