



Your Ref: CAJ/O.PRESS/046/14/15/RS **Our Ref:** C/KELIN/15 **Date:** 30 April, 2015

Commissioner. Dr. Otiende Amollo, EBS
Chairperson,
Commission on Administrative Justice,
2nd Floor, West End Towers,
Opposite Aga Khan High School off Waiyaki Way - Westlands
Nairobi, Kenya.

“Advance copy via email”

Dear Commissioner Amollo,

RE: ADVISORY NOTE ON INSTRUCTIONS BY HIS EXCELLENCY THE PRESIDENT ON COORDINATION & DELIVERY OF COMPREHENSIVE HIV & AIDS SERVICES TO COUNTIES.

We refer to the above captioned matter, our correspondence and the meeting at your offices on 28 April, 2015 with the undersigned.

We would like to reiterate that we support His Excellency’s noble intention to overcome the challenges of HIV & AIDS among adolescents. We would however like to humbly make the following suggestions that have been a subject of consultation between KELIN, The Children of God Relief Institute - Nyumbani, NEPHAK and other PLHIV groups. In order for his Excellency to rectify the process and steer it on the right track the following four steps need to be undertaken urgently.

- i. His Excellency needs to issue another directive which will clearly address the following issues: Indicate that the directive dated 23 February, 2015 will not be applied: Confirm that that all names of persons living with HIV that were collected in the process will be destroyed: Confirm that no names of persons living with HIV are to be collected or recorded by anyone at any time unless within prescribed guidelines and regulations that are in line with the Constitution of Kenya 2010 and all the enabling laws.

- ii. His Excellency needs to direct the Cabinet Secretary of Health to urgently commence the process of formulating the long overdue privacy guidelines that are envisioned within the provisions of Section 20 of the HIV & AIDS Prevention and Control Act 2006. These guidelines should be developed in a consultative manner with the relevant stakeholders and within a specified period of time.
- iii. His Excellency needs to direct the Cabinet Secretary of Health and other relevant agencies to share with him the existing and available data on the information he had requested for. Once the data is shared, the same can be analyzed as against the Presidential directive to determine the gap or supplementary data that is needed. If any supplementary data is to be collected it must be done in line with the guidelines that will have been developed.
- iv. His Excellency and the relevant officers at the National and County level should closely work with persons living with HIV through NEPHAK and its affiliate groups, parents, care givers who support children living with HIV and strengthened community health strategies structures. These groups of persons are closely in contact with the categories of persons mentioned in the directive. NEPHAK, parents and the care givers are not only in a relationship of trust but have contacts at the grassroots levels in all the 47 counties.

Our suggestions above are informed by the strong belief that unless the directive is recalled or new guidance is given by his Excellency, the County Commissioners will still pursue the process. The process will not only violate human rights and breach the law, as indicated in several advisories issued to the President, but will undermine the gains already made in responding to HIV related stigma and discrimination.

We have two additional suggestions to make with regards to the programming for HIV in light of the intention of the President in his directive. In the course of our consultations the following issues have emerged.

- i. Through the National and County governments, there is need to ensure access to testing and counseling services to all HIV exposed infants and adolescents so that those who are not under any form of care are identified and provided with appropriate services within the confines of the Constitution and the relevant laws. A family centered approach is one way to ensure this.
- ii. With regard to social support to children and adolescents living with HIV we propose that HIV status should be considered as part of a larger vulnerability index which includes poverty of household, orphan-hood and other indicators rather than providing social support to children solely on the account of their

HIV status. This will ensure that children and adolescents under social support do not face ridicule, isolation and stigma from their HIV negative peers.

We trust that you will advise the head of state appropriately. We request to be updated on the matter and thank you for the expeditious manner in which your office is dealing with this case.

Yours Sincerely,



Allan Maleche
KELIN



Nelson Otwoma
NEPHAK



Sr. Mary Owens, IBVM
The Children of God Relief Institute