



# PLEAD Verdict

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

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## Welcome to our first issue



PLEAD is the EU's largest project in the justice sector in Sub-Saharan Africa to date. It is the main instrument of our focal sector 'Strengthening Accountability of Public Institutions'. The flagship partnership, in which the EU collaborates with the Department of Justice, the Office of the Director for Public Prosecutions through UNODC and others, will strengthen the quality and efficiency of Kenya's criminal justice sector and help to address challenges such as congestion in the courts and prisons through measures including legal aid and alternative dispute resolution.

The programme is a successful example of EU-UN co-operation, and an illustration of the multilateral agenda which the EU advocates to promote respect for human rights, democracy and the rule of law. Through PLEAD, the EU aims to reduce the prison population, which currently stands at 52, 833, by 30 percent for those on remand and by 10% for convicts. We hope PLEAD will make an important contribution to boosting public trust in the justice sector and, by extension, public confidence in the democratic values of the Republic of Kenya.

### **Ambassador Simon Mordue**

European Union Ambassador to the Republic of Kenya



### **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.

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



### 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 Officers from Kenya's Probation and Aftercare Service at Makadara Law Courts, Nairobi County. Photo: Allan Gichigi/UNODC



Together with our partners we have taken great strides since the PLEAD launch in March 2018. UNODC is privileged to be co-implementing and assisting Kenya's key criminal justice institutions to realize their vision for a fit-for-purpose, pro-poor justice system.

A key aspect of this programme, and one that I take pride in, is its holistic approach. I am convinced that through working in such a collaborative and innovative manner, we can achieve great impact on the ground, responding to the actual needs of citizens. It is mysincere hope that PLEAD will improve faith in Kenya's criminal justice system as citizens report better satisfaction with service delivery and grow to appreciate the benefits of alternatives to imprisonment.

I hope you enjoy this first edition of our PLEAD Verdict newsletter and that the progress stories inspire those of you who are passionate about criminal justice reform in Kenya.

#### **Dr Amado Philip de Andrés**

Regional Representative Regional Office for Eastern Africa United Nations Office on Drugs and Crime



PLEAD comes at a strategic time as the Government of Kenya starts the implementation of the Legal Aid Act 2016. UNDP takes a keen interest to be part of PLEAD to help advance access to and efficiency of legal aid and justice, especially for the poor, marginalised and vulnerable.

While Art 48 in the Constitution of Kenya 2010 guarantees access to justice for all Kenyans, the realisation of this fundamental aspect of human development requires both state and non-state actors to work together.

UNDP through the Amkeni wakenya Civil Society Organizations (CSOs) facility is committed to partnering with CSOs, UN agencies and other stakeholders, including leveraging on global expertise, towards the removal of all barriers that deny the poor and marginalised groups to access to justice.

#### **Mr Walid Badawi**

Resident Representative for Kenya United Nations Development Programme



Programme for Legal Empowerment and Aid Delivery in Kenya – PLEAD

# Towards a national training curriculum for Community Probation Volunteers



Kenya's Probation and Aftercare Service (PACS) and its clients benefit from the participation of volunteers who assist with information gathering, offender supervision, reintegration and other services. Active at the local community level, Community Probation Volunteers (CPVs) complement the work of Probation Officers and offer vital support to offenders on non-custodial sentences and exoffenders as well as their families.

However, since the CPV programme was established in 2005, it has faced serious challenges, including fluctuations in the number of volunteers.

As part of its strategic vision, PACS is seeking to revitalize the CPV programme, starting with the development of a National Training Curriculum and Manual for CPVs. This effort is being supported by UNODC through PLEAD.

In March and April 2019, interviews were conducted with serving CPVs and PACS officers in six Counties for a Training Needs Assessment to inform the development of the curriculum and manual. In August, PACS validated the Training Needs Assessment Report which featured technical input from UNODC.

"A critical element for the future success of the CPV programme is that volunteers receive adequate training," the PLEAD Programme Manager for UNODC, Ms Maria Temesvari said in her remarks at the validation workshop. "Organizing a solid organizational structure, sustainable financing and embedding CPVs into the probation programme as well into the community-level picture should be processed in parallel with the curriculum development."

Representatives of PACS and UNODC then gathered for a three-day workshop in Machakos to develop a standard national training curriculum for training CPVs. Based on the findings and recommendations of the training needs assessment, the curriculum will take into consideration the varying levels of education of CPVs. The curriculum will emphasize that CPVs do not perform independent functions but assist Probation Officers in the execution of



Benedict Wachira is among the Community Probation Volunteers involved in designing the curriculum

their duties. Ultimately, a standardized curriculum will enable CPVs to carry out the work which is expected of them and fully contribute to the rehabilitation and reintegration of offenders, the prevention of recidivism and, more generally, to public safety.

A CPV from Nyadarwa, Benedict Wachira, said he appreciates being included in the discussions about the curriculum. He has been a CPV for 11 years and volunteers because he is committed to helping offenders change their behaviour. "What I like most about being a CPV is to help as many offenders as possible who have done many crimes," Mr Wachira said. "This workshop is very helpful and will make us gain a lot of knowledge concerning CPV work."

### Why Volunteers?

CPVs play an important assistive role in the management of non-custodial offenders which bring many benefits to Probation work. For instance, the use of CPVs can compensate for suspicion and mistrust of Probation Officers in certain parts of society and overcome inadequate community participation in offender management. In most cases, volunteers are respected community members who live in the same area as offenders, which makes it easier for them to collect and verify information and provide input for treatment plans based on the local services available.

Community Probation Volunteers are members of the public who volunteer to assist probation officers with services ranging from information gathering, offender supervision and psycho-social support to reintegration.

Volunteers can easily seek the cooperation and gain the trust of members of the community which helps with the reintegration of ex-offenders, according to a CPV in Kwale county, Gladys Apuuli. "When a drug [offender] comes back to the community, the community tends to reject them," Ms Apuuli said. "Having known most of the drug users in Kwale County, I am able to reintegrate them, since I know the families and we relate to them. We talk with the parents and agree on how they are going to support the client."



A Community Probation Volunteer in Kwale County, Gladys Apuuli

# Supporting neglected women in hardship areas through legal aid and assistance



UNDP Amkeni Wakenya CSO Facility: Spotlight on ALCHA PLEAD Project, Marsabit

Moyale Town is as bustling and lively as you'd expect a border town to be: split across both Kenya and Ethiopia, there are clear influences on either side of the town from each country, from the foliage to the food and the language to the locals. The northernmost point of Marsabit County has recently seen a boon in fortunes following the completion of the Isiolo-Moyale Highway in 2017 and strengthened Kenya-Ethiopia integration: what was once a troubled frontier town is becoming a focal point in the rising tide of East African trade.

Outside of the town itself, Moyale and North Horr Sub-Counties are sparsely populated, largely by nomadic pastoralists. Societal norms in these communities – which have recently seen serious violence across the porous border – are often patriarchal. This creates a challenging situation for women and girls, whose education is not culturally prioritised and whose input in traditional forums is not always accepted. When water, pasture and security are urgent priorities, issues which adversely affect women are not always paid the attention they deserve.

Safia Ibrahim, 29, is a paralegal with Alliance of Local Communities in Hardship Areas (ALCHA) and a local of Butiye Ward. Ms Ibrahim describes how the combination of a religious perspective and both the place of women and lower literacy rate relative to men in nomad communities mean that when it comes to issues such as rape, abuse or neglect, women often suffer in silence.

Beyond the headline-grabbing ethnic and pasturedriven violence, one of the less reported but highly damaging aspects of nomad life on the Marsabit frontier is paternal abandonment. Amina Turre of Odda, on the outskirts of Moyale town, is a mother of four. After relations broke down with her husband, Ms Turre fell into financial hardship as he neglected to continue to support the family financially, whilst she struggled to balance both providing for and caring for her children.



The issue that is putting women behind, being a nomad way of life that we are living in Marsabit County, is the cultural context where a man can marry more than one wife. So, if he marries the second wife, he can leave the first one and his children without taking care of their needs, without taking them to school, without caring for them totally. Safia Ibrahim

Promoting Legal Aid and Assistance for the Poor and Marginalized is a project run by ALCHA and funded by the European Union under the UNDP Amkeni Wakenya CSO facility to address issues such as that faced by Ms Turre. ALCHA trains paralegals from local areas and mobilises them to increase awareness of legal aid and assistance, run civic education programmes in rural communities, and conduct outreach visits to pick up on injustices faced by women and girls in particular that may be going unheard. Typically, ALCHA provides free services such as mediation or drafting of court documents and liaise with County Government authorities to solve these problems.

ALCHA's impact in Moyale and North Horr Sub-Counties has been significant and varied. Including Ms Turre's case, 36 families where there were issues of paternal neglect are now receiving upkeep as a result of ALCHA mediation; over 300 secondary school pupils have been trained on human rights promotion and protection mechanisms; 274 community members received legal assistance through drafting of agreements by ALCHA paralegals; and significantly, two primary schoolage girls in Golbo Ward were rescued from early forced marriage and are now continuing their education.

Hussein Borbor, Project Coordinator for ALCHA, has seen the best and worst of life on the frontier. Although his house was among the first to be burned down amidst intercommunal violence in 2013, Mr Borbor stayed in Moyale to continue his work. Today, he speaks glowingly of the commitment and impact of ALCHA's team of predominantly



I paid a visit to their offices and I shared my problems with them, and afterwards they called my husband and spoke to him about my four children... He was told by ALCHA to be paying the monthly bills, and I am now getting money sent monthly to the office. That's how they have directly supported me. Amina Turre



Hussein Borbor, Project Coordinator for ALCHA

women paralegals, and stresses that the project's work is far from complete. Hiring a private process server will increase the efficiency of legal assistance, Mr Borbor says, and more office space will afford women who come forward the confidentiality they deserve.

Both Ms Ibrahim and Mr Borbor are clear in their commitment: ALCHA's presence as members of the local community, native Oromo-Kiborana fluency and knowledge of traditional power structures such as the Gada system means that they can promote access to justice for women and girls, even where others can't.

Disclaimer: This story is based on first person reports and interviews conducted during a monitoring and evaluation visit and public participatory forum in Marsabit County, August 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.

For more information on the ALCHA Legal Aid and Assistance Project, visit: www.alchakenya.org

# **Strengthening Kenya's prosecution service**



The European Union's Hubert Perr with the Head of UNODC's Criminal Justice Programme in Eastern Africa, Charity Kagwi-Ndungu

International and national experts in prosecution, legal innovation and research gathered in Naivasha in August to share their experiences and best practices at a Strategic Planning Conference for the Office of the Director of Public Prosecutions (ODPP).

The conference aimed to refresh the Strategic Plan for ODPP. For five days, 120 attendees worked tirelessly to come up with a new vision, mission and core values for ODPP. "As we formulate the new ODPP Strategic Plan, our main objective is to inject accountability, transparency, public confidence and quality control in all our operations with the overall aim of transforming ODPP into a service which is more responsive to Mwananchi needs," the Director of Public Prosecutions, Mr Noordin Haji, said.

UNODC assisted ODPP to plan and stage the conference, including sourcing guest speakers. International prosecution experts, like Baltimore's State's Attorney General, Ms Marilyn Mosby, applauded Mr Haji's efforts to revamp the institution's strategic direction. "Any strategic plan should be a living document; justice is not black and white. It's something that is going to change depending on the facts and the circumstances," Ms Mosby said.

"In the face of mounting international challenges like terrorism and transnational crime, it is imperative for countries to develop, adopt and implement effective strategies and programmes for crime prevention and criminal justice," the Charge d' Affaires a.i., Delegation of the European Union to Kenya, Mr Hubert Perr, said. "The EU and partners address these and other critical judicial matters such as legal aid, fair access to justice or the fight against corruption through the PLEAD programme."



Monicah Onwenga

Conference participants included ODPP regional county heads and senior prosecutors. "Often, a number of us are expected to deliver on our mandate without really understanding the bigger picture in terms of what our organisational strategic plan entails," Senior Principal Prosecutor for Makweni County, Mrs Monicah Onwenga, said. "The fact that all of us are able to participate gives us a feel of what is required of us."



Alloys Kemo

The innovative format included presentations, a legal hackathon, group brainstorming, administering surveys and data collection. Many participants appreciated being part of the discussion around formulating a new Strategic Plan. "I like the teamwork part of this and it feels like we are really involved in the development of the strategic plan," the Head of Prosecution in the Coast Region, Mr Alloys Kemo, said. "It's like we own the process."

# **PLEAD** partner profile

### Saku Accountability Forum

Creating an Enabling Environment for Women and girls' Access to justice



Nuria Gollo, board member, Saku Accountability Forum addresses a community forum in Marsabit County, June 2019

Access to justice for women and girls in Marsabit County has often been a daunting task for many, given women's unequal access to power, resources and information. If it not cultural practices that prevents them from speaking out, then it is the processes and technicality that sees many left out or fail to pursue justice at the courts.

"Going to the court is very expensive and most of the time, we do not understand the language that the magistrate and the judges are speaking, and therefore we cannot follow the proceedings effectively", says one woman who had sought court intervention for her case.

To support communities from marginalized areas, especially women and girls, to know their human rights and seek justice when their rights are violated, Saku Accountability Forum (SAF) was set up. It is a grassroots organization based in Sagante/Jaldesa Ward, of the vast Marsabit County, that is educating the community of their rights, building the capacities especially for the resource poor pastoralists communities and engaging community leadership towards democratic governance and peacebuilding.

Diramu Duba Jarso and Habiba Hussein Kunno, paralegals working as part of the *Haki Mashinani* PLEAD Project, work to offer legal aid and assistance services to women and girls, act as translators in in court and follow up cases in the courts of law and in traditional dispute resolution forums to ensure the rights of women are upheld.

"We have helped communities understand their rights and resolve many disputes, because many are still fearful of the court processes and reporting to the police. I believe alternative dispute mechanisms can still enhance justice systems and ensure women's rights are protected through effective justice systems." said Habiba Hussein Kunno

Through support from the UNDP Amkeni Wakenya civil society organization (CSO) facility and funding from the European Union through PLEAD, the organization has expanded its network and is able to reach more vulnerable communities and ensure that their rights are upheld.



Saku Accountability Forum PLEAD paralegals Habiba Hussein Kunno (left) and Diramu Duba Jarso (right), in Marsabit County, August 2019

"My motivation is to see that women and girls are empowered and able to know their rights. I am passionate about my work which is to promote the rights the rights of women, educate and offer advice." said Diramu Duba Jarso

Support to SAF by Amkeni Wakenya, as part of PLEAD, is intended to address obstacles around access to justice at the community level through supporting CSOs to provide services that deliver justice mechanisms to the marginalized and vulnerable in society, as well as working to promote human rights, justice and legal empowerment of the poor at the grassroots level.

# PLEAD partner interview

CSO-Network's Work towards Access to Justice in Kisumu County



Civil Society Organisations Network (CSO-Network) is a UNDP Amkeni Wakenya PLEAD partner operating in Kisumu County which works to increase access to justice for marginalised groups in Kisumu Central, Kisumu East and Kisumu West Sub-Counties. Stephen Omondi, Programme/ M&E Officer at CSO-Network, spoke to Amkeni Wakenyi Project Officer Mohamud Abdullahi at a Quarterly Learning Platform in June 2019 about the challenges faced by these target groups and the activities CSO-Network is undertaking which contribute towards equitable justice for all.

# MA: Good afternoon Stephen. Please outline the key challenges your project is addressing.

SO: There has been a lot of challenges in Kisumu County – issues around land, issues around women and the poor experiencing justice on land, in the sense that there's a lot of issues around inheritance and succession. Many women who are widowed, many children who are orphaned and many young people who are poor are facing disinheritance by their relatives. This project is trying to ensure that women or youths/children that are disinherited are given a platform to air out their grievances, and through litigation processes they get justice in terms of acquiring land which is theirs.

SO: Secondly, there's issues around gender-based violence. Because of patriarchal society which demeans the rights of women and girls, a lot of women and young girls go through gender-based violence – domestic violence, for example. There is

the issue of defilement, there is the issue of rape, which in many cases these women do not access justice by virtue of the culture, patriarchal, and by virtue of religion. Therefore, these women do not have a place or someone to listen to them, so this project gives a platform for young women, girls, or even youths who undergo such kind of grievances to bring up their issues and have confidence that people can help them push for justice.

# MA: What are some of the main approaches you are taking to address these challenges?

SO: One of the strategies we decided to use is to work with the existing alternative dispute mechanisms that exist in the communities. We are aware that every society there is a way that they sort out certain issues, especially with issues around family disputes and land. Therefore, we capacity build them based on the existing laws of Kenya so that whenever they are making decisions they are also in line with the laws of the land.



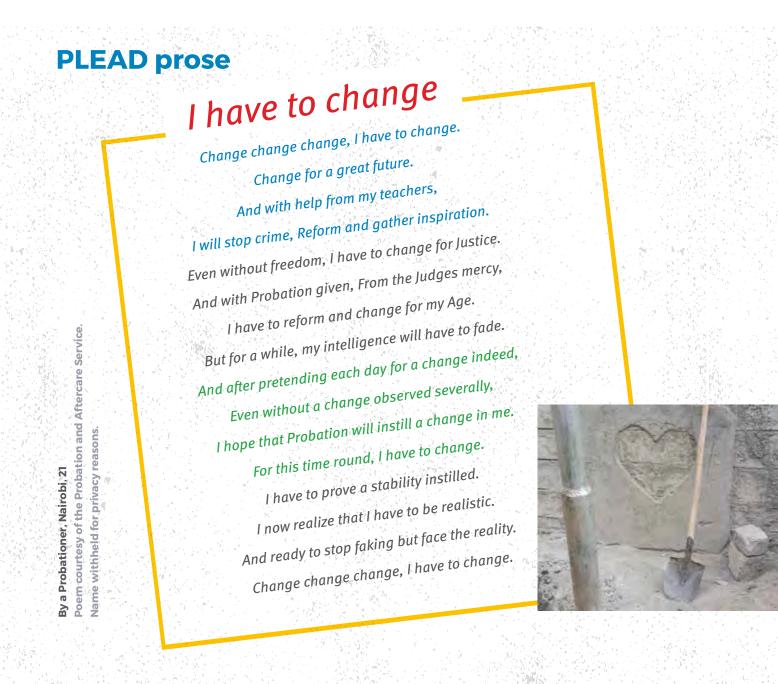
SO: In Kenya litigation is very expensive: because this project is targeting the marginalized and the poor, most of them cannot afford court filing fees and they cannot afford lawyer's fees. Hence, we are working with the Law Society of Kenya Kisumu Chapter to provide pro bono services. This project also has a component of ensuring there is a litigation resource – as much as we do pro bono work, court filing fees must be paid. This project is also working with paralegals that are people who live in the same community as our target groups – these paralegals are people who can be accessed at any time of day, who can advise and pick up issues and refer them to us or other entities.

SO: We are also working with another organization which is based within the community, known as the Women Concern Centre. Women Concern Centre is dealing with issues around women and girl children, in terms of them looking at issues of gender-based violence, issues of defilement and rape. All cases that come to us, we ensure that as much as we do refer, we also follow the up. We also try to work with the media as one of the strategies because all these issues must also be highlighted and put in public. In cases, for example, that those with power take advantage of the marginalized, we need the media to highlight these kinds of stories.

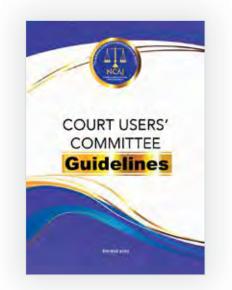
# MA: How has UNDP, under PLEAD, supported your work and your interventions?

SO: This project that we are doing, *Making Human Rights a Reality:* Access to Justice for Women, Youths and PWDs in Kisumu County is a oneyear project that has been supported by Amkeni Wakenya, through a PLEAD fund from the European Union. This fund is going to help the marginalised attain a platform, and the organization is trying by using the fund to create awareness, capacity build the poor and the marginalised to know their rights, to know existing laws, and to know ways of how they access justice through various platforms that are created by the government.

SO: This same resource is also strengthening the organisation itself in the sense that it gives the organization mileage, a priority, ensuring that citizens know that this organisation works on issues around access to justice. Last but not least, the PLEAD fund in terms of resources for the organisation, it buys certain equipment for the organization as a way of stability in ensuring this project runs smoothly.



# **Empowering Court Users' Committees**



Updated guidelines to boost the impact of Court Users' Committees (CUCs) across Kenya and streamline the administration of justice have been released by the National Council on the Administration of Justice (NCAJ).

CUCs are an important coordination and consultation platform as they bring together justice sector agencies and users of their services to enhance public participation, improve public understanding of court operations and promote effective partnerships, among other objectives.

The guidelines – available here – set out the core values, objectives, functions, membership, financing, performance indicators and monitoring and evaluation requirements for CUCs. They were published with support from the European Union and UNODC through PLEAD.

"In seeking to transform our justice system, we must leave silo approaches behind and enable collective responsibility and mutual accountability amongst and between actors in the justice system, and this is made possible through CUCs," the Acting NCAJ Executive Director, Dr Conrad Bosire, said. "We must equip and empower CUCs to achieve their objectives, including improving access to justice for children, women and persons with disabilities, and promoting dialogue among stakeholders and court users."

The NCAJ is tasked with the establishment and operationalization of CUCs at the county level, court stations, tribunals and other specialized courts. There are more than 125 CUCs in Kenya. The overall objective of CUCs is to streamline the administration of justice within each respective courts' jurisdiction. CUC members are required to meet quarterly. "Through CUCs, justice sector actors can negotiate, talk, recommend, come up with solutions to any problems and agree on innovative ways of going about them," the CUC Coordinator at NCAJ, Ms Sophie Kaibiri, said.

Forthcoming PLEAD support for CUCs includes county-based trainings on plea bargaining, diversion, active case management and other focus areas. The first session is scheduled for Eldoret in mid-October and will be staged with technical assistance from UNODC.

These will build on the outcomes of a major sensitization workshop for CUC representatives held in Nairobi in May, coordinated by the NCAJ Secretariat in partnership with UNODC, the Bail and Bond Implementation Committee, Office of the Director of Public Prosecutions and Active Case Management Committee. Over three days, the workshop covered training on government justice sector reforms aimed at reducing prison populations and case backlog, and strengthening court administration and case management.

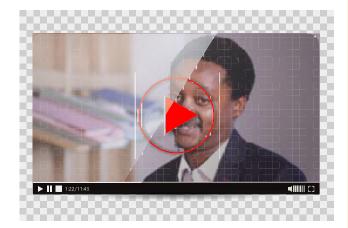
More information about CUCs and updates on their activities will be available from mid-October on the new NCAJ website currently under development with support through PLEAD: www.ncaj.go.ke.

### **Objectives of Court Users' Committees:**

- Ensure an accountable, coordinated, efficient, effective and consultative approach in the delivery of justice
- 2. Improve access to justice and service delivery by all actors in the justice system and in particular children, women and persons with disabilities
- 3. Enhance public participation and engagement in the delivery of justice
- 4. Promote information sharing and learning among stakeholders
- Strengthen feedback mechanisms and promote dialogue among stakeholders and court users
- 6. Propose policies and legislation for implementation by NCAJ for effective delivery of justice
- 7. Carry out all functions that are incidental to the operation of CUCs.

# **PLEAD briefs**

### **PLEAD Spotlight on prosecutor**



UNODC is launching the PLEAD Spotlight video series to demystify the criminal justice system. The first episode profiles Eric Kyalo, a public prosecutor with the Office of the Director of Public Prosecutions (ODPP) in Lamu County. In explaining the role of a prosecutor, Mr Kyalo expresses his support for alternatives to imprisonment, such as diversion and plea bargaining. "It's the best way to reduce the number of cases in court and seek justice for offenders who can be reformed," Mr Kyalo said. "Not every criminal is a bad person."

Watch the full video here: Link to video here 😳

# Key dates



### October

3—4	Launch of Inter-institutional training on Active Case Management, Machakos
14—16	Court Users' Committee county training, Eldoret
14—18	ODPP Plea Bargaining and Diversion Sensitization Week, Mombasa
29—31	Monitoring and Evaluation Visits to Amkeni Wakenya PLEAD Partners
Novemi	Der Forum on Alternative Justice Systems,

### 1 Forum on Alternative Justice Systems, Strathmore Law School 14-15 National Conference on Criminal Justice Reform, Naivasha Nov The Judiciary's Children National

Service Month

### **Illustrating justice**

How familiar are you with the concepts of diversion and plea bargaining? Renowned illustrator Paul Kelemba has helped ODPP to explain these concepts for an upcoming national sensitization campaign backed by UNODC through PLEAD. Available in English and Swahili, Mr Kelemba's illustrations feature on brochures, posters, display banners and social media graphics designed by UNODC. <sup>O</sup>



💟 Follow Paul Kelemba: @itsamaddworld

## **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
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