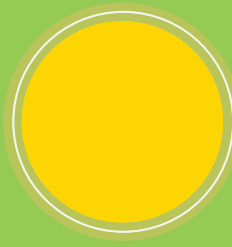


REFLECTI ONS



THE OPEN SOCIETY INITIATIVE
FOR EASTERN AFRICA



PROMOTING VIBRANT AND

TOLERANT DEMOCRACIES

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PASSION

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Passion drives our commitment to our work.

It ignites the spark to produce innovative work with intellectual rigour. Passion gives us our positive energy, dynamism, and tenacity to work in challenging and even hostile circumstances. Passion gives us the courage to stand strong and to withstand risk and uncertainty.

JUSTICE

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Justice represents all that we stand for.

Our goal is to ensure all individuals—in actuality and not simply on paper—have equal opportunities to participate actively in society and to receive just treatment and their “fair share” from the state and the community.

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We work on the premise that ALL human beings are entitled to basic rights and equitable access to opportunities and resources.

Members of marginalized or minority groups often face discrimination and violence. We support their demands for the real and effective enjoyment of their human rights regardless of sex, race, ethnicity, religion, birth, age, disability, sexual orientation, or other status. Given the prevalence of patriarchal structures and value systems that disadvantage girls and women, we stand committed to achieving gender equity.

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We support efforts that celebrate and embrace the strength of diversity and promote tolerance of difference.

We live in pluralistic societies made up of people from different backgrounds, beliefs, and lifestyles. “we” are because “they” are and “they” are because “we” are: all who embrace and seek to fulfil our collective values are one with us.

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We challenge ourselves to think out of the box—new ways, ideas, insights and partners—to expand the boundaries of what is possible.

Change can only come by creatively pursuing opportunities, and if necessary being ready to take calculated risks. We should not be afraid of failure, when there is a reasonable chance of success. Accordingly, we value learning and intellectual growth.

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Integrity means we walk the talk.

We are accountable and answerable for our conduct (acts and omissions) to each and all others. We maintain high ethical and professional standards in our interactions. For us, integrity is about building authentic relationships based on respect and a sense of equality.

SOLIDARITY & COLLEGIALLY

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We are a team that works collaboratively and collegially.

Our empathy, responsiveness and teamwork produce the synergy to work more effectively. Our interactions are always courteous and constructive. We undertake our work with equanimity and good humour. We stand by our colleagues in difficult times.

REFLECTIONS

WWW.OPENSOCIETYFOUNDATIONS.ORG

executive director BINAIFER NOWROJEE

authors EMMA DAY
UMRA OMAR
JOANNA OYEDIRAN
DON BOSCO MALISH

editors BINAIFER NOWROJEE
UMRA OMAR

assistant editor CLEMENTINE LOGAN

creative director ASSEGID GESSESSE
layout and design ISSA ABDUL

WEBSITE AND FEEDBACK

www.opensocietyfoundations.org | info@osiea.org

NAIROBI | KAMPALA | DAR ES SALAAM | JUBA

Published by:

OSIEA

PO Box 2193-00202

Nairobi, Kenya

+254 (20) 387-7508

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REFLECTI NS

PASSION



WHO ARE WE?

**“OUR
PASSIONS ARE
THE WINDS
THAT PROPEL
OUR VESSEL...”**

The Open Society Initiative for Eastern Africa (OSIEA) promotes vibrant and inclusive democracies.

Founded in 2005, OSIEA plays an active role in encouraging open, informed dialogue about issues of public importance. We support individuals and groups to participate in matters that affect them in order to demand fair treatment, delivery of services and accountability from their leaders and institutions. We award grants, develop our own programs, and promote debate on issues of public importance. OSIEA is part of the global Open Society Foundations network.

OSIEA’s work is undertaken through a combination of country and thematic programs. We promote democratic governance, justice

and human rights, respect for the rule of law, and the protection of the rights of minorities.

OSIEA’s key role is to amplify the voices promoting open society ideals. We support individuals, organizations, coalitions, movements, and government agencies. We have no fixed conceptions of the change agents in Eastern Africa. The voices for justice are found both in expected and unexpected places.

We join processes that are consultative and participatory. We also partner with minority communities on the fringes of society; those most subject to violence, discrimination and stigma. This at times means we engage in issues that most would not; taking appropriate risks to nurture inspiration. We believe that all persons count equally.

At OSIEA, how we conduct our work is as important as the work itself. As a values-driven team, our actions, words and behavior within and outside the office must reflect our aspirations for the

region. Our organizational values are the lens through which we do our work. Strong emphasis is placed on integrity, accountability (to each other and others), celebration of diversity and collegiality. Employing the Appreciative Inquiry methodology to our approach, we work to build a strength-based culture that looks for the positive in our being, doing and outcomes.

We seek possibility; the question is more important than the answer. Continuous learning and innovation are a priority for our team to creatively address the challenges in the region. In light of the environment we work in, OSIEA must remain flexible and able to respond rapidly in order to retain relevance.

Ultimately, we derive our legitimacy through the earned respect and trust of our partners and peers.

This is what we do and with passion is simply how we do it.

Binaifer Nowrojee
Executive Director

JUSTICE



TACKLING CRIMINAL GANGS AT THE COMMUNITY LEVEL IN KENYA

Kenya's government is currently implementing an ambitious police reforms program. This program combines a range of interventions, among them, development of policing in areas where it is least developed, reconstructing policing infrastructure for better service delivery and accountability as well as reengineering police community relations. These interventions will hopefully turn the police from being a force that is less than accountable to the law and the people into a service that is responsive to the needs of ordinary people. These reforms will eventually give some of the power back to communities to improve their security situation and prevent criminal gangs from getting out of control.

The Open Society Initiative for Eastern Africa (OSIEA) and the Open Society's Crime and Violence Prevention Initiative are supporting efforts to promote a multi-sector approach that removes the responsibility for managing or reducing violence from the exclusive domain of the police and criminal justice system, and puts it into the hands of empowered communities.

OSIEA is partnering with Usalama Forum, a coalition of fourteen Kenyan non-governmental groups in four target communities: Kirinyaga, Mtwapa, Kisii, and Eastleigh. These communities represent the diversity of Kenya's crime and violence situation. Each community has its own unique problems.

In Kirinyaga, organised groups of young, largely male, people have evolved to occupy a grey space and are operating one part as a lawful community policing group and on the other, as a youth militia. They are filling a perceived gap in security provision with their own brand of vigilante style justice. Members of this group are mostly engaged as motorbike taxi operators. They are an antithesis to the more gruesome and less popular Mungiki sect which violently dominates the illegal service sectors in Kirinyaga and the wider central Kenya region until they were violently ejected by this group.

The “youth group,” as they are also called, maintains a strong control over local security services. They maintain their own kangaroo court, locally referred to as “The Hague” in reference to the Dutch-based International Criminal Court (ICC). The local Hague is under a huge fig tree. Here, victims are subjected to a wide range of punishments including death by hanging or chopping off limbs. Today, due to their approach to security management, the area is experiencing the least reported cases

of crime and violence. In this community, Usalama Forum is working with the “youth group” to produce a new non-violent protocol to community safety and security. The leadership of the group is also designing a program that will promote community-wide dialogue around community policing and demobilisation.

In coastal Mtwapa, gender-based violence is increasing in prevalence due in part to the use of drugs and intimate partner violence. It is common for girls as young as 12 to be raped or sexually abused, and then for their families to arrange for them to marry the perpetrator in order to save face and evade justice for the minors. When this happens, the police are left with little choice but to discontinue their investigations. Usalama is working with the Mtwapa community to build their own protocol around the use of hard drugs, and to work with the police.

Kisii is experiencing a variety of crime and violence, problems among them youth violence, gender-based violence, and violent family feuds over land, theft and vandalism targeting automatic teller ma-

chines, and sexual abuse of children. Most of the offenders are young men aged between 18 to 30 years of age. A gang called Sungu-Sungu has lately grown to establish a protection ring in the red light streets as well as crucial pickup and drop-off points for motorbike taxis. They are also engaged in a program dubiously referred to as community policing. In this community, the group has instilled so much fear they have become a law unto themselves. They now mete out punishments to offenders. Usalama has been working with this group and other critical stakeholders to produce a new model for partnership based approaches to security management. There are some 10,000 motorbikes and more than 1,000 taxis and other privately owned and unregulated public transport vehicles in this small town. Usalama is also working with the local authority planning department, the local business community, hospitals and the police to produce a new safe and secure traffic management system.

Militia groups also dominate the Nairobi suburb of Eastleigh, home largely to

the Kenyan-Somali community as well as refugees and migrants from neighboring war-torn Somalia. Here, Sitaki Kujua (I don't want to know) group controls First Street and owners of businesses in attacks and robbery. They know the the Somali business owners have historically been treated badly by the authorities and therefore rarely report any robbery to the police and would refer cases to a less punitive alternative justice system in Eastleigh called Maslah. Another militia group responsible for large amounts of violent crime, Super Power, consists mainly of young Somali men who have been deported back to Kenya from the West as undeserving of refugee status. The increased numbers of refugees and migrants, including both those under the cover of the United Nations High Commissioner for Refugees (UNHCR) and those whose status are uncertain, have had an immensely detrimental impact on community cohesion and economic activity. The nature of policing is heavy handed and perceived by the people of Somali descent as discriminatory.



In all of these communities Usalama's approach is partnership-based, engaging all the key people in the community who have a stake in safety and security. These partnerships bring together the public, the police, the leaders of the militia groups, community-based organisations, and local administration officials. Usalama then works with the community to constitute a prevention team which leads a community-wide safety audit exercise to identify key problems. It also conducts focus group discussions, identifies key informants, and holds face to face interviews and walkabouts. Through these activities, partnerships are formed between people who have not previously worked together.

COMMUNITY INITIATIVE TO COMBAT CRIME IN EASTLEIGH

One of the busiest yet most dangerous areas in Eastleigh Estate is located near a popular landmark church known as St. Teresa's. The church sits at the intersection of two major roads to Eastleigh: Jogoo Road and Juja Road. At this cross-section, mug-

gings, violent robbery and other types of criminal activities have been prevalent due in part to poor lighting. This was confirmed during the walkabout exercise at the community. As part of its quick win strategy, the Prevention Team organized partners, among them, the Eastleigh Business Community, the Residents Association, the City Council, the Constituency Development Fund (CDF) and the area chief to initiate the installation of security lights along the street and St. Teresa's church. Members of the community confirm that the installation of the lights had helped in abating crime along these streets, so much so that those perpetuating the activities were purposely sabotaging the initiative by vandalizing the lights and the cable wires.

Other ongoing initiatives emanating from the collaboration and the existence of the prevention team is the ongoing road rehabilitation that will play a part in improving the already existing vibrant community. All the partners recognize that for safer and secure communities they must not only work together but also support each other's roles.

POLICE REFORMS FROM THE BOTTOM UP

Throughout Kenya, public confidence in the police has been eroded by high levels of police corruption and violence, and by the widespread public perception that the police are themselves complicit in crime. Alongside rising rates of violent crime, Kenya has also seen high numbers of extra-judicial killings by police in recent years. Instead of further criticising and alienating the police force, Usalama deliberately engages with police officers by holding public dialogues in which the police are given the chance to express their expectations and fears, and the public share their views on how they feel the police should behave. The meetings are about finding common ground to make both human rights and policing possible, which can happen when the space is expanded to create room for difficult conversations. Before Usalama went into these communities, nobody wanted to talk about the militia groups or to say that the police were part of the problem. Now they are confident enough to have that conversation.

PARTNERING WITH THE KENYAN GOVERNMENT

In February 2012, the Kenya Institute of Administration (KIA) completed its first course on crime and violence prevention in collaboration with OSIEA. The graduates included some fifty civil servants, police, local government authorities, and community workers, from this pioneering seminar series which catalyzed new thinking around the issue of crime prevention and challenged the students to move away from the usual bias of enforcement and control in dealing with crime. The United States International University (USIU) oversaw the development of the curriculum which was led by some 23 facilitators from across the globe. There is great excitement about the success of this unique partnership with the Kenyan government.

NEW LEGAL AID LAW

OSIEA has also partnered with the International Commission of Jurists Kenya (ICJ-K) to facilitate the review of

a national legal aid bill. ICJ-K has a close working relationship with the National Legal Aid Program (NALEAP) based at the Ministry of Justice. The grant facilitated a convening of national and regional legal aid specialists who critiqued the bill and provided feedback that can be incorporated to strengthen the bill.

STRATEGIC LITIGATION

Kenya came to a standstill in January 2012 as the International Criminal Court (ICC) judges confirmed charges against four high profile individuals. The ruling is an important milestone in Kenya's quest to end impunity. Domestically, however, the government has done little to seek justice for the 2007 post-election violence. OSIEA and the Open Society Justice Initiative (OSJI), in collaboration with Kenyan groups, are pushing for the international crimes committed four years ago to be prosecuted in the Kenyan courts. Better known as complementarity, this collaboration has identified three key areas of engagement: strategic interest litigation, witness protection, and the development of a reparations policy.

EQUITY AND EQUALITY |



WOMEN'S RIGHTS

The Open Society Initiative for Eastern Africa (OSIEA) and the Open Society International Women's Program support efforts to promote women's empowerment and gender equality. Although the women's rights movement has made great strides, women and girls in Eastern Africa still face high levels of discrimination and violence. Abuses suffered by women include sexual and domestic violence as well as legal and traditional practices that discriminate against women. Maternal mortality rates are needlessly high and women are often prevented from making personal choices about their reproductive health and sexuality.

Issues that OSIEA has supported include efforts to ensure women's voices in constitutional and legal reform efforts; empowering war affected women to rebuild their lives; promoting access to justice for women; and documenting abuses such as forced sterilization of HIV affected women.

EMPOWERING WAR AFFECTED WOMEN IN NORTHERN UGANDA

In Balonyo, a village in Lira in northern Uganda, the people are still reeling from a massacre that decimated their community on February 21, 2004, during the war between the government of Uganda and the rebel Lord's Resistance Army (LRA). The rebels exchanged fire with government troops and managed to overpower and defeat them. They attacked the village with sticks and guns and some were strangling people with their hands and throwing them into the burning fire. Those who managed to flee returned the next day and counted 301 dead bodies on the ground. Eighty percent of the villagers living in Balonyo have relatives who died in the massacre.

This massacre was one of many episodes of violence that wreaked havoc on

much of Northern Uganda during the twenty years of war, which finally ended in 2007. During the war the government moved the entire population of Northern Uganda into settlement camps. The LRA terrorised these camps by abducting children from their beds at night to take them to fight as child soldiers, and many of the women were raped by the Ugandan military that were ostensibly stationed at the camps to protect them. Since the war ended in 2007, the government has been resettling the people back to the land that they left twenty years ago.

There are now huge social problems in this post-conflict region where people are living in desperate poverty. A whole generation of men spent most of their working lives in the military or living in internally displaced camps dependent on aid. When the war finally ended many of them were left traumatised by their experiences during the war, unemployed, and without any sense of direction. This trauma has resulted

EQUITY AND EQUALITY I

in widespread alcoholism amongst the men as well as high levels of suicide, domestic violence and sexual abuse of women and children. For the women, the trauma they suffered during the war is compounded by the renewed levels of sexual and gender based violence in their communities. The people of Northern Uganda feel that the government has failed to assist them to rebuild their communities after the war.

COMMUNITY EMPOWERMENT

Facilitation for Peace and Development (FAPAD) is working with the people of Balonyo to organise community debates and help the villagers to take control of their lives by empowering them to make demands of the government.

During the war, entire communities were displaced and resettled in camps, and systems of governance collapsed including cultural systems, leaving a vacuum in terms of both formal and informal governance systems. FAPAD works to em-

power the war returnees to rebuild their community structures and systems and to engage with the government on issues that concern them such as rehabilitation, reconstruction and development.

FAPAD staff visit the community every week and provide the villagers with information about their legal rights assist them in dealing with problems. The villagers meet on a regular basis and sometimes invite political leaders so that they can ask them questions and hold them accountable.

WOMEN'S EMPOWERMENT

The women of Mon Pae Yot in Kalongo have organised themselves into a group that meets on a weekly basis under the shade of one of the many large mango trees in their village. The women have a village savings and loan fund that all of the women pay a small amount into weekly. They can then borrow from this fund for things like school fees or for start up funds for a small business. Mon Pae

Yot is one of 200 women's groups that the Forum for Kalongo Parish Association (FOKAPAWA) works with in Northern Uganda, and most of them now have similar microfinance schemes.

Previously my husband would sell land without even consulting me and the children, and even the clan never knew about it. He would sell all the land and just drink all the money. But when we joined the women's group, we were educated about the need to discuss and so I sat down with my husband and discussed the need for him to consult me when selling the land. Currently when he is selling the land he consults me and we sit down and discuss it with the children and discuss the amount of money that we need to sell the land for. Previously I had no knowledge at all about land but now I have knowledge and the last time we sold land we discussed it together and agreed on the price and we were able to use the money to send our children to school. I feel now as a woman that I have the right to be heard and our relationship has improved.

Agoro Santina, member of Mon Pae Yot women's group

The women's groups also solve problems in the community, intervening in cases of domestic violence, and working with the police to resolve cases of rape and defilement. They also educate girls to stay in school rather than opting for early marriage.

Gulu Women's Economic Development and Globalisation (GWED-G) has been empowering women's groups to create drama performances to educate people in the community about human rights. The women act out scenarios such as drunken husbands coming home and abusing their wives, teachers trying to sexually abuse their students, and police looking for bribes. The performances are colorful, humorous and draw a large crowd, but they end with a serious and powerful message when, through role play, the perpetrators in each scenario are brought to justice. One of the women explained that in the hearts of these women peace is created so they can extend that peace into their society. Two of the women went on to become councillors and they are now championing women's rights within the council.

ACCESS TO JUSTICE

GWED-G has trained human rights volunteers in the community, who educate people about their rights, and also help to investigate crimes, particularly those involving sexual and gender-based violence (SGBV). The volunteers document cases of defilement and rape which is used as evidence, and they also testify in court. When women or children have been raped they ensure that the victims get the post exposure prophylaxis against HIV within 72 hours and they provide counseling to the victims. Chris, a volunteer from Palema Parish successfully resolved the case of a three-year-old girl who was defiled by her father in 2011. Now the father is in jail serving a twelve-year sentence. He also helped to convict a teacher who defiled a 14-year-old pupil and the teacher is also now in prison awaiting sentencing. Chris feels that since the GWED-G volunteer program started the rate of violence has greatly reduced in the area. The magnitude of the problem of sexual and gender-based violence in Northern

Uganda is putting pressure on an already very weak legal system. Police officers are often secondary school graduates with no training on human rights or much about the law, and there are very few lawyers in the region who take such cases. War Child Uganda has received a grant to carry out trainings for police officers, health workers, and local council members in order to build their capacity to investigate crimes and deal with victims. They have also worked with the police to ensure that each police station has at least one woman officer. War Child Uganda takes cases from across the whole of the northern region of Uganda, and reimburses transport for their clients so that people can afford to come and get legal advice. They also run a free telephone helpline for female victims of violence.

While efforts such as these cannot erase the suffering and trauma experienced by Northern Ugandan women, they can help strengthen and empower them as they begin the monumental task of rebuilding their shattered lives.

EQUITY AND EQUALITY II



DISABILITY

Throughout Eastern Africa people with disabilities face discrimination on every level. In the family, children are sadly often seen as being practically useless and are excluded even from simple activities such as cooking and playing; in accessing services such as education and health, other family members tend to be prioritised to go to school, and for expensive medical treatment, because they are seen as having more potential; people with disabilities are often excluded from participating in community programs related to health or agriculture; and policy and laws throughout the region are insensitive to people living with disabilities, both physical and mental. The Open Society Initiative for Eastern Africa (OSIEA) and the Open Society Disability Rights Initiative support efforts by disability rights groups to access education.

INCLUSIVE EDUCATION IN UGANDA

I have gone through inclusive education, but with a lot of hardships, due to attitudes and accessibility barriers. Sometimes I could not access lunch or dinner because I didn't have somebody to carry me upstairs to the dining room. Sometimes I could not access the library, so I would have to send my friends to go and read on my behalf and then they summarised for me. One of the biggest challenges that I found was that the teachers didn't know how to deal with disability. Sometimes we could have exams upstairs, and by the time I reached upstairs and could be carried in my wheelchair, it was so difficult that I could be tired and traumatised so this would make me unable to concentrate in my exams. Chemistry was compulsory, but I couldn't sit up on the

stools to titrate. Some of these barriers hindered my effective success in my education. When I finished school, I knew that there could be many others who have failed to go through inclusive education. That is why I have a lot of interest in Article 24 which promotes education from the rights perspective not charity.

Henry, Youth with Disabilities Development Forum

The Ugandan organization Youth with Disabilities Development Forum (YPDDF) advocates for the rights of young persons with disabilities. The organisation was started by a group of young people with disabilities who came together to address the barriers of negative attitudes within their community. In Uganda, often young people and children with disabilities are thought to be cursed and are seen as being unable to be productive within the community.

EQUITY AND EQUALITY II

The biggest achievement YPDDF believes it has made is a change of attitudes among head teachers and local education department officials, who now think it is important to integrate children with disabilities into mainstream schools. Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) promotes “inclusive education”, which means that children with disabilities should be in the same school environment as children without disabilities, without any discrimination. Some schools in Uganda have now made adjustments, and have trained teachers to handle children with disabilities.

The use of radio and television has been key to YPDDF’s advocacy work. YPDDF staff recount the experience of one family whose child had an intellectual disability. After completing primary school, the child was admitted for his secondary education and the parents had paid the school fees. However, upon reporting to school the child was denied entry once the head teacher realized that the child had an intellectual disability. After hearing YPDDF’s program on the radio, the child’s parents approached the radio station. Advocates from YP-

DDF took up the case with the parents, but they were denied a meeting with the head teacher. YPDDF then held a peaceful demonstration outside the school until three weeks later the head teacher finally agreed to see them due to the growing media attention that the demonstration was attracting. By this time the parents had been forced to find another school for their child, but the head teacher agreed to pay back the school fees and some compensation, and promised never to deny another child with disabilities access to his school.

Another advocacy group Action for Youth with Disabilities in Uganda (AYDU), has started an education program that ensures inclusion of youth with disabilities in higher institutions of learning, with a focus on improving accessibility. The program targets students with disabilities, learning administrators, and academic deans of the institutions. Out of advocacy and engagement with these universities, AYDU has seen universities in Uganda developing and implementing disability policies that address discrimination.

As a result of lobbying by AYDU, Kyambogo University now has a ramp for stu-

dents who use wheelchairs and a van to help transport students with disabilities. The Faculty of Law at Makerere University has purchased specialised computer equipment for students with visual impairments, and the new library is very accessible with a program coming up to ensure that audio books are available for the visually impaired. Students with disabilities have formed vibrant groups on campus to engage the university authorities to make sure their problems are solved in the classrooms and halls of residents, and to ensure sign language interpretation is provided to enable the deaf to learn alongside their peers.

The disability rights movement in Uganda celebrated several hard won gains in the area of policy reform. In August 2012, the Kampala City Council Authority and Makerere University conceded to a case filed by the Legal Action for Persons with Disabilities (LAPD). LAPD took the two bodies to court to comply with the Persons with Disabilities Act (2006) mandating that all public buildings be disability accessible. In another effort, following numerous meetings and threats of litigation by LAPD, the

Communications Commission of Uganda (the state regulatory body) finally ordered television stations to provide sign language interpretation on major news broadcasts or risk closure in one month. And in March 2012, the Ugandan Ministry of Education passed the Special Needs and Inclusive Education Policy to change the practice of segregated schooling for the disabled. Another grantee, Youth with Physical Disabilities Development Forum (YPDDF), is working with the Curriculum Center, a statutory body tasked with amending the teacher training curricula, to include guidance on handling students with disabilities in inclusive schools. Further progress is expected because the Disability Act, 2006 is currently under review to align it with the UN Convention on the Rights of Persons with Disabilities.

DISABLED WOMEN SUFFER FROM 'DOUBLE DISCRIMINATION'

Women in Uganda are already at a disadvantage when it comes to education because there is a widely

held view culturally that girls are not supposed to go to school. In Uganda disability is associated with curses, and some believe disabled people did something wrong and that the disability is a punishment. Women with disabilities are at a disadvantage in accessing employment, school and family. LAPD has set up a program that focuses particularly on access to justice for women with disabilities. A survey carried out by LAPD found that men who have children with women with disabilities often abandon them due to stigma. Getting married and having a family is a lot harder for women with disabilities than for men with disabilities due to prejudice and the mistaken belief that women with disabilities cannot bear children.

I am a lawyer, and I went to the university. I faced so many challenges. First of all the lecture rooms were inaccessible. I had to be carried up like luggage to the second floor and that was like torture to me. I requested for the lecture room to be shifted down, but it was very hard because that's how it was - first years were supposed to be up. So even the halls themselves and the toilets were inaccessible, and life at campus was really hard for

me. I don't even know how to tell how I overcame these challenges but it was just a hassle. Sometimes I had to get out of my wheelchair to get up those stairs and sometimes I had to request four people to carry me. Sometimes I would feel like it is too much to ask people to carry me so I would miss the lectures so that I don't bother people so much.

- Hope, Head of LAPD Legal Department

East African countries have ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and many organizations in the region are working hard to make sure that these rights become realities for people on the ground. The Convention requires all laws in member states to be amended and streamlined in accordance with its human rights related provisions. The Convention has transformed the status of persons with disabilities from being subjects of sympathy and charity to rights holders globally. Throughout the region laws are being amended to ensure compliance with the Conventions, in large part due to the efforts of persons with disabilities advocating for their rights.



OSI

A stylized white graphic element consisting of a thick curved line that starts from the left and curves downwards and to the right, ending in a circular swirl.

**THE OPEN SOCIETY
FOR EASTERN EUROPE**

EA




SAFETY INITIATIVE
SOUTH AFRICA



CELEBRATION OF DIVERSITY



ETHNIC DISCRIMINATION IN KENYA

 Under the Registration of Persons Act every Kenyan citizen must apply for a national identity card when they turn age 18 or face a criminal penalty. For most Kenyans this is a straightforward process, but Kenyans of Nubian origin must go before a vetting committee consisting of the local chief, the Divisional Officer, the National Security Intelligence Service, the Criminal Investigations Department, and a panel of local elders, who will decide whether to accept the application. Most Nubians are entitled to Kenyan citizenship under the Constitution, because the majority were born in Kenya as were their parents and grandparents. The presumption that Nubians are not citizens is unfounded and discriminatory.

Nubians are not the only ethnic group to suffer this kind of discrimination in accessing identity documents.

Somalis, people of Arabic or Asian descent, and the Mozambican Makonde, are also subjected to routine vetting carried out in an arbitrary manner. The starting point tends to be the presumption that they are non-citizens because their ethnicity and race are not recognised. These communities generally recognise the need for vetting processes for reasons of national security, but they are asking for vetting procedures to be made transparent and consistent.

Apart from the symbolic importance of the national identity (ID) card as an indication of citizenship, the restrictions faced in accessing these documents are cutting off whole ethnic groups from active participation in society as Kenyans. The ID card is a passport to the full spectrum of rights enjoyed by Kenyans including employment, education, the right to vote, to open a bank account, to trav-

CELEBRATION OF DIVERSITY I

el, to purchase property and to work in the police or the armed forces. It also affords protection against police harassment and arbitrary arrest. In short the ID card equals citizenship, and without it people are rendered effectively stateless, in violation of international law.

Northern Kenyans also struggle for citizenship, and border communities in particular are perceived to be illegal immigrants or refugees. According to a report produced by the Kenya Human Rights Commission (KHRC) and funded by the Open Society Initiative for Eastern Africa (OSIEA), *Foreigners at Home: the dilemma of citizenship in Northern Kenya*, descendants of people from the Northern region are vetted wherever they reside in Kenya. Research interviews carried out by the KHRC found that it is easier for people born outside of Kenya who are from the dominant Kenyan tribes to obtain a Kenyan ID card, than for marginalised ethnic groups born in Kenya.

"I was born to Kenyan parents in Wajir [in the North Eastern province of Kenya]. I went to primary school in Wajir and Starehe Boys Center in Nairobi. I turned 18 years while in Starehe Boys Center. A team of officials from the National Registration Bureau came to

register students who had turned 18 years. Of all the students registered that day, I was the only one denied registration. The registration officials allowed me to register after I protested. Although I deserved registration as a Kenyan citizen, I was only given registration because I protested."

"I am of Luo descent. I was born in Dar es Salaam and in possession of a Tanzanian birth certificate obtained at birth in Tanzania when my parents lived and worked for the East African Railways and Harbours. I had an easier time getting my ID card because I am of Luo descent. On applying for a Kenyan passport, immigration officials did not accept my documents because I had a Tanzanian birth certificate. I enquired from Sheria House in Nairobi on how I could get a birth certificate and I was informed that I could benefit from late birth registration which I applied for. I got a birth certificate and later on went on to process my passport. I am in possession of a Kenyan passport, not because I was born in Kenya, because I am Luo."

(Foreigners at Home: The Dilemma of Citizenship in Northern Kenya, p.35)

The marginalisation of the Northern Kenyan people, as with the Nubians, dates back to colonial times when

people were categorised as either citizens or subjects. Subjects were not automatically recognised as citizens, and their participation in public life was limited. They were also socially and economically excluded, with little access to schools, hospitals, roads, clean water supply, or a functioning police force, leaving whole communities isolated and under developed.

KHRC's report, *Foreigners at Home*, was launched at a meeting including government ministers, district officers, and other stakeholders in the Northern Kenya region, and resulted in increased government recognition of the need to address these citizenship related issues in Kenya's new Constitution.

OSIEA and the Africa Governance Monitoring and Advocacy Project (AfriMAP) did an extensive analysis of the place of citizenship in Kenya's new Constitution for the Committee of Experts on the Constitution, and also published this in the wider media. Now that the Constitution of Kenya 2010 has been passed, OSIEA has been working in partnership with a civil society coalition called the Chapter 3 Coalition (C3C) to press for implementing legislation to

operationalize two new citizenship laws as well as monitor progress of other pending legislation related to nationality and citizenship. OSIEA is supporting C3C to increase civil society participation in the development of citizenship legislations, to monitor the effectiveness of new legislation, and to keep track of the remaining laws awaiting enactment.

LITIGATION

Kenya's Taskforce on Citizenship has been charged with coming up with a new law on citizenship which is in conformity with the spirit and the letter of the new constitution, and which specifically addresses statelessness amongst other issues. OSIEA has collaborated with the Open Society Justice Initiative (OSJI) to carry out litigation as part of the ongoing advocacy work being done by various OSIEA partners to convince the taskforce to address the discrimination being suffered by marginalised ethnic groups in Kenya.

In a landmark ruling issued on March 25, 2011, the African Committee of Experts on the Rights and Welfare of the Child in *Nubian Minors v. Kenya* stated that Kenya is in violation of the rights of

Nubian children to non-discrimination, nationality and protection against statelessness. The case was brought by the Nubian children through their counsel, OSJI and the Institute for Human Rights and Development in Africa (IHRDA). This is the first time the committee has made a finding against a state in relation to children's rights, which makes this an even more significant success for the Nubian community. This litigation is part of the legislation advocacy process which came immediately after the constitutional promulgation

In January 2011 Muslims for Human Rights (MUHURI), an OSIEA grantee, brought a petition, together with Abdulhaleem Khalef El-Busaidy, against the local administration in Mombasa, challenging the use of a leaked government circular which directs that Muslims, Arabs and Asians must produce their grandparents' birth certificates and religious certificates before being issued with an ID card. The High Court sitting in Mombasa found that the applicants had a genuine case and the State failed to defend itself. The ruling restrained the National Registration Bureau from demanding religious certificates and for parents' and grandparents' birth cer-

tificates as proof of citizenship. The Kenya National Commission on Human Rights (KNCHR), the state human rights body, in partnership with several organisations from Northern Kenya has filed a case which seeks a declaration of the vetting process as discriminatory and unconstitutional. This case is still ongoing.

While much has been done, continued support to strengthen communities to directly engage with policy makers is necessary. Training needs to be given to paralegals, especially among the Nubian community to build awareness of the ruling regarding the rights of Nubian people. Lastly, the Nubian community needs to be trained to document such injustices in order to expose the inconsistent practices in implementing the laws.

CELEBRATION OF DIVERSITY II



BUILDING NATIONAL IDENTITY

In July 2011 South Sudan seceded from Sudan after a referendum on independence. South Sudan emerged from decades of civil war believed to have killed close to 2 million people. In the long years of war South Sudanese identity was principally defined in opposition to Northern Sudan. In the post-independence period can South Sudanese forge an inclusive national identity which draws on its rich ethnic diversity and avoids xenophobia? How can the new state ensure that citizens feel included and represented and ensure equitable access to state services, jobs and resources for all its citizens?

SHARING EXPERIENCES ON IDENTITY AND NATION- BUILDING

"A starting point to addressing the feeling of exclusion is for the government to state the obvious: that South Sudan belongs to all South Sudanese, and not to any ethnic, religious, or political group. Putting this simple fact into action in distributing the nation's resources and in governance generally, the government has gone on record to state that the whole country must address itself to identifying,

CELEBRATION OF DIVERSITY II

documenting, preserving, displaying, promoting, and celebrating the cultural practices that are common to all South Sudanese. According to this policy commitment, the religious practices, dancing arts, marriage systems, indigenous languages, natural environment, and unique ecological zones inhabited by dozens of South Sudanese ethnic nationalities must be celebrated as a mix of symbols that bind together the people of South Sudan."

Dr. Jok Madut Jok, Undersecretary of the Ministry of Culture, Youth and Sports, Government of South Sudan

In August 2012, the Open Society Initiative for Eastern Africa (OSIEA) and Open Society's East East Beyond Borders Program (EEBBP) hosted individuals from civil society, academia and government officials from South Sudan to jointly reflect on the question of nation-building with peers in the other newly emerged states of Slovenia, Macedonia, Eritrea and East Timor. The experience has had a ripple effect and influenced the public debate on nation-building.

New groups have emerged debating how to handle the return and reintegration of returnees and internally displaced persons, bearing in mind their different exposure and experiences. Voice for Change, a women-led organization which participated in the convening has organized dialogues and debates on how women can support reintegration of South Sudanese and impart values that promote inclusion and tolerance. The Sudan Domestic Election Monitoring and Observation Program (SuDEMOP), an OSIEA grantee, has launched an anti-xenophobia initiative to research and combat xenophobia targeting migrant workers from neighbouring countries in South Sudan's cities.

RADIO BRINGING PEOPLE TOGETHER

South Sudan has over 97 FM radio stations spread countrywide. Radio is particularly important in South Sudan as, according to the South

Sudan Ministry of Education, 75 percent of the population is illiterate. A new generation of young radio disc jockeys and talk show hosts have emerged, who command a significant following among fellow youth and debate how to unite the diverse peoples of South Sudan. OSIEA and the Open Society's Media Program are supporting the Gurtong Peace Trust to produce South Sudan Safari radio programs giving people information about governance, development and South Sudan's different ethnic groups. These programs are broadcast in English and Juba Arabic on radio stations covering four of the 10 states.

**"TODAY IT
FEELS COOL TO
BE A SOUTH
SUDANESE"**

The country's diverse musical cultures, poetic traditions and theatre also offer opportunities to build a sense of shared identity. In 2012, the South Sudan Theatre Company (SSTC) staged its performances in South

Sudan, the UK and India of Shakespeare's play *Cymbeline*, whose themes of prosecuting a war and then achieving co-existence with a previously hostile power correspond to the country's recent history. SSTC is made up of two companies, one of which is Kwoto Cultural Centre, an OSIEA grantee. The play was performed in Juba Arabic, a type of pidgin Arabic which is not usually written and which serves, along with English, as a language of communication across different ethnic groups. The performances receive extensive national and international coverage. Both co-directors of *Cymbeline* have stressed the role of culture in building a sense of national identity in South Sudan by uniting ethnic groups, raising self-esteem and helping to define who South Sudanese are at a time of profound political change when new constructions of citizenship and belonging are underway.

"The euphoria generated by the performance among the diaspora is only second to the declaration of South Sudan, as an independent nation on July 9th, 2011. It was nice to see, for

once, that the negative image of South Sudan in the media, represented by a starving child, who is too weak to even chase our flies from their face, replaced by that of smiling casts of 'Cymbeline.' The play has also made South Sudanese start questioning the apologist phrases being churned out to cover our many failures. Phrases like: "We're a new nation starting from scratch" or its variant that "Rome was not built in a day!" sounds increasingly hollow, when set against the accomplishment of South Sudan Theatre, which four months ago, did not even exist!


During a reception in honour of the casts [sic] at the Abbey Centre, organised by the Women's Association on May 5th, one phrase that has been repeated over and over was: "Today, it feels cool to be a South Sudanese!" There is little doubt that culture has done more than any other thing to paint a positive image of South Sudan on the world map with this successful performance of 'Cymbeline.'

Member of the South Sudanese diaspora in the United Kingdom

INNOVATION



HEALTH AND RIGHTS

 Open Society Initiative's Health and Rights program is based on the premise of inclusion of all people—even those on the periphery of society due to discrimination or stigma. OSIEA, in close collaboration with the Open Society Public Health Program (PHP), works to ensure that persons on the margins, such as people with life threatening illnesses such as HIV/AIDS, drug users, and impoverished HIV positive widows get access to health services.

OSIEA also addresses the underlying determinants of health, such as legal and economic empowerment. The program supports projects that are non-conventional, such as training drug users as paralegals and incorporating human rights into drug rehabilitation programs; ensuring access to palliative care treatment including morphine and holistic counselling for patients living with diseases such as

HIV and cancer; campaigns to ensure access to quality and affordable medicine for all; and projects that include rebuilding the destroyed homes of widows driven from their homes when their husbands die from HIV.

PALLIATIVE CARE

"Palliative care is very important to my patients because these diseases can be very painful. HIV can reach a stage where the pain is intolerable including excruciating headaches and pain in the limbs which cannot be alleviated by normal paracetamol, so you need something stronger like morphine. TPCA trained us on palliative care and the use of oral morphine... Some of these patients we know the prognosis is six months. The doctor cannot treat the disease so all they can do is to treat pain."

- Doctor dealing with patients suffering from HIV, TB and cancer.

Hundreds of thousands live with HIV in Eastern Africa, many of whom are unaware of their HIV status. Even with the provision of anti-retroviral medication, HIV is often accompanied by painful and unpleasant symptoms such as gastrointestinal problems, nausea and vomiting, shingles, and chronic diarrhoea. Because HIV compromises the immune system, many people go on to contract diseases such as TB and cancer that also have painful side-effects.

Palliative care eases chronic suffering for terminally ill persons, sparing them avoidable pain and enabling them to die with dignity. East African governments are slowly beginning to show an interest in integrating palliative care into policy and to make it part of the continuum of care. Care is taken to reduce pain and unnecessary suffering and loss of dignity. This includes the provision of counselling services, spiritual guidance, and sometimes legal advice related to writing a will and succession planning.

In the children's ward at Nyerere Hospital in Dar es Salaam, Tanzania, more than fifteen children rest in bed with their mothers or play togeth-

er with plastic cars and toy bricks. For all these children undergoing cancer treatment and carefully managed opioid prescriptions spare them from being bed-ridden and often screaming with pain. The relief that the children receive enables them to play like other children and provides peace of mind to the distraught parents. The work of the Tanzania Palliative Care Association (TPCA) and its partners has resulted in changes by the government to scale up palliative care in the country, including new policy guidelines on palliative care. OSIEA has supported TPCA to scale up the availability of morphine in the country: in several medical centres, TPCA trains health workers and gets them certified to reconstitute powder morphine into a solution which can be used by patients. Previously liquid morphine was found only in Dar es Salaam and was transported to regional hospitals, raising the price.

HARM REDUCTION

"I came to Reachout in 2003 when engaging in rehabilitation from heroin use. I am

now clean for nine years. After finishing the program I came to know that Reachout wanted to start an outreach program and I was encouraged to help my fellow recovering addicts to empower them to know their HIV status, to help them to reduce drug use. If he is injecting I advise him how to use safely – then to change from injecting to smoking to quitting.

Reachout gave me the knowledge and confidence to go to the field and find the clients, and refer people for HIV treatment. When addicts are injecting we show them how to inject safely. We supply clean needles and swabs and tell them not to share. We share the knowledge that HIV can also be transmitted through injecting. Since I joined Reachout I have reached about 3,000 clients. Some of them have totally stopped using drugs and they are living a good social life, some of them now have families and they are living a positive life. I have helped my beneficiaries to know their status and to know that if they are positive it is not the end of life and now they are living positively and not engaging in dangerous or risky behaviour."

- Outreach worker & recovering addict.

Monica, a 30-year-old mother of two living in Malindi, Kenya, has battled heroin addiction for over a decade. For Monica, “addiction is like trying to resuscitate the body of a loved one inside of you – I was dead inside my own self”. Efforts that merely urge addicts to just discontinue the use of drugs do not address the real challenges of addiction. For those who are unable to stop, it is paramount to humanely diminish the harm that they are exposed to, especially the risk of HIV infection.

The approach of harm reduction means reducing the adverse health, social and economic consequences of the use of drugs, through needle exchange programs, provision of legal advice, and community education programs that work to reduce stigma and discrimination against drug users in the community. These programs are run alongside drug rehabilitation services. Human rights, including the right to health apply to everyone, including drug users.

The face of drug use in Malindi is surprising, as the community is predominantly Muslim, and many of the users are women. Drug use



in Kenya is highly stigmatised, and even more so for women, leaving most users to deal with their addiction in secrecy and shame. OSIEA working with the Omari Project is trying to change this. Recovering addicts have been trained as paralegals that go out into the maskani mbaya, the places where people are known to smoke heroin and marijuana, and talk to people about how they can access health services, and about their rights if they are arrested for possession of drugs. The paralegals are backed up by a pro bono lawyer who supervises the legal advice given, and ensures that people who are found in possession of small quantities of drugs do not receive trumped up charges involving trafficking which carry long prison sentences.

Reachout in nearby Mombasa also offers harm reduction services to people who use drugs. When the project started in 2003, the traditionally conservative community in Mombasa Old Town was very harsh on local people who use drugs, but with information, knowledge and communication, people turned around. Instead of excluding drug users from the community, Reachout is helping people to under-

stand that there are treatment services available and that they are not the responsibility of one organisation, but of the community, and this includes the police, the chief, and the village elders.

Paralegals trained by Reachout work with the criminal justice system including the prisons, probation services, and five police stations in Mombasa. They help people arrested on drug charges to process their cases through the court, to make sure that their cases are heard quickly and ensure that they don't stay too long awaiting trial. Similarly, Muslims for Human Rights (MUHURI) has been working with prisoners in justice related matters since 2006. In Kenya there is a huge backlog of cases in the courts and it can take as long as nine years between arrest and sentencing. A high number of the cases that MUHURI deals with are either directly related to drug use, or involve 'drug pedaling', and around 60 percent of the cases at MUHURI's legal aid clinic are drug related, which is a very high number given that on any given day they handle 15 to 25 cases.

ANTI-COUNTERFEITING AND ACCESS TO MEDICINE

In East Africa, some 80 percent of the population live in rural areas, and more than 30 percent live below the poverty line, making the public health care their only option. Medicine in the region is three to four times more expensive than international reference standards, and the mark-up can be anywhere between 25 percent and 500 percent. Without affordable medicines often people resort to taking half doses, causing a rise in drug resistant diseases such as Tuberculosis (TB).

The Coalition for Health Promotion and Social Development Uganda (HEPS-Uganda) is supporting AFYA Club 5000 which has a membership of 850 people living with HIV in Wakiso, a town 15km from the main government drug store in Entebbe. The club's members have a lot of problems with access to drugs. Neri ah is the club's director, and because he is living with HIV himself he understands the importance of accessing his regular supply of ARVs.

When HIV patients cannot access their necessary medication they become tired and abandon the whole system, causing them to become drug resistant and die needlessly. If you have a gap in your treatment you start feeling sick after a month or two, and then you become weak and start getting infections. It's like fighting a war with an army who retreats, but then they come back with full force and hit you hard. Once we are resistant to cheaper drugs we need stronger and more expensive medicine. Between 2009 and 2011 five of our members died due to becoming drug resistant. People lose hope and they don't even know where to get ARVs for drug resistant strains. They get opportunistic infections such as malaria and they can't afford to buy drugs to fight them so they die."

- Neriah, AFYA 5000 Club Director, Uganda

HEPS supports people like Neriah to become peer educators who can help people to understand the importance of drug adherence, and to mobilise communities to claim their rights to essential medicines.

Often a person will find when they attempt to buy a drug at the pharmacy that it is out of stock. Stock-

outs, as they are known, are a common occurrence in rural public health facilities that run out of certain drugs for an extended period of time, forcing patients to buy their medicine from the private sector where prices are inflated and often unaffordable.

OSIEA works to promote access to essential medicines at an affordable price. In early 2009 the "Stop Stock-Outs" campaign was launched as an initiative of Health Action International (HAI) Africa, Oxfam, and a number of African partners, with the support from OSIEA and PHP. Across Eastern Africa, the campaign initiated a strengthening of civil society. HAI Africa supported intensive media training and raising awareness to get the issues into local media, causing governments to start to talk about the issue of access to medicines.

In the first year of the campaign, the Ugandan government responded by streamlining the medicine supply system. The National Medical Store (NMS) was granted increased financing and operational autonomy, the president and several politicians came out to publicly condemn stock-outs and the Office of the President

created a drug monitoring unit. Changes in policy and implementation, both at the Ministry of Health and NMS since 2009, have tremendously increased the availability of essential medicines in the public sector. The government has now put in a redistribution system to address shortages in some health centres and overstocking in other places.

In Kenya the focus was on influencing the budget-making process. A coalition of civil society groups held meetings with government ministers and successfully lobbied for increased budgetary allocation for essential medicines, and Kenya now has a specific budget line for essential medicine. The press in Kenya went to the Kenya Medical Suppliers Agency (KEMSA) stores and photographed stock that had been left on the shelves for so long it had expired, even though regional pharmacies had run out of the same drugs and were waiting for new supplies. As a result of the campaign KEMSA has now radically improved, although challenges still remain.

The problem of accessing medicine has been compounded by the enactment of legislation throughout

Eastern Africa ostensibly to fight counterfeit medicines, but in actual sense to tighten enforcement of intellectual property rights as a step towards banning generic drugs. The problem of poor quality medicines will not be contained by enlarging the application of intellectual property rights in order to erect trade barriers for generic medicines. Instead, regulatory agencies need to be strengthened to effectively oversee the quality, safety and efficacy of medicines on the market.

A landmark judgment in Kenya on April 20, 2012 ruled that sections of the Anti-Counterfeit Act 2008 will not apply to generic medicines – protecting access to affordable treatment. The case was filed by three people living with HIV, with the support of several OSIEA grantees including the Kenya Legal and Ethical Network on HIV and AIDS (KELIN) and HAI Africa, and it challenged aspects of the Anti-Counterfeit Act 2008 that confused counterfeiting with patent infringement, therefore threatening the importation of the generic medicines, including Antiretroviral drugs (ARVs) for people living with HIV. The judgement stated that intellectual property protection should not override the

right to life, right to health and right to human dignity outlined in the Constitution of Kenya 2010. Patent holders will therefore not be able to use the act to legitimately block the import of generic medicines, as was feared by the petitioners.

A similar bill was tabled before parliament in Uganda, and HEPS-Uganda and the Centre for Health Human Rights and Development (CEHURD) have been working closely with ministers to ensure the bill does not threaten access to generic medicines.

In both Kenya and Uganda the government resource envelope is still limited to provide a sufficient quantity of medicine, efficient infrastructure and the human resources necessary to meet public demand and ensure adequate health service delivery. Therefore, alternative health financing mechanisms are urgently needed if universal access is to be realised. In addition, there is a need for increased community sensitisation for the public to understand their rights in order to hold duty bearers accountable, but also to comprehend their responsibilities to improve household health and health-seeking behaviour.

ACCESS TO JUSTICE AND HEALTH

For many women living in Eastern Africa HIV is not just a health problem. Although women have legal rights to own and inherit property, traditionally these rights are not recognised, particularly in rural communities. This means that when women's husbands die from HIV, they are blamed for the disease and the husband's family often chase them away from the matrimonial home and grab the land, leaving the women homeless and destitute. This exposes women to further risks due to poverty and the need to make money in whatever way they can, which often involves sex work. For women who are already living with HIV they are exposed to risks of further infection, and it becomes difficult to adhere to medication without an adequate diet or a consistent and secure home. Few women are able to access the courts. They usually turn to the traditional elders in the community for help.

The Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN) has worked with the traditional councils

of elders in Nyanza who arbitrate cases of disinheritance using traditional methods of dispute resolution. Under Article 159 of the Constitution of Kenya traditional forms of dispute resolution are permissible as long as they do not conflict with the bill of rights. KELIN began the cultural structures project with community dialogue forums including widows, elders and government officials, to ensure community buy-in. This was followed by human rights and legal training for the elders to ensure that they make fair and lawful decisions.

"This cultural method is so effective because it brings good relationships in the families because it is friendly. It brings about a discussion and there is nobody who is a culprit, nobody is an accused, we only come to highlight the knowledge we have about the differences between the people who live with us so one gets to understand and know his or her rights in the society. Once they come to understand this they become very happy and everybody is accepted but when you take them to the court of law there is a lot of enmity. With our cultural method we enhance a lot of love and friendship. And also it takes a short time when we arbitrate in such cases

but when it goes to court you know how they go around and around and one thing can take a very long time."

- Kasuku Kalolo, Luo Council of Elders.

Within the past three years KELIN has taken on 114 cases involving disinheritance. As of early 2012, the Luo Council of Elders had ruled in the case of some 70 women, who were able to return to their homes. Many of the widows helped by the cultural structures project find that by the time they win the rights to their land their house has either been destroyed maliciously by family members, or the piece of land they have been awarded is bare. For the most vulnerable women KELIN provides funding for building materials so that they can build a simple dwelling on their land. Community members are called to help the widow to construct the dwelling, which reinforces her sense of belonging in the community, and their responsibility to her as a community member.



INTEGRITY



ACCESS TO PUBLIC INFORMATION

The Open Society Initiative for Eastern Africa (OSIEA) works with partners in Kenya, Uganda, Tanzania and South Sudan to advocate for the enactment and implementation of access to information laws to allow ordinary citizens to know about government decisions that impact on their lives. Where governments have been slow in responding to these demands, OSIEA's partners have sought other mechanisms such as building community monitoring skills, advocacy and public interest litigation aimed at compelling government to make certain information public.

NATIONAL SECURITY

National security is one area where, for valid reasons, information is particularly difficult to obtain. But often, the veil of national security is used in an overly broad manner to cover up corruption, torture and other abuses of power. In 2012, a regional consultation brought together representatives from East African government ministries, police and security agencies, the media and civil society groups from across Eastern Africa to deliberate and input into the Draft Principles on National Security and the

INTEGRITY

Right to Information. The Principles are intended to provide guidance to legislative drafters engaged in the revision or interpretation of laws governing the authority of governments to withhold information or penalize publication on the grounds of national security. The draft document is the result of extensive consultations by global experts, civil society groups, academic centres, and four United Nations (UN) and regional rapporteurs on freedom of expression. The meeting was a collaborative effort by the OSIEA and two other Open Society entities (the Justice Initiative (OSJI) and the Right to Information Fund). Two days of lively debate resulted in valuable feedback from the Eastern African context which will be incorporated into the final version of the Principles.

Kenya's new Constitution has brought in new rights regarding information, freedom of the media, and enforcement of rights. The 2010 Constitution also defines national security as not the exclusive domain of the military. Yet information is particularly difficult to obtain about counter-terrorism operations by the Kenyan security agencies which are using illegal renditions, arbitrary arrests and

extra-judicial killings. OSIEA supported a case in the High Court of Kenya on the behalf of three families of Kenyans who were renditioned from Kenya to Uganda to stand trial for the 2010 bombings in Kampala. All three men were arrested in Kenya without being put through rendition proceedings and taken in police land cruisers and handed to the Ugandan authorities. The High Court of Kenya pronounced the rendition of the Kenyan men illegal, but the court could say no more because the men were now outside their jurisdiction in Uganda. After unsuccessful attempts to obtain some accountability by requesting the Kenyan government to disclose who made the decision to detain and transport the terrorism suspects to Uganda, a case was filed in the Constitutional Court where the government acknowledged their actions, but refused to give answers to the freedom of information requests on the grounds of national security.

ADVOCACY FOR LEGISLATION

In South Sudan, two media bills have been approved by

government and are on their way to parliament for enactment. The 21-year-war in Sudan left a legacy of tight controls over the media. During the war, media was mainly used as propaganda, and the idea of information as a public service was completely lost. Now the challenge is to change that mind-set and the media still has to tread carefully when covering events related to national security. The public has the right to information insofar as it does not prejudice national security, but the court has no jurisdiction over issues related to national security, so information can be classified arbitrarily. OSIEA works with the Association for Media Development in South Sudan (AMDISS) to conduct advocacy for the adoption of media laws consistent with international human rights standards.

In Tanzania, the Citizens' Information Bureau (TCIB), an OSIEA grantee, is actively involved in a nationwide coalition to energise the debate for access to information law, despite waning interest from the government. In 2007, the government tabled a controversial Freedom of Information Bill that sought to introduce a mechanism for the registration of all jour-

nalists and media houses as well as a bureau to set standards for the industry. The proposal proved unacceptable to media and other human rights stakeholders who perceived it as a government tactic to curtail press freedom. Media stakeholders proposed amendments to the bill, including provisions that would compel officials in the public and private sector to disclose information to the public as well as a broader transparency framework that would give any citizen the right to demand public information. The government withdrew the controversial bills, but has since shown no interest in introducing an amended bill.

IMPLEMENTATION OF THE LAW

Even where an access to information law is in place, implementation remains a major challenge. Uganda is one of the few countries in Africa with a freedom of information law, however it took several years before the implementing regulations were issued. Despite the law, public information on sensitive issues, such as oil policies or security is often



blocked by the government. Using strategic litigation to demand public information has been used with varying success in Uganda. One such effort was OSIEA's support to the Historical Resources Conservation Initiative (HRCI). After the Ugandan government announced its intention to demolish the 100-year old museum in order to construct a private 60-story trade center, HRCI filed a case to compel the Ministry of Tourism to produce documents such as the original land title, the environmental impact assessment, the heritage assessment and the tender agreements. Disclosure of these public documents would have exposed the illegalities of the project. Following the publicity, the Ministry of Tourism announced in July that it was abandoning its plan.

Advocates Coalition for Development and Environment (ACODE), an independent public policy think tank based in Uganda, uses research to inform their advocacy work related to the legal and policy framework related to oil governance. ACODE found that the Executive makes the decisions with little involvement of the affected communities in the oil exploration

areas. When environmental impact assessments are carried out, communities are not given the opportunity to effectively participate, even though a public hearing is provided for in the regulations. ACODE also found that people are routinely evicted without any compensation from government or oil companies for the purposes of oil exploration, in violation of their constitutional rights. ACODE has questioned why the government has kept the production sharing agreements confidential, when the public has a legal right to be consulted as part of these agreements, and that parliament should retain an oversight role which has also been lacking. ACODE managed to extract commitments from government during a meeting of their members, to develop a communications strategy which would include the public. ACODE coordinates monthly civil society meetings for information sharing, and has developed a website for the civil society coalition on oil and gas in Uganda. The coalition has become formidable, and when the initial draft of the Petroleum Bill was prepared the Ministry shared it with the coalition and sought

their input, which was a major step forward. Also in Uganda, OSIEA is supporting GreenWatch which works with communities in oil producing areas to monitor the environmental impact of oil production. GreenWatch filed a case in 2008 seeking to compel the government to disclose the content of the production sharing agreements under the Access to Information law. However, the case has been postponed on numerous occasions.

PROMOTING TRANSPARENCY IN THE DEVELOPMENT OF PUBLIC INFRASTRUCTURE

In 2003, the Kenyan government created the Constituency Development Fund (CDF), giving each of the 2010 members of parliament approximately one million dollars per year for community development projects. They were able to spend this money without meaningful independent oversight. MUHURI mobilised ordinary citizens to step in and provide that oversight, in Likoni constituency

of Mombasa, through a social audit. MUHURI trained community activists to gather records from the government CDF office, inspect project sites, and bring the information found to a public hearing. The community were able to go into their local CDF office to demand information relating to spending of the CDF fund in their area, and inspect financial records which detailed how much money was spent on different projects. The team went to a primary school which had been constructed using CDF money. They took exact measurements of the building and compared everything to the Bill of Quantities in the records. The records showed that twelve windows had been paid for, whereas in reality there were only 8; there were 2 doors paid for, where only one door had been built; and a blackboard had been paid for, whereas the school had only a painted wall. In another village, Mrima Secondary School which was recorded as costing 4.8 million Kenyan shillings of CDF money did not exist. MUHURI mobilised the whole community, including men, women and children, to come out to a public hearing and meet with the government officials responsible for

the CDF money, to hold them accountable for the missing money. Soon after the Likoni school audit MUHURI filed a lawsuit in the Kenyan courts to challenge the constitutionality of the CDF law. Activists from Likoni and seven other constituencies that held CDF social audits joined forces for a national campaign. Faced with mounting criticism, in June 2009 the Kenyan government set up a task force to thoroughly review the CDF law and it was subsequently repealed.

SOLIDARITY & COLLEGIALITY



PROTECTION OF HUMAN RIGHTS DEFENDERS

Human rights defenders in the sub-region regularly come under attack from both state and non-state actors in a bid to silence them and stop them from carrying out their legitimate work. The attacks include intimidation, physical and verbal harassment, arbitrary arrests and detentions with torture while in detention, threats to the family, refusal to register human rights organizations, targeted killings and defamation campaigns. The East and Horn of Africa Human Rights Defenders Program (EHAHRDP) was set up to ensure that the human rights defenders at risk receive the necessary support to mitigate the risks that they are faced with in order to continue their human rights work.

The Open Society initiative for Eastern Africa (OSIEA) is supporting EHAHRDP to provide support and protection to human rights defenders working in Eastern

Africa. EHAHRDP provides protection and defence for human rights defenders at risk, and assistance with relocation where necessary. They are working on building the capacity of human rights defenders throughout the region by providing resource mobilisation skills and security management skills. The aim is to ensure that human rights defenders recover from difficult situations that they are faced with and resume their human rights work, making them self-sustaining in the long-term.

The EHAHRDP project to assist at-risk human rights defenders from the region aims not only to sustain individuals, but will increase the capacity of the human rights community in the region to continue their work in difficult circumstances, therefore combating the efforts to intimidate and silence them.

We stand by our colleagues in difficult times.

PROMOTING VIBRANT AND

TOLERANT DEMOCRACIES

OSIEA SUPPORTS
INDIVIDUALS AND
GROUPS TO PARTICIPATE
IN MATTERS THAT AFFECT
THEM AND TO DEMAND
FAIR TREATMENT,
DELIVERY OF SERVICES
AND ACCOUNTABILITY
FROM THEIR LEADERS,
INSTITUTIONS AND
GOVERNMENTS.



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