

## 1.1Section A (Summary/Background)

The major obstacle for victims of human rights abuses is having funds and gaining access to legal representation in order to file a complaint against the perpetrator. As part of the Access to Justice Project, The Oscar Foundation shall develop pauper application forms to enable women and children access justice by filing complaints in court of law free of charge or at a minimal fee as provided in the civil Procedure Act Cap 21 Order XXXII Rule 1-18 laws of Kenya.

It is regrettably noted that most of PLWHA/ widows/ widowers and orphans are losing properties and discriminated due to lack of legal literacy and funds to file complaints in courts of Law. HIV/Aids have clearly impacted on inheritance rights particularly those of widows and orphans. In some cases women are completely dispossessed of their inheritance to land and to property after their husband death the prevailing practice in the communities is that inheritance was patriarchal with the result that in several cases land has been inherited or was being held in trust by male relative. When a married man died of aids or become infected, the woman was often condemned as the one's who have infected their husbands and were subsequently under massive pressure to leave their marital homes, woman's property rights violation in Kenya are not only discriminatory they may prove fatal.

Our thrust to empower women and children file complaints in court of Law as paupers is motivated by widows who without consent are forced into customary practices of "wife inheritance" whereby a widow is taken as a wife by a relative of her late husband or a ritual "cleansing" whereby widows are obligated to have sex (usually unprotected) one time or over a short period with a man who is a social outcast and out of this purpose run clear risk of contracting and spreading HIV/ Aids.

Governments are publicly accountable for their actions toward people in the context of Human Rights and rule of law. Given the reality of violations that continue to occur, it is useful to consider the specific human rights responsibilities of governments. Governments are responsible for not violating rights directly, as well as for ensuring the conditions that enable people to realize their rights as fully as possible. It is understood that, for every human right, governments have responsibilities at three levels:

1. they must respect the right
2. they must protect the right
3. they must fulfill the right As an illustration, consider governmental obligations in the context of HIV, using one right--the right to education:
  - *Respecting the right* means that states cannot violate the right directly. This means that the right to education is violated if children are barred from attending school on the basis of their HIV status.

- *Protecting the right* means a state has to prevent violations of rights by non- state actors and offer some sort of redress that people know about and have access to if a violation does occur. A state has to ensure, for example, that religious groups are not successful when they try to stop adolescents from accessing reproductive health education.

*Fulfilling the right* means states have to take all appropriate measures-legislative, administrative, budgetary, judicial, and otherwise-toward fulfilling the right. If a state fails to provide essential human rights prevention education in enough languages and media to be accessible to everyone in the population, this in and of itself could be understood to be a violation of the right to education.

### **Protecting Human Rights Defenders & Whistle-Blowers**

This project aims at protecting all vulnerable groups including whistle-blowers. As we all know In the 90s, the biggest challenge to popular participation in democratic decision making and the promotion of human rights was the repressive KANU regime. Adequate expansion of the democratic space still remains a major challenge in this era. Protecting human rights defenders from harassment, arrest, imprisonment, torture and death threatens the apparent transition and the modest democratic gains made.

**Specific Objective:** Creating a functional support network of defenders

Lobbying existing local defenders networks, and mobilizing regional and international alliances with a view to strengthening the resource base for local defenders. Human rights organizations plan to discuss the establishment of a special unit for defenders under the International Center for Human Rights Observatory (ICHRO) a project of the Oscar Foundation Free Legal Aid Clinic Kenya.

In realization of human rights and good governance, this project aims at working closely with the GOK to ensure the fulfilments of its policies towards national development by ensuring transparency & budgetary allocations are well utilized in the Constituency Development Funds and shall advocate for creation of RATIONAL SHOPS to sell subsidized food stuff to the poor, ensuring the implementation of the ministry of labour legal notice number 31 of 2004 that make it compulsory for all companies to have functional occupational safety and health management committees, disaster preparedness, creation of the Small Courts System, Free Legal Aid Scheme, free medical scheme, and reforming the penal institutions to ensure the Extra-Mural Penal Employment Scheme (EMPES) is amended to enable inmates start up new life upon their release from prison.

**Specific Objective:** Adapting community mediation approach to reduce all related human rights violations and promote access to rights and justice to whistleblowers and the poor including women, youth and persons with disabilities and compensating released prisoner to enable them start business upon release.

## **People's Tribunal (PT)**

This project further aims at empowering the poor masses to freely & fearlessly articulating issues affecting it to the relevant authorities. This shall offer a powerful resistance to violations of various rights, and the problem of corruption shall be addressed by framing it as a human rights violation and a root cause to bad governance.

The benefit of regarding corruption as a human rights issue will enhance effort to contain corruption, due to the development of international human rights law as an important aspect of international law, as well as national developments in constitutional, legal, and judicially recognized rights.

Corruption problem, when framed as a human rights and governance issue, shall empower the judiciary to enforce certain rights for the citizenry, demand a transparent, accountable and corruption-free system of governance and help establish a basis to monitor this process.

The right to freedom of expression, right to information for promoting transparency and accountability is one instance in which the corruption issues has elevated from a public policy matter to a higher level of political discourse by invoking the right to freedom of speech and information of the citizenry.

During the project period, a People's Tribunal (PT) will be launched to promote access to justice and "mobilize victims of human rights abuses" to hold the government accountable especially to ensure no miss-use of the Constituency Development Fund (CDF) and an immediate Implementation of the Ministry Of Labor legal notice no 31. The PT will conduct hearings on issues ranging from, corruption, budgeting, expenditure oversight, whistleblower protection, discrimination, health, transparency on voting, electoral issues, police brutality, torture the right to food and housing. The PT will provide an opportunity for those who do not have access to the regular courts to voice their grievances. The goal is to stop existing violations and monitor GOK in terms of accountability & transparency by highlighting harmful legislation and prevent further atrocities from taking place and outline national and international human rights obligations.

The "Access to Justice project" will culminate to a 'Declaration of Commitment' to protecting and promoting human rights. This will provide an opportunity for Human rights Defender to monitor & evaluate the lesson learnt with the official launch of the international Center for Human Rights Observatory (ICHRO) that will document and report on the impact, challenges and success of the project.

## **Section B Technical Approach**

OFFLACK has a network of 150 pro-bono lawyers co-coordinated by a secretariat in Nairobi with a 24 hour rapid response help lines 0900-555 999 or 0900 332 366.

However, this project shall be lead by two competent lawyers, one Psychologist and one Account clerk

The Counselor shall document the extent of psychological trauma the survivors have. In Kenya, the legal precedence disallows compensation for psychological trauma as it is deemed unquantifiable. OFFLACK shall collect a body of data that our lawyers in the Network will use to challenge in court and set a landmark precedent that will not only help survivors of torture/whistle blowers but also in cases of domestic violence and child abuse.

The lawyers shall be responsible in educating, preparing standard pauper application forms for the poor to file complaints in courts of law at no fee, petition & filing test cases.

Finally the Account clerk shall be responsible in keeping financial records.

### **Section C (Monitoring & Evaluation)**

OFFLACK's Program staff will regularly monitor the project activities. The monitoring aspects will include timing, quality, quantity and costs. Budget variances will be regularly analyzed

Project outputs will be monitored during OFFLACKS monthly program reviews attended by all staff. Outcomes will be monitored during a one-day participatory\_evaluation workshop conducted quarterly attended by OFFLACK staff and members of the collaborating organizations. In addition there will be annual review workshop with the network of lawyers .

Improved tools and methodologies will be pre-tested and evaluated by OFFLACK 's network of lawyers After modification they will be evaluated externally at mid-term and end of project evaluation.

### **Section D (Applicant's Ability)**

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**Oscar Foundation** was formed in 1998 as a charitable organization and it was formerly registered as a non- profit making organization in 2001. The purpose of the organization is: To provide free legal aid and promote legal literacy amongst children and the poor, increased awareness on human rights violations and contribute to public outcry, training of professionals on identification and documentation of cases of human rights violation and raising public awareness concerning its role and purpose in democratic Kenya.

#### **Our identity:**

To advocate for prevention of human rights abuses through policy advocacy, research and provision of free legal aid clinic in Kenya.

**Past & On going activities:**

For the last financial year May 2004 to May 2005, we documented 698 cases of various human rights violations including torture, sexual violence, discrimination and domestic violence and through strong advocacy and media campaigns, we launched the first ever Protocol for HIV/AIDS to include care, protection and human rights of the infected and affected persons(The protocol is accessible at [www.oscarfound.org](http://www.oscarfound.org)) , and we are strongly advocating for the ratification of the Optional Protocol to the UNCAT and conduct community out reach programmes to address issues of human rights abuses and rehabilitation of victims of abuse back into the society and have launched reports on police accountability Report and The prison conditions in Kenya( this reports are accessible in our website [www.oscarfound.org](http://www.oscarfound.org) .

