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PLEAD Verdict

NEWSLETTER OF THE PROGRAMME FOR LEGAL
EMPOWERMENT AND AID DELIVERY IN KENYA – PLEAD

PROBATION FEMALE HOSTEL
SIAYA

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Welcome to our second edition



Welcome to the second issue of our PLEAD quarterly newsletter presenting stories about our mission and work. UNODC is the guardian of international norms and standards in crime prevention and criminal justice. In crime prevention, we concern ourselves with making the world safer from crime, drugs and terrorism. Since 2018, this includes the implementation of the PLEAD partnership in Kenya in accordance with Goal 16 of the 2030 Agenda for Sustainable Development Goals (SDGs) and the United Nations's standards and norms on crime prevention and criminal justice.

Our PLEAD partnership follows a two-pronged objective: the support for the provision of legal aid and strengthening the administration of justice and operationalizing alternatives to imprisonment in Kenya. In this newsletter we would like to highlight our past and ongoing PLEAD initiatives such as our support for Community Service Orders with the Probation and Aftercare Service (PACS) and our work with the National Council on the Administration of Justice (NCAJ) on holding the first national conference on criminal justice reforms in Kenya.

I hope you enjoy this edition of our PLEAD newsletter and that our stories serve as an inspiration to many of you. I want to also take this opportunity to thank the PLEAD team for their dedication and persistence in implementing our initiatives.

Charity Kagwi

Head, Crime Prevention and Criminal Justice Programme
Regional Office in Eastern Africa
United Nations Office on Drugs and Crime



About PLEAD:

The Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD) is a partnership involving the Government of Kenya, European Union, United Nations and civil society in improving the delivery of justice services, settlement of disputes and use of alternatives to imprisonment. The KSh 4.2 billion programme runs until 2022 and is funded by the European Union.

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This newsletter was produced with the financial support of the European Union. Its contents are the sole responsibility of the co-implementers of PLEAD – UNODC and UNDP – and do not necessarily reflect the views of the European Union.

On the cover: Probation Hostel – Siaya, Kisumu County.
Photo: Allan Gichigi/UNODC



Empowered lives.
Resilient nations.



Amkeni Wakenya is UNDP Kenya’s flagship facility for strengthening civil society organisations (CSOs) involved in promotion of democratic governance in Kenya. Amkeni is currently implementing PLEAD’s component on providing grants and technical support to CSOs with a view to ensuring access to justice of the poor and marginalized through legal aid and assistance, as well as engagement with duty bearers and individual capacity building (under Outcome 1 of PLEAD).

So far, Amkeni has identified and selected through open competitive processes 24 CSOs to implement a wide range of interventions in the 12 PLEAD focal counties. Through PLEAD, Amkeni has developed a focus on CSOs working with marginalized groups, including persons with disabilities, persons living with HIV, children in conflict with the law, women and youth.

Amkeni Wakenya has also selected the Law Society of Kenya and the Paralegal Support Network as strategic partners. These two organisations will pursue advocacy at the national level, aimed at accelerating the implementation of the legal aid and capacity building of lawyers and paralegals.

We look forward to an exciting 2020, as the implementation of PLEAD enters the second full year.

Wambua Kituku

PLEAD UNDP Programme Manager
United Nations Development Programme



PROBATION AND
AFTERCARE SERVICE



Empowered lives.
Resilient nations.



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United Nations Office on Drugs and Crime

Programme for Legal Empowerment and Aid Delivery in Kenya – PLEAD

Bringing together stakeholders to address criminal justice reforms



Criminal justice actors in a panel discussion at the first national conference on criminal justice reform in Kenya. Inset: Chief Justice of Kenya, Hon. David Maraga

Key criminal justice actors and experts gathered in Naivasha in November to talk about criminal justice reform in Kenya. The first National Conference on Criminal Justice Reform was hosted by the National Council on the Administration of Justice (NCAJ) and the National Committee on Criminal Justice Reform (NCCJR) to create an all-inclusive consultation process with stakeholders in the criminal justice system.


The conference aimed to improve the collective response of Kenya’s criminal justice system towards systemic problems such as prison overcrowding and inequitable access to justice, especially for children and vulnerable people. Some of the institutions represented at the conference were the Office of the Director of Public Prosecutions (ODPP), the Judiciary, the Probation and Aftercare Service (PACS), the Witness Protection Agency (WPA), the Attorney General’s Office, the Ethics and Anti-Corruption Commission (EACC), the National Police Service and the Directorate of Criminal Investigations (DCI).

Opening the conference, the Chief Justice of Kenya, Hon. David Maraga, said that the Constitution calls for collaboration, cohesion and seamless delivery of services to the people. “Identification and interrogation of key questions to be addressed, gaps and challenges affecting justice sectors will help us improve administration of justice – the cornerstone of the entire sector,” Hon. Maraga said.

The Director of Public Prosecutions, Mr Noordin Haji, acknowledged in his remarks that the NCAJ is tasked with responsibilities that extend to the entire administration of justice and that the ODPP

is open to collaboration. “The ODPP wants to assure you that we will keep supporting these processes,” Mr Haji said. “We have to ensure that we interrogate ourselves and get solution to some of the hurdles we are faced with as players in the justice system.”

The Commissioner General of Prisons, Wycliffe Ogalo, noted the staggering number of prisoners in both remand and correctional centres, including children and other vulnerable people. He said in his remarks that there are a total of 53,935 people in prison, of whom 5,999 prisoners are serving life sentences, including children accompanying their mothers to prison.

Following the conference, UNODC, along with NCAJ and representatives from the participating criminal justice institutions, will be drafting recommendations to address the concerns highlighted at the conference, especially noting the need for a strategy on reduction of prison populations. 



The Director of the Office of Public Prosecutions speaking about the importance of cooperation between criminal justice stakeholders in addressing problems in the justice system.

Promoting access to justice through Communication for Development (C4D)



One of the most common issues raised by *Amkeni Wakenya* PLEAD CSO partners is limited public awareness and understanding of the complex access to justice challenges they are addressing: whether its marginalisation of sex workers in Kisumu or lack of legal aid awareness in Isiolo. Simply, it has been a challenge to get the message out to county, national and international-level parties.

In September, the UNDP *Amkeni Wakenya* team, with support from the UNDP Communications department, brought together PLEAD CSO partners for a quarterly learning platform focused on Communication for Development (C4D) in order to empower partners to identify, craft and share the stories behind the work they are doing. PLEAD CSO partners work in a range of different contexts and have varying degrees of communications skills: the training was structured to cover the technical fundamentals to deliver for everyone equally.

Writer Jackson Biko kicked off the workshop in Nyandarua County by breaking down the elements of telling a compelling story. When it comes to communicating work in promoting access to justice, framing this as ‘dog bites man’ would be


too obvious; far better to look for the ‘man bites dog’ angle to draw people in, he said. Partners quickly realised the social, historic and geographic context for their work would help them build a strong narrative.

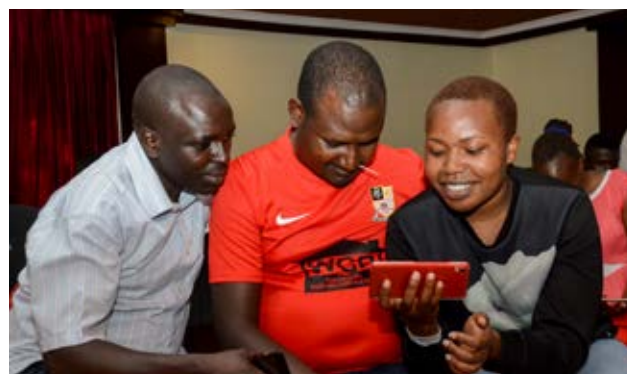
The interactive element was led by Yegon Emmanuel of Mobile Journalism Africa, who shared his work in reporting on some of the most pressing stories in Kenya using only his mobile phone – a piece of equipment that all partners have and can easily use, to document their activities with marginalised communities at the grassroots. After discussing how best to structure their videos, partners broke off into small teams to shoot short clips introducing themselves and their projects.

“It was a really good training and I feel empowered... the idea of Mobile Journalism is something that I never really thought I would do. Before this training, taking my camera to the field and editing back in the office after would take a lot of time.”

**– James Gendi,
Keeping Alive Societies Hope (KASH)**

Editing and sharing videos using free mobile apps was the final area of focus. Partners learnt how to put together a professional story and quickly upload to social media: a powerful tool in documenting their work in often rural settings.

Amplifying the voices of civil society changemakers to spread the message of equal rights for all is core to access to justice under PLEAD. With this C4D training, the *Amkeni Wakenya* CSO partners are equipped to do just that: stimulate and influence discussions around access to justice for the poor, vulnerable and marginalized. 



The voice of the voiceless: promoting access to justice for deaf PWDs

NAPAD PLEAD Project, Mandera County



Bishar Diriye, NAPAD Field Officer

Mandera, the capital of Mandera County, is at the very edge of Kenya's Northern Frontier. Touching the borders of both Ethiopia and Somalia, a heavy security presence reflects the prevalence of armed conflict in the immediate area – particularly involving fundamentalist militant groups.

Speaking to locals around town, the majority of whom are ethnic Somalis, there's a feeling that the instability, curfews and restrictions on movement that come with this have dimmed the voice of inclusivity and public participation.

In these circumstances, when it comes to marginalised groups such as women and children, basic needs are not always met: Mandera County has by far the highest rate of maternal mortality in Kenya, and the lowest rate of full child vaccination.

Among people with disabilities (PWDs), studies have indicated that special education is often lacking and that injustices suffered by PWDs can be missed by the legal system. Access to justice for these groups is a challenge across Kenya, but



"I've been working with disabled children a long time, especially the deaf... we talk about this in terms of the voice of the voiceless, because if anyone crosses them, they can't speak out. There are no interpreters in Mandera: when it comes to cases involving the deaf, especially rape and defilement, very few of these cases ever come to court."

Abdul Ali Abdullah, Paralegal Trainer

especially so in Mandera as an area with both serious security issues, and entrenched religious and ethnic social structures.

On the day we visit, a 10-day training on sign language for paralegals who operate across Mandera North and Mandera East Sub-Counties is concluding. The trainer, Abdul Ali Abdullah, tells us how he has come across the abuse and neglect of deaf children and the lack of understanding of their specific needs. Whether in a police station, court of law, hospital or even a school, deaf PWDs struggle to access services in the same way as able-bodied people, despite the fact that they have rights enshrined in the constitution to do so.



“You say 'this thing is supposed to be done' and the men contradict you and say 'you're not the one to say this'... You just settle with them - you're not going to be the only person to have that opinion, so you try to influence them together.”

Amina Ronow Ugas, Paralegal

Anima Ronow Ugas - one such paralegal working with Nomadic Assistance for Peace and Development (NAPAD) - shows that she has grasped the training quickly, fluently signing a long passage about empowering PWDs on their rights. Ms. Ugas explains that working with rural communities as a female paralegal can be challenging in Mandera, amidst a complex context of religious norms, paternalism and Somali clan hierarchies.

With support from UNDP under the Amkeni Wakenya CSO facility, NAPAD has trained 6 paralegals on the Legal Aid Act 2016 and to use sign language to serve deaf PWDs; additionally a legal aid centre has been erected in Neboi, on the edge of Mandera, to bring legal aid and assistance direct to the community. NAPAD have a number of other activities planned, including the production of braille information materials on legal aid, radio shows to sensitise the local population and trainings of councils of elders on human rights-based approaches to traditional dispute resolution.

There's a long way to go to address the uniquely challenging situation for deaf PWDs in Mandera. Noor Abdow, another NAPAD paralegal, tells us how the only special education school in the County catering for deaf children closed some years ago due to financial issues, and how deaf children can suffer in silence when it comes to issues such as child marriage and FGM, which are all too common in the region. Mr. Abdow regrets that insecurity hinders reporting of these issues, saying the need for assistance is simply too great not to be told more widely.

'Leaving no one behind' is at the core of the 2030 Agenda for Sustainable Development: NAPAD, through partnership with UNDP, is working to fulfil that pledge. 🇰🇪

Disclaimer: This story is based on first person reports and interviews conducted during a monitoring and evaluation visit in Mandera County, October 2019. The opinions expressed in this story are solely those of the interviewed participants and do not necessarily represent the views of affiliated donors or organisations.

Compiled by: Nicholas Wilson/UNDP and Adesh Macan/NAPAD.



Neboi Legal Aid Centre

Training to improve use of Community Service Orders



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A PACS client at work at the Kenya Forest Service nursery in Siaya.

Across Kenya, probation officers oversee the supervision of offenders, or 'clients', who must perform Community Service Orders directed by the court. Community service can range from tree planting and road construction to cleaning public parks.

Between August and December 2019, 400 Probation Officers and Community Service Officers were trained on various aspects of the Community Service Orders Act, made possible through PLEAD with technical support from UNODC. The objective was to increase the capability of PACS officers to implement the Community Service Orders Programme with the ultimate goal of improving the level of supervision and contributing to reducing the burden on the nation's over-stretched prisons. Among their targets, PACS and other PLEAD partners seek to decrease the number of pre-trial detainees by 30 per cent by 2022 to combat prison overcrowding.

Community Service Orders training workshops took place in Kisumu, Nakuru, Mombasa and Nairobi. Complementing this, magistrates were also trained in the effective use and management of the Community Service Orders Programme, supported through PLEAD. According to the PACS Community Service Orders National Coordinator, Hon Atiang, an expected outcome will be an increase in Community Service Orders referrals from the courts. A standard grid of hours is used to convert the number of months and years into equivalent hours.

The Community Service Orders programme relies on the willingness of partner institutions to have

clients perform community service at their premises and on the effectiveness of PACS officers in working with victims of crime and the public to ensure public safety. In Siaya County, for example, 630 people performed community service in the 2018-19 year, mainly men. The Siaya County Probation Director for PACS, Philip O. Nyagigo, said the emphasis is on skills transfer to support their clients' rehabilitation while giving back to the community.

Among their local partners, PACS has been cooperating with the Kenya Forest Service for five years. Clients assist with manual work at the Siaya nursery and learn how to dig, sieve soil, pot seedlings in poly bags and plant. The seedlings are given to schools, government agencies and dispensaries. "This is like a training ground. The clients learn enough to start a nursery if they want," the Siaya Sub-county Forest Officer, Peter Onyango Oyugi, said. "Initially they [clients] don't want to assist willingly, but once they see what's involved they are open. We have one permanent officer in the nursery, so being part of the community service programme has been a blessing," Mr Oyugi claimed.

Elsewhere in Kisumu County, schools are involved too. "The service is benefitting us because we save money and gain labourers," the Headmistress of Kudho Primary School, Mrs Truphena A. Oyola, said. "This is a big school and we're not able to manage the grounds without support." Mrs Oyola said she was cautious initially but has seen how closely the clients are monitored. "We want to know their crime. With offences like loitering and fighting we don't have a problem provided there is strict monitoring. We don't want anyone lazing about here," she explained. PV



© Allan Gichigi/UNODC

Probation Officer John Otieno Obure and Kudho Primary School Headmistress Truphena A. Oyola discuss grounds maintenance tasks for clients performing community service at the school in Kisumu.

PLEAD expert interview

The Council of Legal Education on Paralegalism in Kenya



The provision of legal aid and assistance to marginalised communities using paralegals is a core part of UNDP Amkeni Wakenya PLEAD programming. Mary Mugure of the Council of Legal Education spoke to Amkeni Wakenya Project Officer Mohamud Abdullahi at a Quarterly Learning Platform in September 2019 about the framework and enabling legislation for paralegalism in Kenya and the challenges of developing a centralised organisational structure for this work.

MA: How would you characterise knowledge around the rule of law in Kenya?

MM: In my perception the rule of law in Kenya is not alien – there are constitutional protections around some of it under Article 10 of the Constitution, however, most of it is something that has not been contextualised at community level. It exists at higher levels of government but disseminating that to the community and bringing the knowledge there of issues like accountability, open government and access to justice is not very well known to the masses.


MA: What is the status of the context for paralegalism in Kenya?

MM: I think paralegalism has developed in terms of context from the national legal aid policy to the Legal Aid Act of 2016, and of course the legal aid action plan is there. We also have some very vibrant activities in communities of paralegalism and the offering of legal aid services at community level, and I think the status is that it is active. However I couldn't associate that with the Government structure, even though it is happening at the community level.

MA: What do you see as the key risks and the key challenges for CSOs engaged in paralegalism in Kenya?

MM: Simple: because of the fact that it is not structured, it means it is not organised. If it's not organised it cannot be regulated, then impacts can't be measured. I think it's important for us to find ways to structure it and therefore measure impact to alleviate some of those risks that will of course accrue from the fact that you can't regulate it.

MA: What do you see as the key next steps in promoting rule of law and promulgating the rights enshrined in the 2010 Constitution?

MM: It's two-fold for me. First is to generate awareness of the very good principles under Article 10 of the Constitution around rule of law: accountability, open government, access to justice... The moment that you ensure the public is civically aware, you are able to institute some component of institutional reforms. Institutional reforms mean you bring everybody into the justice sector – the police, CSOs and government – together, and you put them on one table so that they have commonality of purpose and therefore innovative ideas about how to actualise rule of law in Kenya, about how to ensure the sustainability of programmes that have this enforcement of rule of law in Kenya function. Once that happens, then it's easy to ensure there is continuity, there is constant knowledge, and there are ways that we can find improvement for enforcement of rule of law in Kenya. 

I feel protected

*I celebrate myself, and sing for myself,
And what I assume you shall assume,
The risks and danger that I faced,
For witnessing a heinous crime,
But all that is now a mirage,
I feel protected.*

*Thanks to the Witness Protection Programme,
For providing solace and a safe haven for me,
I was under threat, tormented by those criminals,
But all that is now a mirage,
I feel protected.*

*I eat well, I sleep well,
My family is safe and secure,
I breathe the air of hope without despair,
They planned to kill me, they can never get me
But all that is now a mirage,
I feel protected.*

*I wait in earnest for the testimony day,
To tell the court what I saw, on the fateful day,
I feel bad for the victim, he didn't deserve to die like that,
I pray for justice to be done, for those bad people to be punished,
They thought they will defeat the justice system,
But all that is now a mirage,
I feel protected.*


*Thank you, Witness Protection Agency,
You took me with open arms, when my life was in danger,
You assured me of my safety, when I felt cornered
And I know that the hand of God is the promise of my own,
That after all is done,
I will be re-integrated back to a safe environment
But all that is now a mirage,
I feel protected.*

PLEAD briefs

Partnering for justice




The Global Goals can only be achieved if we work together. In November, Amkeni Wakenya PLEAD partner Human Rights Agenda (HURIA) signed a Memorandum of Understanding with the County Government of Mombasa to define the operational framework governing cooperation on matters of legal aid and assistance. Acting County Secretary Joab Tumbo welcomed a UNDP delegation led by Deputy Resident Representative Mandisa Mashologu to the signing.

HURIA works to promote human rights as the foundation for legal aid and access to justice for vulnerable and poor communities in Mombasa County. The partnership with the County Government will promote public education and participation in the formulation and review of County policies and legislations as well as public interest litigation and human rights protection. 

New website for NCAJ




A standalone website to highlight the work and impact of the National Council on the Administration of Justice (NCAJ) is now live. The new user-friendly website features all the relevant categories of NCAJ's work, with a sleek and more interactive design. The revamped website is part of NCAJ's efforts to sensitize the public on government reforms to transform the administration of justice, including new policies and other measures, among those working in the justice sector and beyond.

Visit the new website here: www.ncaj.go.ke 

Combining the law and technology



In November, UNODC and the Office of Director of Public Prosecutions (ODPP) held a preparatory workshop for a legal hackathon competition between two groups of senior prosecutors from all over the country. The workshop aimed to encourage the prosecutors to embrace technology in legal proceedings, especially in relation to future crimes.

The two competing groups had to design and create a prototype to address two legal challenges: How to reimagine a fair and efficient traffic violations system and how to tackle crimes of the future. In collaboration with Safaricom and Lawyers Hub, workshops were presented about topics related to emerging crimes like cybersecurity, forensic science and future crimes to better equip the prosecutors on the development of their prototypes. 

Key dates



December

- 2–5 ODPP guidelines on children development
- 8–11 PACS training on Community Service Orders
- 18–19 New PLEAD grantees induction workshop, Machakos County

January

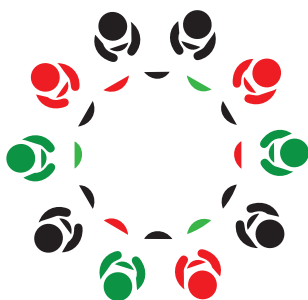
Quarterly learning platform for Amkeni Wakenya PLEAD partner finance officers

Monitoring & evaluation visits to Amkeni Wakenya PLEAD partners

Useful links

PLEAD government partners

Department of Justice	www.statelaw.go.ke
Judiciary	www.judiciary.go.ke
National Council on the Administration of Justice (NCAJ)	www.ncaj.go.ke
NGOs Coordination Board	www.ngobureau.go.ke
Office of the Director of Public Prosecutions (ODPP)	www.odpp.go.ke
Probation and Aftercare Service (PACS)	www.probation.go.ke
Witness Protection Agency (WPA)	www.wpa.go.ke



The Constitution of Kenya 2010 enshrines the right of access to justice which has provided new impetus for justice sector reforms

PLEAD expected outcomes:

1. Enhanced access to justice especially for the poor and vulnerable;
2. Strengthened court administration and case management;
3. Increased quality and efficiency in the criminal justice system; and
4. Improved coherence and cooperation throughout the justice sector.