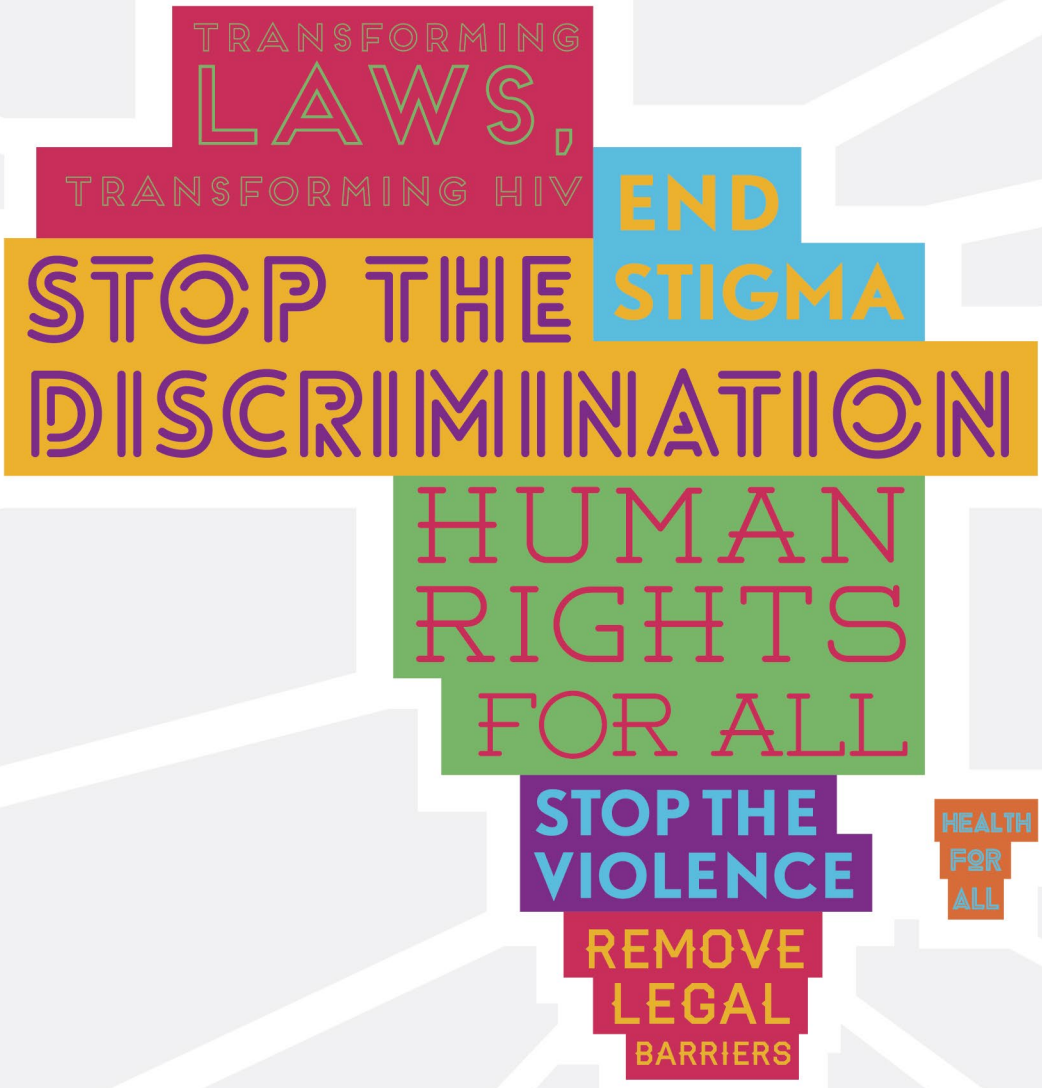
THE KENYA NATIONAL ADVOCACY CONVENING ON REDUCING VIOLENCE AND DISCRIMINATION AGAINST KEY POPULATIONS

24TH – 26TH MAY 2017

Naivasha, Kenya



AFRICA REGIONAL GRANT ON HIV
REMOVING LEGAL BARRIERS

ARASA
AIDS & Rights Alliance for Southern Africa

KNCHR
Enhancing the realisation of your rights

Contents

Acronyms

ACHPR	African Commission on Human and People's Rights
AIDS	Acquired Immune Deficiency Syndrome
ARASA	AIDS and Rights Alliance for Southern Africa
ARV	Antiretroviral treatment
BHESP	Bar Hostess Empowerment and Support Programme
CBO	Community Based Organisation
CHVs	Community Health Volunteers
CSO	Civil Society Organisation
EATHAN	East Africa Trans Health and Advocacy Network
GALCK	Gay and Lesbian Coalition of Kenya
GFATM	Global Fund to Fight AIDS, TB and Malaria
HIV	Human Immunodeficiency Virus
HR	Human Rights
HAPCA	HIV and AIDS Prevention and Control Act
ICJ	International Commission of Jurists
IPOA	Independent Policing Oversight Authority
KELIN	Kenyan Ethical and Legal Issues Network
KENPUD	Kenya Network of People Using Drugs
KESWA	Kenya Sex Workers Alliance
KHRN	Kenya Harm Reduction Network
KLRC	Kenya Law Reform Commission
KMA	Kenya Medical Association
KMPDU	Kenya Medical Practitioners and Dentist Union
KNCHR	Kenya National Commission on Human Rights
KPS	Kenya Prisons Service
LGBTIQ	Lesbians, Gays, Bisexual, Transgender, Intersex and Queer
MOH	Ministry of Health
NACADA	National Agency for the Campaign against Alcohol and Drug Abuse
NACC	National Aids Control Council
NAP	National Action Plan
NASCOP	National Aids and STI Control Programme
NEPHAK	National Empowerment Network of People living with HIV/AIDS in Kenya
NGO	Non-governmental Organisation
NHRI	National Human Rights Institutions
NPS	National Police Service
NSP	Needle and Syringe Programmes
OST	Opioid Substitution Therapy
PEMA	Persons Marginalised and Aggrieved
SALC	Southern Africa Litigation Centre
SOP	Supportive Outpatient Treatment
TB	Tuberculosis
TEA	Transgender Education and Advocacy
ToT	Training of Trainers
TWG	Technical Working Group
UNDP	United Nations Development Programme

Summary of Forum Outcomes

Introduction

The Kenya National Advocacy Convening on Reducing Violence and Discrimination against Key Populations was organised by the Kenya National Commission on Human Rights (KNCHR) in partnership with the AIDS & Rights Alliance for Southern Africa (ARASA) under the Africa Regional Grant on HIV: Removing Legal Barriers.

The forum brought together various stakeholders including representatives from law enforcement agencies, the National AIDS Control Council (NACC), the national human rights institution, civil society organisations, development partners, key population groups and persons living with HIV and/or affected by TB.

Objectives of the forum

The main objective of the forum was to identify strategies for strengthening advocacy mechanisms for reducing stigma, discrimination and violence against key populations in Kenya.

The specific objectives of the forum were:

• To provide a platform for a range of stakeholders from different sectors, including key populations, people living with or affected by HIV and/or TB, to engage in evidence informed discussions on the nature, extent and causes of human rights violations related to HIV and TB and how to address them

• To share information and experiences, including the lived realities of members of key populations, on the impact of laws, policies and practices in the context of HIV and TB that create barriers to accessing prevention, treatment and care services

• To share good practices, lessons learned and experiences on promoting and protecting the rights of key populations

• To review and assess the efficacy of existing mechanisms for monitoring, preventing and addressing HIV and TB-related human rights violations against key populations, and

• To establish or strengthen national multi-sectoral working group/s with the mandate of monitoring, preventing and addressing HIV and TB related human rights violations against key populations.

Gaps and Challenges identified during the forum

During the forum, participants identified various challenges, including the following:

• Key population groups are at increased risk of violence and discrimination from law enforcement agencies and the public, but limited efforts have been put in place to protect and promote their rights.

• Partners have put in place interventions to strengthen protection of rights but there has been limited coordination of these efforts, many of which are fragmented, duplicate efforts and have limited resources.

• Key state organs with the mandate to enforce the law or monitor realisation of rights are not adequately sensitised on the rights of key populations.

• Programmatic interventions on HIV and TB have failed to acknowledge the link between HIV and TB resulting in adequate programmatic interventions and exclusion of key population in national TB policies and programmes.

Outcomes of the forum

The expected outcome of the forum was to increase understanding and awareness of key HIV, TB and human rights issues that affect key populations in Kenya, to develop consensus on recommended responses to manage discrimination, violence and other human rights violations against key populations, and to establish or strengthen national working group/s on monitoring, preventing and addressing HIV and TB related human rights violations against key populations.

The forum made several key recommendations to strengthen advocacy in Kenya, including the following:

- Strengthened stakeholder partnerships and coordination within frameworks, for example through technical working groups.
- Training and sensitisation for key partners and stakeholders, and
- The coordination of research and documentation.

An important outcome of the forum was the partners' adoption of a 15 point plan of action for strengthening advocacy to reduce violence and discrimination against key populations in Kenya (See Annex 2).

Some of the key advocacy interventions that have been prioritised by partners include the following:

1. The Key Population Consortium and KNCHR will host workshops within the Commission to sensitise staff and other partners on the human rights of key populations. The workshops will be led by key population groups and not external consultants.

2. KNCHR and the Key Population Consortium will convene a meeting to enable key populations to understand how KNCHR works and to explore strategies to effectively engage with the Commission.

3. The Key Population Consortium will work with KNCHR to create a harmonised template for documentation, to assist the KNCHR with the investigations and follow up on cases of violence and discrimination against key populations.

4. ARASA will invite KNCHR and key population groups in Kenya to the second Capacity Strengthening for NHRIs in 2017.

5. The Key Population Consortium and partners shall sensitise police officers responsible for the Sexual and Gender Based Violence (SGBV) desk.

6. The Key Population Consortium shall sensitise members of the Kenyan media on the rights of KPs and how to report on this responsibly without sensationalising issues.

Background to the Forum

Key populations in Kenya continue to face human rights violations fuelled by discrimination, violence, punitive criminal laws and harsh law enforcement practices.

Sex workers, gay men and men who have sex with men and people who inject drugs have reported physical and sexual violence, harassment, sexual coercion, the extortion of money and sexual services, arbitrary arrest and violence at the hands of law enforcements officials and the community.[1] For example, a national study conducted by the National AIDS and STI Control Programme (NASCOP) in 2014 found that 22% of the female sex workers reported being beaten and physically forced to have sexual intercourse in the past six months .[2] Some 44% of female sex workers also reported being arrested or beaten by police and askaris in the last six months. In the same study, 17% gay men and men who have sex with men reported being beaten and physically forced to have sex in the last six months and 24% reported being arrested or beaten by police or askaris. Amongst people who inject drugs, 57% of them reported being arrested or beaten by police or askaris in last six months. People with TB have experienced stigma, discrimination, coercive treatment, isolation and detention, even in prisons, in Kenya.[3] Key populations also struggle to access justice when their human rights are infringed upon, exacerbated by the abuse that criminalised populations experience at the hands of law enforcement officials. As a result of being criminalised and stigmatised, research shows that key populations do not seek protection or redress from the law. [4]

Increasingly, Kenya is strengthening its HIV response targeted at key populations, in recognising that violence and discrimination against key populations undermines the entire national HIV response. The national government's policy statement on key populations aims to increase access to services for key populations by, amongst other things, (i) developing a violence prevention and response system in programmes to address violence and discrimination against key populations, (ii) undertaking awareness raising and advocacy with key political, religious, community and media influencers and (iii) sensitising all law enforcement agencies on the need for an enabling environment for implementing a HIV prevention programme among key populations. Additionally, the government aims to facilitate co-ordination amongst stakeholder, to harmonise national and county level HIV response to key populations.

[1] MoH (2015) 'Policy for the Prevention of HIV Infections among Key Populations'

[2] Ibid.

[3] See, for instance, the case of Da niel Ng'etich and Others v Attorney General and Others of 2014

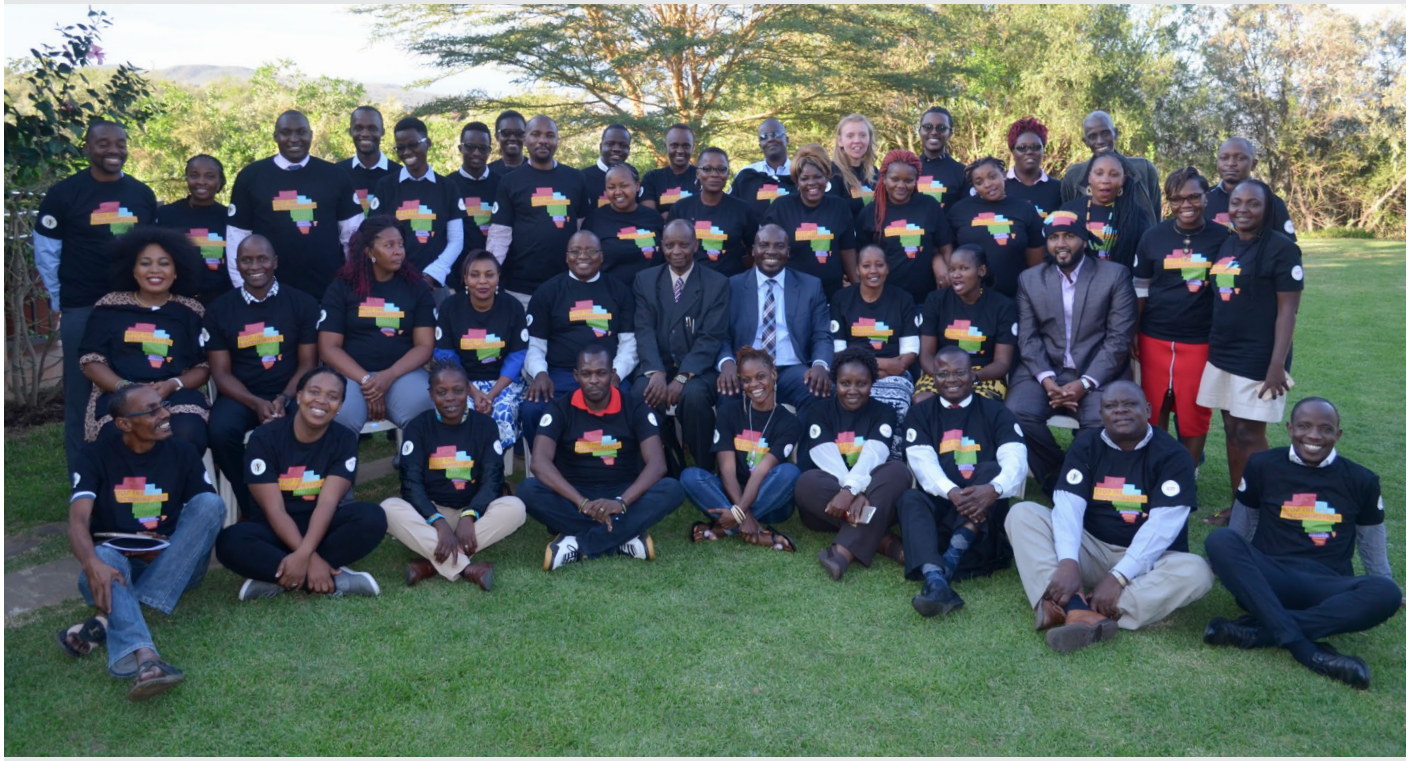
[4] GCHL (2012) 'Risks, Rights & Health'; SALC (2016) 'Accountability and redress for discrimination in healthcare in Botswana, Malawi and Zambia'

NASCOP has established a National Technical Working Group (TWG) for key populations, tasked with providing technical leadership to consolidate HIV prevention interventions among key populations from a fragmented approach, towards a target-based, well-coordinated and comprehensive population-based approach. TWG members include state actors, multi-lateral and bilateral development partners, the private sector, the research community, people living with HIV and civil society organisations dealing with various key populations.

Similarly, the National AIDS Control Council (NACC) has committed to undertaking advocacy initiatives targeting political, cultural and religious leaders, and has established a human rights working group.

These promising initiatives by the government have provided an opportunity for stakeholders to strengthen advocacy initiatives to reduce violence and discrimination against key populations. However, challenges remain. Advocacy initiatives remain largely fragmented, with limited or no coordination amongst key population organisations, and key populations and other stakeholders are generally unaware of the existing coordination structures at national and county levels.

Without a well-coordinated and targeted advocacy strategy, existing interventions risk having limited impact. In order to effectively and strategically respond to end the HIV and TB epidemic, there needs to be a response to the underlying determinants that place people at risk of TB, amongst other things, and most importantly, a collaborative effort to meet funding needs for both TB and HIV.



A full list of meeting participants can be found on page 25.

Session 1:

Opening remarks and workshop expectations

Dr Bernard Mogesa of the Kenya National Commission on Human Rights (KNCHR) welcomed the participants to the workshop and facilitated the introductions by participants.

Nthabiseng Mokoena from the AIDS and Rights Alliance for Southern Africa (ARASA) invited Commissioner George Morara, the Vice Chairperson of the KNCHR to officially open the workshop.

Commissioner Morara thanked ARASA for their partnership with the KNCHR in convening the workshop and acknowledged the immense support by development partners including the United Nations Development Programme (UNDP). He noted that Strategic Direction 3 of the Kenya AIDS Strategic Framework[5] places emphasis on using a human rights approach to facilitate access to services for people living with HIV, key populations and other priority groups in all sectors. He acknowledged the need to strengthen protection of human rights for key population noting that HIV prevalence statistics in Kenya show that the epidemic is highly concentrated among key populations. For instance the general population prevalence rate is 5.9%, but higher rates have been found among key populations, with 29.3% prevalence rates for sex workers and rates of 18.2% among gay men and men who have sex with men, and 18.3% amongst people who inject drugs. Acknowledging the inextricable link between concentrated epidemics amongst key population and the stigma, discrimination and violence faced by these groups, Commissioner Morara called for a reorientation of the national HIV and TB response to ensure a rights based approach that empowers key population to be able to claim their rights on an equal footing with other members of the population. He also called for appropriate policy, legal and administrative reforms to remove barriers facing populations.

While commending the policy and other measures that have been pursued by government to promote and protect human rights of key population, he underlined among other things the need to strengthen advocacy and outreach initiatives to ensure coordination of efforts as well as promote inclusion and participation of other key stakeholders including law enforcement agencies and faith leaders. He expressed KNCHR readiness and commitment to support and take the lead on advocacy efforts to reduce violence, stigma and discrimination against key population.

Nthabiseng Mokoena, the regional advocacy officer gave a brief overview of ARASA and the background to the Global Fund Africa Regional Grant on HIV: Removing Legal Barriers. ARASA is a regional partnership of non-governmental organisations working together to promote a human rights based response to HIV and TB in southern and eastern Africa through capacity building and advocacy. In 2015, the AIDS & Rights Alliance for Southern Africa (ARASA), Enda Sante, the Southern African Litigation Centre (SALC), the Kenyan Ethical and Legal Issues Network (KELIN) and UNDP secured funding from the Global Fund to fight AIDS, TB and Malaria for a regional programme to be implemented in ten countries in West, East and Southern Africa, including Kenya. The aim of the programme is to (1) strengthen evidence-based law reform to support improved delivery of and access to HIV and TB services for key populations (2) improve the legal environment that provides rights based protections through access to justice and enforcement of supportive laws for key populations and (3) protect key populations in the event of human rights crises which impede access to HIV and TB services. Nthabiseng concluded by outlining the objectives of the workshop, ARASA's role in the workshop and discussed workshop expectations with participants.

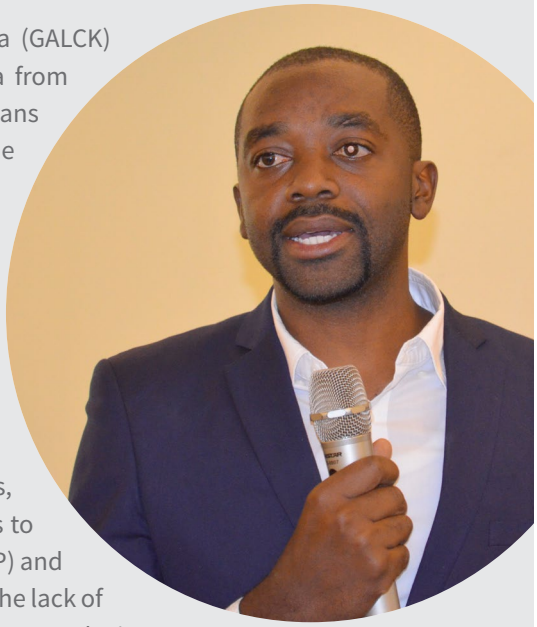
Commissioner George Morara, Vice Chairperson of the Kenya National Commission on Human Rights expressed KNCHR's readiness and commitment to support and take the lead on advocacy efforts to reduce violence, stigma and discrimination against key population.

[5] http://nacc.or.ke/strategic-direction-3/

Session 2:

Understanding key issues facing key populations and their advocacy strategies to reduce violence and discrimination.

The first session of the workshop discussed the main human rights challenges facing key populations in Kenya and the strategies employed to address the challenges. The panelists, representing the different segment of key population groups also proposed measures to strengthen advocacy efforts to reduce violence and discrimination.



Brian Macharia, representing the Gay and Lesbian Coalition of Kenya (GALCK) listed physical and verbal abuse, denial of access to services, stigma from society and self-stigma as some of the key challenges that gays and lesbians experience. In its advocacy efforts, GALCK create awareness about the violence and other human rights violations faced by key populations. Brian called for the promotion of equality and the recognition and acceptance of key populations regardless of their identity. GALCK is currently challenging the provisions of the Penal Code criminalising same sex relations, in court.

John Kimani the coordinator of the Kenya Network of People who Use Drugs (KENPUD) expressed concern that the war on drugs abuse in Kenya has frequently turned into a war against people who inject drugs, many of whom are undergoing rehabilitation. This has hindered access to crucial healthcare services such as needle and syringe programmes (NSP) and opioid substitution therapy programmes (OSP). Kimani also noted that the lack of participation by key populations leads to the enactment of laws that do not take into account their views. Law and policies that criminalise drug use, harassment and arrest by law enforcement agencies, and stigma and discrimination by health care workers are some of the obstacles to access to services by persons who use drugs.

He also highlighted mob justice and extrajudicial killing of person who use drug as a key human rights concern in the Kenyan coast. In his conclusion he outlined the following key recommendations to address challenges facing people who inject drugs: there is need for technical support for the review of the policy framework; enhanced advocacy with policy makers and law enforcers and technical support for OST programmes.

According to Pauline Nyambura, of the Kenya Sex Workers Alliance (KESWA) sex workers in Kenya suffer stigma and discrimination, rejection by family members, arbitrary arrests and prosecution, lack of psychological care and support and discriminatory religious and cultural norms and beliefs. KESWA's advocacy strategies include sensitisation and training of sex workers on human rights and gender equality, advocacy for full protection of rights of sex workers, lobbying for the decriminalisation of sex work, and documenting patterns of violence against sex workers. Clusters have been formed at the regional level for proper advocacy as well as training sex workers as media advocates. Finally, from July 2017, KESWA plans to sensitise the judiciary on human rights challenges faced by sex workers.

Despite several years of research on HIV and AIDS and the populations it affects, very little is known about the situation of transgender people and HIV.

Barbra Wangari of East Africa Trans Health Advocacy Network (EATHAN) outlined the challenges that intersex, transgender persons and gender non-conformist persons face, and highlighted some of the success stories within the East Africa region. In Uganda transgender persons are allowed to change their names and gender markers in their identification documents at the age of 18. Similar progress can also be reported in Kenya, although challenges remain. In the context of HIV, Barbra expressed concern that despite several years of research on HIV and AIDS and the populations it affects, very little is known about the situation of transgender people and HIV. In the vast majority of studies, transgender people have only been counted in accordance with their sex assigned at birth, which not only discounts their identities, but leaves them relatively invisible to public health officials and advocacy organisations working toward prevention, treatment, and HIV-related health care. According to Barbra, transgender women have been largely left out of the HIV narrative, or they have been incorrectly lumped into other categories, such as gay men, or men who have sex with men. As a result, many transgender women do not participate in studies, even if given a chance. Global funding entities have also not prioritised the needs of transgender communities.

A KNCHR public inquiry report on sexual and reproductive health of April 2012 noted that stigma and discrimination make it difficult for transgender individual to access gender affirming healthcare. However, there are some legal gains that have been achieved by the transgender community in Kenya. Following successful litigation by Transgender Education and Advocacy (TEA), a member of EATHAN, transgender groups can register non-governmental organisations (NGOs). TEA was registered as an NGO in Kenya in January/February of 2017 – a first for East Africa. In yet another case, the Ministry of Health (MOH) and the Kenya Medical Practitioners and Dentist Union (KMPDU) have been given a timeline of 2 years - ending this year (2017) - to develop a gender affirming policy.

Plenary discussion and key recommendations

The following key issues were raised and main recommendations made during plenary discussions:

1. Regarding steps that medical professionals can pursue to support efforts to advocate for access to healthcare services for key populations, EATHAN noted that they have previously worked with the Kenya Medical Association (KMA) on some areas such as developing a gender affirming policy. EATHAN and key population organisations are ready to re-engage with KMA to ensure that key populations access health care services.

2. KESWA's project on decriminalisation of sex work seeks to litigate against punitive laws that affect sex workers. The projects seeks to repeal these laws in order to increase access to health care and to prevent arbitrary arrests and prosecution of sex workers. The project also seeks to document and highlight cases of violence against sex workers.

3. John Kimani explained the difference between addiction and drug use. Drug users who have suffered addiction should access support as they try to rehabilitate and recover. Drug related therapy and healthcare services need to be available to people who inject drugs even within the context of national measures to combat drug use. There is need to understand patterns of addiction and the environment that people who inject drugs are exposed to encourage recovery.

4. There are a number cases that have been filed in court by key population groups, such as the recent petition challenging the constitutionality of sections 162, 163 and 165 of the Penal Code. Such cases provide avenue for civil society organisations (CSOs) such as International Commission for Jurists (ICJ) to partner with key population groups in advocating for their rights.

5. Halima Sertoi of the Mombasa County encouraged key population groups to engage with county governments.

6. KNCHR noted the need for enhanced coordination of all CSOs, community-based organisations (CBOs) and key populations. The judiciary has established a task force on the Criminal Justice System to, amongst other issues, examine the question of decriminalisation and reclassification of petty offences. This is a useful forum for advocacy. It is also important to raise awareness amongst key service providers and stakeholders in government, through existing frameworks such as Kenya School of Government, to train and change the attitudes of such providers. Training modules in such mechanisms can be reviewed to include training on the rights of key populations.

7. Lodging complaints of human rights violations is a fundamental part of the process of documenting data that would be used to inform advocacy and strengthening partnership with police, in particular. Key populations should therefore ensure that they lodge complaints of human rights violation with the relevant agencies.

8. Government, through the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA), is working with persons who use drugs and with CSOs to review the national policy on drug abuse. KNCHR should partner with organisations representing persons who use drugs in order to advocate for protection of rights of persons who use drugs many of who are victims of police brutality.

Session 3:

National advocacy strategies for reducing violence and discrimination against key populations

The main aim of the session was to outline and critique national level advocacy strategies implemented by national level actors. The panelists included Cyphrene Busuru of NACC, Evaline Kibuchi, the National Coordinator of the Stop TB Partnership Kenya, Dr Stella Bosire, the Chief Executive Officer of the Kenya Medical Association and Brian Macharia of GALCK/ the Key Population Consortium.

Cyphrene Busuru outlined the role and mandate of the NACC and informed the participants that the Ministry of Health in partnership with NACC has developed the Policy for the Prevention of HIV Infection among Key Populations in Kenya. He acknowledged, however, that the policy may not have been widely disseminated, hence the fact that only a few participants at the workshop were aware of its existence. The policy addresses several key areas including access to treatment, research and advocacy and multi-stakeholder coordination. Cyphrene also noted that NACC has been working at the county level to ensure that counties adopt county AIDS strategic plan which are aligned to the National AIDS Strategic plan, which has prioritised interventions for key population. Such county level policies are expected to address county-specific key population issues. He noted capacity building of key populations to engage with the media and training for law enforcement officers as key interventions pursued by NACC and partners. NACC will continue to disseminate the relevant policies to all key stakeholders at the national and county level. Lastly he reminded participants about the forthcoming national conference on HIV research which will address, amongst other things, issues relating to key populations. He referred participants to a research hub online on www.maishamaarifa.com for further details.

Evaline Kibuchi highlighted some of the human rights violations committed against TB patients. TB patients suffer stigma and discrimination in society. For instance in schools, pupils with TB may be sent away from school. Also, the requirement for chest x-rays by employers may discourage persons with TB from getting x-ray services, thereby missing out on employment opportunities. Health care workers may also fail to adequately monitor patients with TB. In addition to stigma by health care workers, the high cost of TB treatment also undermines access to health care for TB patients. Evaline underlined the need for support to and inclusion of TB patients in health care programming, in order to promote their rights - by for instance creating awareness about TB patient rights in a patient charter. She also noted that there has been a lack of inclusion and participation of key populations in TB programming, despite the fact that HIV infection increases vulnerability to TB infection. Hence programmatic interventions to reduce TB infection among key population have not been implemented. Furthermore, key populations as defined in TB context are not the same as in the context of HIV.

However, some progress have been made to promote the rights of TB patient. Recently, the courts in Kenya declared the practice of jailing TB patients as unconstitutional and ordered the government to provide isolation wards for lting TB patients. This ruling is yet to be fully complied with and there is a need to advocate for the full implementation of the High Court ruling in the Daniel Ng'etich case. Additionally, there is also a need for social packages and interventions in favour of TB patients, such as a cash transfer programme for current and former TB patients. The National Hospital Insurance Fund should also include a package for TB patients.

Evaline Kibuchi of Stop TB Partnership spoke of the stigma and discrimination that people living with TB face.

Dr. Stella Bosire acknowledged that many healthcare workers have committed human rights violations against key populations and expressed her commitment to change the attitudes of health care workers through awareness programmes at various levels of health care. She highlighted principles towards reducing violence and discrimination against key population in the healthcare system, including adopting a rights-based approach in health care delivery; addressing all forms of violence, documentation and learning, strengthening advocacy support to change attitudes and social perceptions, and building the capacity of key populations to carry out advocacy. Policy discussions about key populations should be more inclusive and involve key populations and the community. Linkages between national, county and grassroots stakeholders should also be enhanced to facilitate knowledge sharing with policy makers with a view to empowering key populations and improving accessibility to services.

Dr Stella Bosire acknowledged that health care workers commit human rights violations

Brian Macharia gave the background to the establishment of the Key Population Consortium in Kenya. The Consortium was conceptualised during two satellite meetings held in December 2014 by organisations and community representatives working with and around issues of Key Populations HIV programming, namely female and male sex workers , people who inject drugs, and men who have sex with men. The meeting charted a way forward for the manner in which key populations would engage the Global Fund to fight AIDS, TB and Malaria (GFATM) as stakeholders in its (then) new funding model, and as beneficiary populations/ implementing organisations. He recognised that best practices and ideas adopted by the Consortium were borrowed from other jurisdictions, in particular India, where a similar consortium was established. He emphasised the need for a community voice to develop and implement the policies around key populations.

He reminded the participants of the mandate of the consortium, including mapping of key population resources, mapping of programming, coordination of fund initiatives for key populations through monitoring and evaluation of programmes and convening of national learning and exchange programmes, especially national and regional meetings to improve programmes and strategies. He also highlighted the various mechanisms that key populations use to advocate for their rights, such as through inclusion in the Global Fund Concept Note, and noted that the consortium supports all key population organisations as an umbrella body.

Plenary discussions and key recommendations

The following key issues discussed during plenary discussions:

1. Lack of data on transgender persons was recognised as a reason for their exclusion in most key population programmes where focus has been on other groups such people who inject drugs, men who have sex with men and sex workers. There is need to review key population programming to incorporate transgender persons.

2. Sensitisation of healthcare workers to reduce stigma and discrimination against key population and to promote gender equality with communities is key. The Kenya Medical Association committed to spearhead the process.

3. NACC acknowledged the reality of diminished funding to HIV programmes due to the upgrading of the Kenyan economy as a lower middle-income country. Stakeholders are reviewing strategies to find a sustainable funding mechanism.

4. The Key Population Consortium needs to be proactive and take advantage of existing platforms to strengthen their advocacy efforts and engagement with policy makers.

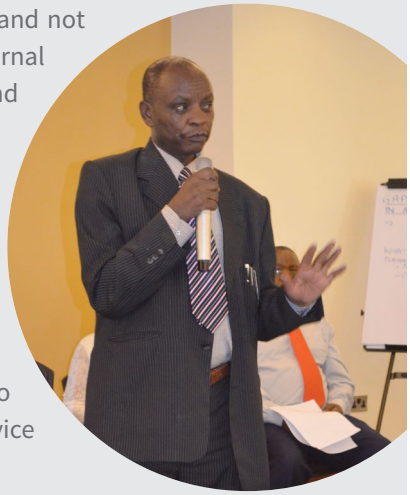
5. Key populations should also be engaged in the process of developing an East African Community strategy on key populations to ensure that an all-inclusive framework is adopted.

Session 4:

Law enforcement agencies strategies to reduce violence and discrimination against key populations

Law enforcement agencies play a key role in mitigating violence and discrimination against key population. The session discussed the role that law enforcement agencies in Kenya have played in this regard in particular within places of detention and in the community. The panelists represented various law enforcement agencies including the National Police Service, Kenya Prisons Services and county inspectorates.

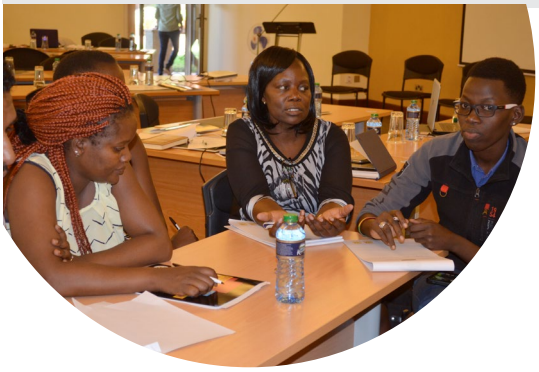
Mr. Cyrus Gichunge representing the National Police Service outlined efforts that have been put in place within the national police service to address work place HIV challenges. This includes the establishment of an AIDS Control Unit and a workplace policy on HIV. He noted that laws that criminalise conduct against key populations are a challenge that need to be addressed in order to protect key populations. He informed participants that the police have undergone reforms in Kenya geared at upholding the rule of law and human rights. They are expected to undertake their roles with the highest levels of professionalism. When arresting offenders, police officers are expected to treat them with dignity and not to subject them to any form of violence. The national police services has an internal disciplinary mechanism through the Internal Affairs Unit that is tasked to receive and address complaints against police officers. Furthermore, the Independent Policing Oversight Authority (IPOA) is mandated to oversee police work in Kenya to ensure that police action does not violate human rights. These are mechanisms that key population groups can pursue to complaint about any form of violence and discrimination by police officers. He acknowledged that police officers may not have been adequately trained to be able to appreciate and handle issues facing key population competently, hence the need to sensitise them from the highest level of the national police service. Generally, police officers have been trained to enquire about ones health status, so as to facilitate access to the healthcare service that one needs.



Mr Cyrus Gichunge, National Police Service

Mr. Samuel Lovoni of the Kenya Prisons Service shared some of the challenges and progress made in the fight against HIV in prisons. Some measures that have been implemented within prisons to address HIV include the adoption of the Kenya Prisons Service HIV policy and the establishment of an AIDS Control Unit. There are also measures in place to establish and address the medical needs of a prisoner or inmate. Human rights principles guide correctional services and human rights officers have been posted to all prison facilities. Human rights desks have been set up to ensure that administrative officers of such facilities adhere to the principles and guidelines. Complaint report systems have also been developed so that any forms of human rights violation can be reported and aptly dealt with in line with the principles of natural justice. Paralegal officers are in place to offer legal aid to all inmates, addressing all aspects of human rights and legal representation.

Meeting participants discuss advocacy plans in groups



The prisons department is currently reviewing its principal legal framework to align it with the Constitution of Kenya 2010 and to adopt international best practices. It is envisaged that the Kenya Prisons Service will be the first African correctional centre to fully integrate the United Nations Standard Minimum Rules on Treatment of Offenders (Mandela Rules). A chapter on health care services has been introduced in the Kenya Prisons Service Draft Bill, factoring in the right to health of both prisoners and members of staff. It ensures that the Department shall organise health care services in collaboration with the public health administration, to ensure continuity of treatment and care, including for HIV, TB and other infectious diseases, and for drug dependence. Mr Lovoni concluded by recommending that key players within the criminal justice system, especially the judiciary, need to ensure that alternative forms of sentences are effectively applied, to ensure decongestion of prisons. There is also need to fully implement existing policies as well as to continuoally review and develop better policies.

Halima Sertoi of Mombasa County Inspectorate appreciated the support that partners extended to Mombasa County Inspectorate, leading to a shift in how the inspectorate deals with key population in the enforcement of county laws. The County Inspectorate partnered with key stakeholders, including KELIN and the Reach Out Centre, and underwent sensitisation on the human rights of key populations. She noted that prior to these efforts, the county law enforcement officers would indiscriminately arrest and harass key populations groups, in particular people who inject drugs, without paying regard to their health status or paying attention to those who were undergoing rehabilitation. She highlighted the need for ongoing capacity building initiatives for county inspectorate officers and to extend these to other counties, such as Nairobi.

It is envisaged that the Kenya Prisons Service will be the first African correctional centre to fully integrate the United Nations Standard Minimum Rules on Treatment of Offenders (Mandela Rules).

Plenary discussions and key recommendations

The following is a summary of the key issues raised and responses during the plenary discussions:

1. There is need to explore the use of out of court settlement mechanisms to address challenges faced by key populations in detention, and not to use the process to deny key populations their rights to access to justice where violations have been committed against them.

2. Stakeholders should explore a sustainable training programme for law enforcement agencies. Many organisations have faced the challenges relating to regular transfers of trained officers from their work stations. It was recommended that training programmes should go beyond a focus on stations, to the integration of training on the rights of key populations in the national police training curriculum. High level officers at the management and policy making levels should also be sensitised.

3. Key population groups should also utilise existing complaints mechanism within the national police service, as well as within independent agencies such as the IPOA and KNCHR, to lodge complaints of human rights violations committed by law enforcement agencies. Complaints handling agencies also need to fast track complaints raised by key population groups.

Session 5:

Strengthening multi-stakeholder advocacy strategies to reduce violence and discrimination against key populations

A multi stakeholder strategy involving other key partners including religious leaders, civil society organisations and the national human rights commission, is key to ensure strengthened advocacy for rights of key populations. The panelists representing various agencies and stakeholders including the IPOA, ICJ, religious leaders, Nakuru County AIDS Control Program and the KNCHR discussed their roles in relation to strengthening advocacy for the rights of key populations in Kenya.

Commissioner Tom Kagwe of the Independent Police Oversight Authority (IPOA) recalled his experience advocating for rights of sexual minorities while working with a local NGO, the Kenya Human Rights Commission (KHRC) and referred participants to one of the pioneer publications on sexual minorities, "Outlawed Amongst Us"; a publication by KHRC that highlighted changes that lesbian, gay, bisexual, transgender, intersex and queer (LBGTIQ) populations face in access to healthcare, housing and other basic needs. [6] The publication highlighted the disproportionate impact of discrimination on key populations. He noted, however, that the legal framework is changing; for example section 22(2) of the Independent Police Oversight Authority Act provides for training of all police officers on human rights. [7]

Commissioner Kagwe highlighted the policing strategies that have been abused by law enforcement agencies. These include stop and search powers that have been used to profile key populations. Police also fail to take action against members of the public to prevent violence and abuse against key populations. He underscored the need for interventions by police that are within the law. There is need for human rights mainstreaming and belief at strategic levels of all arms of the law enforcement agencies. There is also need for key populations to be provided with information on how to pursue redress and compensation in case of violations.

Further, Commissioner Kagwe explained the mandate of IPOA and how key populations can engage with the institution at both its national and regional offices in Mombasa. One of the functions of the IPOA is to receive complaints of human rights violations by law enforcement officers and to investigate these complaints. Additionally, IPOA monitors and inspects places of detention and undertakes human rights training for police officers. IPOA also recognises and awards meritorious law enforcement agencies. He recommended that human rights defenders should review existing and proposed legislation, engage with parliamentary committees and provide policy advice that addresses the interests of key populations. He also challenged participants to ensure state compliance with international human rights reporting obligations and recommended that key populations should also engage in the shadow reporting process, to ensure that issues relevant to them are addressed in these reports. He also proposed a public education programme and community involvement in key population programmes to build social support and reduce stigma. There should be a human rights based approach to law enforcement reform that promotes and upholds the rights of key populations.

[6] http://www.khrc.or.ke/mobile-publications/equality-and-anti-discrimination/70-the-outlawed-amongst-us/file.html

[7] http://kenyalaw.org/lex//actview.xql?actid=CAP.%2088

Edigar Kavulavu discussed the project on decriminalisation and the reclassifying of petty offences that is being implemented by the Kenya Chapter of the ICJ.[8] Decriminalisation and reclassifying petty offences is particularly important so as to reduce violence against sex workers and other key populations who suffer arbitrary arrest and violence at the hands of law enforcers. Sex workers for instance are usually charged with petty offences such as loitering. ICJ conducted research on petty offences, including offences affecting key populations, and later convened a national conference on criminal justice where a CSO taskforce on decriminalisation of petty offences was established. The taskforce members include key population advocacy groups such as Bar Hostess Empowerment and Support Programme (BHESP); the Kenya Harm Reduction Network (KHRN), and GALCK.

Pastor John Kambo is one of more than 300 religious leaders from the coastal region who have been trained by Persons Marginalised and Aggrieved (PEMA) Kenya on the rights of key populations. PEMA Kenya is a CSO based in the coastal region. Pastor Kambo pointed out that religious leaders are influencers of the community and play a vital role in matters relating to key populations in the community. He acknowledged that prior to the training by PEMA Kenya, he did not appreciate the challenges faced by key populations, and considered their conduct as immoral and sinful. The training has helped him understand the challenges they face, and motivated him to take up advocacy to promote and protect the rights of key populations. It is therefore crucial that faith leaders are informed and sensitised on the issues affecting KP so that they can use their platforms to communicate to their members and be leaders in the change of societal attitudes. He called on CSOs and CBOs to coordinate with religious leaders to sensitise the community and to incorporate religious leaders in technical working groups at grassroots level. However, there was a concern raised that the TWG is largely a government led process, and there is a need to review it so that the TWG can be spearheaded by key populations and CBOs.

Jeremiah Kutwa, a member of the Nakuru County Technical Working Group and the county key populations' coordinator, discussed the roles and responsibilities of the county TWG as platform for the coordination of partners in the provision of services and advocacy for key populations. He encouraged all partners to support the operational activities of TWGs, such as data reporting, training and procurement of necessary commodities for key population groups. He highlighted that data is key in spearheading reporting, fundraising and and sensitisation of all stakeholders, especially the police. He noted that female sex workers are among the most vulnerable key population groups in Nakuru county and several cases of violence and deaths of female sex workers have been reported to the police. In order to address the failure by law enforcers to protect sex workers, Members of Nakuru county TWG worked closely with law enforcement officials and sensitised them on the rights of sex workers. Consequently there has been progress noted. For instance, police have beefed up security in areas frequented by sex workers and cases of harassment of sex workers by law enforcement officers have reduced.

[8] http://www.icj-kenya.org/news/latest-news/96-icj-kenya-to-host-national-conference-on-petty-offences

[9] http://www.knchr.org/portals/0/reports/reproductive_health_report.pdf

According to Dr. Bernard Mogesa, the mandate and functions of KNCHR include to receive and investigate complaints of human rights violations. Its rapid response unit responds to urgent cases such as the recent cases of violence against sex workers in Kisii county. The Commission also undertakes public inquiries for systemic human rights violations. In the year 2012, the commission conducted a public inquiry into sexual and reproductive health, which documented violations against key populations and made recommendations on, amongst other things, the need for legal and policy reforms to facilitate access to services.[9] He cautioned the participants that complaints lodged with the commission must reveal violations of human rights.

He encouraged key populations to have data collection centers to enable them to build a case to show that certain violations are of systemic nature. He also noted that the Commission regularly hosts meeting with CSOs, including key populations organisations. He invited participants to regularly engage with the Commission through such platforms. Other avenues for engaging with the commission include providing input into the Commission's annual report on human rights. The Commission undertook to consider recommendations by the workshop, to ensure that the KNCHR is represented at regular meetings of the Nakuru County TWG as well as other TWGs at the national and county level. He noted that the Commission also faces challenges in the delivery of its mandate, due to factors such as the delays in the justice system.

Plenary discussions and key recommendations

During the plenary discussions, some of the key concerns raised included delays by IPOA, KNCHR and the police in processing complaints by lodged key populations; the lack of coordination among key stakeholders was also noted as a key concern. This section summarises the key issues raised and recommendations during the plenary:

1. There is need for adequate inclusion and participation of key populations in programmes and initiatives relevant to key populations. These include ICJ's project on decriminalisation of petty offences and KNCHR's stakeholders meeting.

2. KNCHR is the key body with the mandate to promote the rights of persons in Kenya, and key populations should strengthen their partnership and engagement with KNCHR and other bodies such as IPOA. These bodies should also engage with the TWGs at the national and county levels. Further, key populations should also support and guard gains made by these institutions, especially when they are under threat from the State seeking to curtail their powers to monitor and promote human rights in Kenya.

3. There is need to sensitise relevant officers within KNCHR, IPOA and the national police service so that they can be sensitive to the needs and interests of key populations. These include officers staffing gender desks within the National Police Service, human rights officers and paralegals within Kenya prison and officers handling human rights complaints within KNCHR and IPOA. KNCHR and IPOA should ensure efficiency in processing complaints lodged by key populations, including follow up and giving feedback on progress of such cases. It was noted that key populations have lost faith in the ability of these institutions to effectively process their complaints. Other areas of partnership include holding joint activities, such as human rights clinics, and training and public education campaigns.

4. The IPOA should expand its mandate to monitor activities of all law enforcement agencies, including county inspectorates.

5. KNCHR and IPOA encouraged key populations to be proactive when engaging with them and to also cooperate with their officers especially where the officers require additional information to enable them to process complaints lodged by them.

6. Barbara Wangari from EATHAN clarified that data on key populations is available extensively, and it is such data that has informed the litigation around key population violations.

7. IPOA and KNCHR were also encouraged to work with all categories of key populations, including transgender persons.

8. Brian Macharia of GALCK highlighted the need for harmonisation of documentation system in order to ease reporting and access to data on human rights violations against key populations. The KP Consortium was encouraged to mobilise data and documentation to be shared with the Commission.

Session 6:

Action Planning – Strengthening advocacy strategies to reduce violence and discrimination against key populations in Kenya

During the action planning session, participants discussed strategies to strengthen existing advocacy interventions of existing multi-stakeholder platforms at the national and county levels. Their areas of focus included improving coordination among partners, capacity building and public awareness, review of discriminatory laws and policies and guaranteeing access to services.
Annexure1 presents the outcome of the group presentations.

Conclusion

At the conclusion of the meeting, Nthabiseng Mokoena thanked the panelists and participants for the participation and contributions. Grace Kamau of the Key Populations Consortium gave a vote of thanks and reiterated that the recommendations and action points discussed at the workshop will be adopted and implemented by all partners, with a view to improving the human rights situation of key population in Kenya.

Nthabiseng Mokoena, ARASA Regional Advocacy Officer facilitated the action planning on strengthening strategies to reduce violence and discrimination against key populations in Kenya.

Conclusion

Plan of Action for Strengthening Advocacy for Reducing Violence and Discrimination against Key Populations in Kenya

26 May 2017

At the end of the two-day workshop, ARASA convened a meeting of the Key Population Consortium and Kenya National Commission on Human Rights to discuss and agree on a coordinated strategy for advocacy efforts to reduce violence and discrimination against key populations.

23 participants attended the meeting representing members of the Key Population Consortium, KNCHR, the National Police Service, Kenya Prison Service and the National AIDS Control Council. The strategy meeting identified existing challenges and agreed on 15 actions points.

Annexure 2 presents the 15 Action Points for Strengthening Advocacy to Reduce Violence and Discrimination against Key Populations.

Annexes

1. Action Planning: Group presentations

An enabling environment for improved access to HIV/AIDS and STI services for male sex workers in Nairobi

GROUP 1:

Objective 1	**Review of punitive laws that affect key populations**		
Activities	1.	Awareness creation initiatives for policy makers and stakeholders	Key Population Consortium
	2.	Capacity building of key populations on public participation and the law making process	
	3.	Conduct public interest litigation	
	4.	Fundraising	
Objective 2	**Guaranteeing access to health care services for the KP Community**		
Activities	1.	Sensitisation of health care workers on HIV, Human Rights and Key Populations	Key Population Consortium, Stop TB, KELIN
	2.	Fast tracking policies that will improve enhanced access to health care	
	3.	Conduct dialogue sessions with health committee members of the COG	
	4.	Fast track development of the TB isolation policy	
Objective 3	**Reduction of cases of violence amongst Key Populations by 50% by end of 2018**		
Activities	1.	Capacity building of religious leaders on key populations and violence prevention	KNCHR, IPOA, Key Population Consortium
	2.	Establishing baseline on violence against KP in every county	
	3.	Capacity building of media personnel on Key populations, Human Rights and Rights based reporting	
	4.	Capacity building of key populations on documentation of human rights violations and violence prevention	

GROUP 2:

What do you want to influence or change?	What actions are needed to achieve change?	Who do you need to target? • Who will support you in this effort? • Who might oppose you (allies and foes)?	When will the actions happen? What do you now know now about the timeline?	Who will take the actions?	Where can you turn to for technical assistance or support?
1. Establish a Country coordinating mechanisms with inclusion and representation of key populations.	1. Establish a leadership structure for the country coordinating mechanism 2. Develop terms of reference for the country coordinating mechanism. 3. Develop communication strategies 4. Develop media information kit	Partners; CSO, Government, Media, Community, Key Population Opposition; 1. Legislators: May reject reforms 2. Community and religious leaders: Cultural and religious bias	Leadership structure: Immediate Terms of reference for coordinating mechanism: 1 Month Communication strategy: 2 months	1. Teams represented will elect leadership 2. TWG will develop the TOR 3. TWG will develop communication strategy	Government, KELIN, AMREF, UNODC, KMA
2. Integration of TB within existing mechanisms (PMTCT, SRHR, Global Fund)	1. Service delivery: Include TB as part of the Global Fund minimum harm reduction package 2. Integrate TB services in supply chain system 3. Mobilisation of resources 4. Address health inequalities under universal health coverage (poverty, overcrowding, poor housing etc.) 5. Create linkages with private sector partners	Partners: CSO, Government, Media, Community, Donors, Opposition: 1. Healthcare workers 2. Community 3. Legislators 4. Policy makers	Service delivery: 1 year Supply chain: 1-2 years Mobilisation of resources: 6 Months to 1 year	1. AMREF, STOP TB partnership, NACC, KMA 2. National Government 3. County Governments	Government, AMREF, UNODC, WHO, UNFP, KMA, UNICEF, CSO

GROUP 2 (continued):

What do you want to influence or change?	What actions are needed to achieve change?	Who do you need to target? • Who will support you in this effort? • Who might oppose you (allies and foes)?	When will the actions happen? What do you now know now about the timeline?	Who will take the actions?	Where can you turn to for technical assistance or support?
3. Decriminalisation and reclassification of punitive and petty offenses	1. Lobbying and advocacy in partnership with key population groups 2. Sensitisation 3. Public interest litigation	**Support** 1. TB Caucus 2. Legislators 3. Judiciary 4. Public 5. CSO 6. Healthcare workers/Medical bodies 7. Ombudsman 8. IPOA 9. KNCHR **Oppose:** National and county government		1. Parliament 2. Senate 3. MOH 4. County governments	1. Judiciary 2. KNCHR 3. Government 4. CSO

2. Action Points for Advocacy

15 ACTION POINTS FOR STRENGTHENING ADVOCACY TO REDUCE VIOLENCE AND DISCRIMINATION AGAINST KEY POPULATIONS

1. The Key Population Consortium and KNCHR will host workshops within the Commission to sensitise staff and other partners on the human rights of key populations. The workshops will be led by key population groups and not external consultants.

2. KNCHR should consider participating in meetings of the TWG at the national and county levels. This has to be factored into the Commission's work plan and budget before it can be effected.

3. KNCHR and the Key Population Consortium to convene a meeting to enable key populations to understand how KNCHR works and to explore strategies to effectively engage with the Commission.

4. The Key Population Consortium to work with KNCHR to create a harmonised template for documentation, to assist the KNCHR with the investigations and follow up on cases of violence and discrimination against key populations.

5. The Key Population Consortium and KNCHR to organise a forum to review and validate the documentation tool, as well as to sensitise key population groups on how the Commission documents violence against key populations and feed this information back to various key population groups

6. ARASA is developing resources for national human rights institutions (NHRIs). ARASA will share the resource with participants to be disseminated within their networks.

7. ARASA will host the second Capacity Strengthening for NHRIs in 2017. ARASA will invite KNCHR and key population groups in Kenya.

8. ARASA encouraged key population groups to take advantage of its Observer Status before the African Commission on Human and Peoples' Rights (ACHPR), to make submissions before the ACHPR.

9. The Key Population Consortium will be collating existing information and the documentation of violence, stigma and discrimination against key populations to share with the Commission and to actively disseminate to other stakeholders.

10. ARASA invited key population groups in Kenya to apply for small grants providing by ARASA under the Global Fund Africa Regional Grant on HIV. ARASA will distribute call for proposals in October 2017.

11. The National Police Service will revive the Gender Desks in all the police stations and address the implementation challenges.

12. The representative of the National Police Service will inform the Inspector General and high-level authorities about the rights of key populations and the need to integrate their rights into the working of the Police Service.

13. The Key Population Consortium will analyses reports from Police Gender Desks with the key population reports every month, to enable them present the extent of violations against key populations.

14. The Key Population Consortium and partners shall sensitise police officers responsible for Sexual and Gender Based Violence (SGBV) desk.

15. The Key Population Consortium shall sensitise members of the Kenyan media on the rights of KPs and how to report on this responsibly without sensationalising issues.

3. List of Participants

No.	Name	Organisation	County
1.	Humphrey Rakewa Awori	NYARWEK	Kisumu
2.	Brian Macharia	GALCK	Nairobi
3.	Barbra Muruga	East Africa Trans Network	Nairobi
4.	Lilian Ontumbi	Teens Watch	Kwale
5.	Abbas Khamis	Reach Out Centre Trust	Mombasa
6.	Grace Abonyo Nyarath	KISWA	Kisumu
7.	Julia Lusiji	COSWA	Mombasa
8.	Enosh Abuya	Eagles for Life	Nairobi
9.	Simon Muchiri Wainaina	HOYMAS	Nairobi
10.	Joscar Amondi	Rainbow Women	Mombasa
11.	Taib Abdulrahman	Reach Out Centre Trust	Mombasa
12.	Tabitha Waithera	Teenswatch	Kwale
13.	Arnest Thiaya Kaku	Jinsiangu	Nairobi
14.	Bernice Apondi	KANCO	Nairobi
15.	John Kimani	KENPUD	Nairobi
16.	Cossam Makhoveh	PEMA	Mombasa
17.	Caroline Kemunto	Survivors	Busia
18.	Maureen Akinyi Ochieng	EATHAN	Kisumu
19.	Faith Omari	Nakuru Smart Ladies	Nakuru
20.	Anne Nyambura	Mombasa Chec	Mombasa
21.	Grace Kamau	Key Population Consortium	Nairobi
22.	Jackie Wambui	NEPHAK	Nairobi
23.	Pauline Nyambura	KESWA	Nairobi
24.	Maryanne Wangui Nyokabi	Laikipia Peer Educators	Laikipia
25.	Evaline Kibuchi	Stop TB Partnership	Nairobi
26.	Hussein Taib	MEWA	Mombasa
27.	Edigah Kavulavu	ICJ	Nairobi
28.	John Kambo	PEMA Kenya	Mombasa
29.	Ted Wandera	KELIN	Nairobi
30.	Dr Stella Bosire	Kenya Medical Association	Nairobi
31.	Jeremiah Kutwa	Nakuru County AIDS Coordinator	Nakuru
32.	Cyrus Gichunge	Kenya Police Service	Nairobi
33.	Samuel Lovoni	Kenya Prison Service	Nairobi
34.	Halima Sertoi	Mombasa County Inspectorate	Mombasa
35.	Jesca Omai	Nairobi County	Nairobi
36.	Cyphrene Wasike	NACC	Nairobi
37.	Tom Kagwe	IPOA	Nairobi
38.	Dr Benard Mogesa	KNCHR	Nairobi
39.	George Morara	KNCHR	Nairobi
40.	Phoebe Muthimi	KNCHR	Nairobi
41.	Lisa Ligterink	UNAIDS	Nairobi
42.	Nthabiseng Mokoena	ARASA	Regional
43.	Lesley Odendal	ARASA	Regional
44.	Kitty Grant	UNDP Regional Service Centre	Regional
45.	David Owolabi	UNDP Regional Service Centre	Regional
46.	Collins Omondi	Consultant Rapporteur	Nairobi
47.	Carolyne Cheptoo	Assistant Rapporteur	Nairobi