

# The Legal Aid Centre of Eldoret (LACE) — The Leading Provider of Legal Services for Persons Affected by HIV-AIDS and for Other Poor and Marginalized Persons in Western Kenya

By George E. Edwards<sup>1</sup> (10 August 2009)

I just returned to Indiana from Eldoret, Kenya, where two of my law students are interns at the Legal Aid Clinic of Eldoret (LACE), a group that provides free legal services to people affected by HIV-AIDS. In my five days in Eldoret, I witnessed LACE's dedication, its professionalism, and high spirits. I also confirmed that my Indiana law students were gaining solid legal experience outside the classroom, and contributing significantly to human rights.

As the interns' faculty advisor, I had planned to conduct a routine assessment of LACE, as I had done for intern host organizations in Laos, Argentina, Cameroon, Switzerland, Botswana, Ghana and the Netherlands this summer, and had done in dozens of other countries in previous years. But my routine assessment unexpectedly became more comprehensive.

It started mid-way through my Eldoret visit.

I had been chained to my laptop, completing two academic manuscripts, each of which identified and discussed what I've framed as "10 attributes of successful human rights NGOs".<sup>2</sup> Eldoret's Sirikwa Hotel staff helped me email the completed manuscripts, which I thought little about for the rest of my Kenyan visit.

I then left Eldoret.

On the second long leg of my 18 hour flight to Indiana, 36,000 feet over the Atlantic, I pulled out one of the manuscripts for a quick review. A thought occurred to me – *Does LACE possess the "10 attributes of a successful human rights NGO" I'd been studying and writing about this last year?* I decided to apply my academic theory to LACE.

I thought that if I were to write up my assessment, readers might conclude that I might be predisposed to finding that LACE possesses the 10 attributes.<sup>3</sup> But I decided to write it up anyway in this article, which addresses the following: (I) My definition of a "human rights NGO" (II) my experience working with NGOs; (III) Indiana's Program in International Human Rights Law Internship Program (IV) the "methodology" of my analysis; (V) the 10 attributes for a successful human rights NGO identified; (VI) My assessment of whether LACE is a successful human rights NGO (application of the 10-attributes test to LACE); and (VII) my conclusions.

## I. Definition of a human rights "NGO".

No universally recognized definition of "human rights NGO" exists. I've adopted the following definition, which I discuss in my two manuscripts: A human rights NGO is a private, independent, non-profit, group not founded or controlled by a government, that has a mission to promote and protect universally recognized human rights.

Legal aid centers like LACE are only one type of human rights NGO, which may have any of a wide range of



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<sup>2</sup> I completed the following article and book chapter manuscripts while in Eldoret: (a) Edwards, George, *Measuring the Success of Human Rights NGOs from the Birth of the United Nations to the 21<sup>st</sup> Century* (Michigan State Journal of International Law, forthcoming, Fall 2009); (b) Edwards, George, *Attributes of Successful Human Rights Non-Governmental Organizations (NGOs)—Sixty Years After the 1948 Universal Declaration of Human Rights* (in *An Introduction to International Human Rights Law*, Professor Azizur Rahman Chowdhury and Md. Jahid Hossain Bhuiyan (eds.))(Brill Publishing, Netherlands) (forthcoming 2009)

<sup>3</sup> I concede that initially I had virtually no doubt that LACE would pass the attributes' test with positive, flying colors, and that I could understand an objectivity inquiry. After all, I have well-known stated interests in Indiana ties with LACE and the Moi University Law Faculty. I'm the law professor and program director who facilitated the law student internships at LACE. I'm reporting to the American Bar Association (ABA) about the status of our internship program. An Indiana Judge and an Indiana law faculty member are LACE founders. And the Dean of my Indiana law faculty, Gary R. Roberts, who approved a recurring full scholarship for a LACE lawyer, will head an Indiana Law Delegation to Eldoret in October 2009 and will visit LACE.

Do I want LACE to be a successful human rights NGO? Yes. Do I want others to believe that LACE is a successful human rights NGO? Yes. Do I believe, after my analysis, that LACE is a successful human rights NGO? Yes. Do I believe that LACE could modify its operations, or adapt in some ways, to help make it even more successful? Yes.

different missions. LACE happens to focus on domestic legal services for indigent HIV-AIDS affected persons.

Mandates of other human rights NGOs may include: identifying human rights violators and documenting abuses; monitoring and influencing laws, policies and practice of governments and non-state actors; shaming human rights violators to force compliance with law; human rights education; fact-finding with or without on-site visits; legal research; international litigation; information evaluation and dissemination; democratization; fund-raising; mobilizing and empowering locals to participate in civil society; designing and implementing development projects; providing humanitarian aid; establishing standards or norms to measure or judge the conduct of individuals, NGOs, states, and other international actors.

## II. My experience working with successful human rights NGOs.

For many years, I've worked with NGOs (including legal aid centers) in my capacity as founding director of the Program in International Human Rights Law at Indiana University School of Law – Indianapolis, as associate director of the University of Hong Kong Centre for Comparative and Public, and as a human rights advocate. I've undertaken various projects for human rights NGOs: I've written articles, served as trial observer, presented oral and written reports to the United Nations, served as NGO delegate to international human rights law conferences, and testified before legislative bodies for include. Such NGOs include Human Rights Watch, the Lawyers Committee for Human Rights), the Hong Kong Human Rights Monitor, and the National Bar Association – International Law Section.

## III. Indiana's Program in International Human Rights Law Internship Program.

The IU-Law Indy Human Rights Internship Program has operated since 1997, when I joined the faculty. We have now had over 100 internship placements in over 50 countries on six continents. Interns work for NGOs, governmental bodies, and inter-governmental organizations (IGOs). (For more information about our human rights internships, Master of Laws (LL.M.) Track, and other aspects of our Programs, please visit our Program website at [www.indylaw.indiana.edu/humanrights](http://www.indylaw.indiana.edu/humanrights).)

Most interns working with NGOs have interned with well-established groups that have operated for years. LACE, which has only been operational for less than a year is as widely accomplished and impressive as NGOs that have been around significantly longer and that have more resources.

## IV. "Methodology"

In Eldoret from 1 – 5 August 2009, I talked with LACE personnel and board members, and spent significant time with our two Indiana law interns. I also talked with law faculty members and administrators of Moi University School of Law, physicians and others affiliated with the Academic Model for Aids Treatment and Health – AMPATH, and with LACE founders.

At the time, none of the individuals I communicated with knew I was going to write this article. Indeed, at the time, I didn't know it myself! My methodology is not scientific, but it doesn't take science to validate my analysis.

## V. The 10 Attributes of a Successful Human Rights NGO

The 10 attributes of successful human rights NGOs I identified and analyzed in my manuscripts overlap and are not exhaustive. A successful human rights NGO must: (1) have a mission to promote and protect internationally recognized human rights; (2) adhere to human rights principles internally and vis-à-vis others; (3) be legally created and operate under the law; (4) be independent; (5) have adequate and appropriate funding; (6) be non-profit and committed to service; (7) be transparent and accountable; (8) be adaptable and responsive; (9) be cooperative and collaborative; and (10) be competent and reliable.

## VI. Is LACE is a successful Human Rights NGO – Applying the 10-Attributes Test.

In this section, I assess whether LACE possesses the 10 attributes of a successful human rights NGO.<sup>4</sup>



Row 2, l-r: Ms. Anne Konuche (Lecturer, Moi Law Faculty); Mr. Matt Trick (IU Law Intern), Mr. Aaron Stark (IU Law Intern); Mr. Maurice Oduor (Lecturer, Moi Law Faculty); Row 1, l-r, Prof. George Edwards, Mr. Vincent Mutai (Lecturer, Moi Law Faculty); Ms. Milkah Cheptinga (LACE Legal Director) Ms. Juliet Mule (Lace's Former Legal Director) (Absent principals include are Ms. Avril Rua & Mr. Eric Gumbo)

<sup>4</sup> If LACE were not a successful human rights NGO, this article would probably not be published in their first Newsletter. Perhaps LACE would not want to publish a negative assessment of itself. Also, if LACE were not a successful group, it probably would not produce a newsletter at all! The fact that LACE is successful suggests that if it lacked any attribute, it would seek to cure that deficiency immediately.

**(1) Mission to promote and protect internationally recognized human rights.****a. LACE's background**

LACE was founded in October 2008 by Kenyan attorneys and judges to provide legal services to the poor. LACE refers pro bono clients to members of the local bar and to professors from Moi University School of Law, who accept clients for representation by senior law students under faculty supervision.

The judiciary, bar and Moi University School of Law are all represented on the LACE board of directors. These members include: Justice Mohammed Ibrahim (Judge, High Court of Kenya, Chair); Kennedy Nyaundi (Advocate); Eric Gumbo (Advocate); and Vincent Mutai (Lecturer, Moi University School of Law). The LACE team in Eldoret is led by a new legal director, Ms. Milkah Cheptinga, who replaced the founding legal director, Ms. Juliet Mule. Indiana partners include Indiana Court of Appeals Judge Patricia Riley, and Professor Fran Quigley, director of operations for the Indiana side of AMPATH Visiting Professor at IU-Indy Law

**b. LACE's missions -- generally**

LACE's general mission is to protect internationally recognized human rights, including civil, political, economic, social and cultural rights. LACE's specific missions include: to train HIV-positive AMPATH patients as paralegals to help provide free legal services; to train elders, chiefs and community leaders about basic legal rights; to build capacity for the Kenyan legal community; to expand community education; and to enhance capacity to respond to gender-based violence. LACE is broadly committed to communicating the need to insure human rights for all, and helping ensure those rights are fully realized.

**c. LACE's missions matched with the 10 attributes**

LACE's general and specific missions fall squarely in line with the 10 attributes requirement that successful NGOs must seek to promote and protect internationally recognized human rights. Furthermore, LACE's staff and volunteers admirably further LACE's goals.

**(2) Adherence to human rights principles.**

All the evidence I saw was that LACE and its staff adhere to human rights principles, both internally and vis-à-vis others. This was readily apparent in the manner in which the LACE staff treated its interns, its secretarial assistant, and even its new legal director, who I met during the first hour of her first day on the job. Also, it was clear to me that LACE treats its clients with respect, professionalism and compassion.

**(3) Legality.**

LACE was created under Kenyan law, and appears to be full compliant with Kenyan and local law. It also respects rules and regulations of the Law Society of Kenya and the Moi University Faculty of Law, AMPATH, and other entities with which it is involved, such as the Indiana University School of Law-Indianapolis that has placed law interns at LACE.

**(4) Independence.**

LACE has the potential to take positions that conflict with local, regional and national politics and extant law, or that conflict with policies or practices of its funders (or *founders*). Will LACE stand up for its positions? Or will it bow to external pressures, cower, and compromise its obligation to keep the interests of its clients paramount?

Thus far, LACE appears to be fulfilling its obligation to be independent, free from crippling outside pressures.

**(5) Appropriate and adequate funding.**

LACE has received charitable cash and in-kind contributions from the Abbott Fund, the Rotary Club of Indianapolis, the Reuben Family Foundation, AMPATH (in whose building LACE is located), the IU School of Law—Indianapolis and its Program in International Human Rights Law, and various individuals. Many (including IU law interns) have donated talent and expertise to LACE and its clients. No donations appear to have been inappropriate, for example, by placing LACE in a position where it would compromise its obligation to represent its clients zealously, or by the donor exerting undue pressure on LACE to take any position or action. The clients' interests appear to always remain paramount.

Has LACE's funding been "adequate"? LACE would be able to accomplish a great deal more if it had more funding. LACE could always service its clients more exhaustively if it had greater funding. But, LACE has been able to accomplish a great deal with the limited funding it has received.

**(6) Non-profit status and service commitment.**

The service LACE provides is legal representation for indigent clients, none of whom pays LACE. Profit is not part of LACE's operational model. This evidences its commitment to servicing the poor and marginalized in Western Kenya.

**(7) Transparency and accountability.**

LACE's staff comprises a legal director, a legal officer, and a receptionist. Volunteer non-staff lawyers occasionally appear in court on behalf of the indigent LACE clients. Thus far LACE has had two legal interns from Indiana.

LACE prepares periodic activity reports, disseminates them to board members, and passes them to AMPATH and IU-Kenya administrators who disseminate them on their website and in internal distributions (e.g., <http://medicine.iupui.edu/Kenya/lace.html>; [www.medicine.iupui.edu/kenya/news\\_fall08.pdf](http://www.medicine.iupui.edu/kenya/news_fall08.pdf)). "Friends" of AMPATH and IU-Kenya receive updates via an electronic distribution list maintained by Professor Fran Quigley.

LACE communicates with the general public through flyers and word-of-mouth. The two Indiana law interns are also preparing a "Know Your Rights" brochure that will educate constituents about their human rights protections and inform them about LACE's structure and operations. They are also drafting an article that outlines the holistic approach that LACE has adopted in its provision of legal services to indigents who also have health problems.

LACE also demonstrates transparency and accountability by publishing and widely distributing a newsletter.

**(8) Adaptability and responsiveness.**

LACE was created with a specific focus, but has adapted and responded to community needs. LACE has expanded the geographical reach of its service provision, the substantive scope of its legal services, and its general focus on law as part of the greater holistic healing.

**a. Expanding to focus on domestic violence**

For example, LACE demonstrated adaptability when it modified its original focus on representing civil clients and expanded to advocate for victims of gender-based violence. LACE's advocates had to switch gears. Instead of directly representing victims in courtrooms—since the prosecution does this in domestic violence cases—the advocates had to ensure that the government appropriately investigated and prosecuted the cases. This also required LACE to have to work with the Centre for Assault Recovery of Eldoret (CARE) by lending expertise in helping domestic violence victims.

**b. LACE accepting Indiana human rights Law interns**

An anecdote reflecting LACE's adaptability, responsiveness and readiness relates to its recognition that over the last 10 months, it had progressed enough to receive significant outside legal assistance.

Around March 2009, Indiana students and I began discussing the possibility of their working as human rights law interns at LACE in August 2009. The students researched LACE extensively. I contacted LACE board members to discuss internship possibilities. Initially, the response was negative – LACE couldn't accept a US law student intern in August 2009. After all, LACE only began operating in October 2008, 10 months earlier. LACE wouldn't be ready, we were told.

But, upon reassessment, LACE recognized that it was able to accept not only one intern, but two—from IU School of Law-Indianapolis. In July and August 2009, LACE accepted law student interns Mr. Aaron Stark and Mr. Matthew Trick. And both interns are learning a great deal and contributing significantly to LACE's operations. It has been a positive, reaffirming experience for all concerned with the internship placements.

It is a sign of maturity for an organization to decline assistance if its infrastructure and operations are not yet ready. LACE certainly is and has been ready to accept challenges. LACE is stable, but flexible, in its operations.

**(9) Cooperative and Collaborative.****a. LACE adopts "holistic approach"**

LACE has adopted a holistic approach, championed by AMPATH,<sup>5</sup> that appears to have adopted the following World Health Organization definition: "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."

At AMPATH, and at LACE, HIV-AIDS prevention and treatment demands a holistic, biopsychosocial approach that includes prevention, medical care, nutrition, psychosocial support, income security, and as focused on by LACE, resolution of legal issues that result from HIV-AIDS and that may exacerbate HIV-AIDS.

<sup>5</sup> USAID-AMPATH is the Nobel Peace Prize-nominated program partnership among Moi University School of Medicine, Moi Teaching and Referral Hospital and Indiana University School of Medicine.

LACE seeks to address needs of the individual client, their family and other units to which the individual is a member. It cooperates and collaborates with doctors, social workers, therapists, other lawyers, court officers, and others in its quest to provide legal services to its clients. It works with the Moi Faculty of Law, AMPATH (in whose building LACE is housed), members of the Kenya and Indiana judiciary, NGOs such as Rotary, IU law faculty, and the media.

**b. Visiting Fellow – IU Program in International Human Rights Law**

Moi University Faculty of Law member Vincent Mutai is the first Kenyan to become a Visiting Fellow of the Program in International Human Rights Law of Indiana University School of Law – Indianapolis. During his tenure at our Human Rights Center, Professor Mutai was able to collaborate with our faculty and staff on various projects, including the shadow reporting project whereby IU and Moi students would research, draft and present reports to the United Nation about human rights violations in Kenya. Professor Mutai was also able to make progress on his own research projects, and we hope he – and others from Moi – will be able to collaborate further on research, publications, lectures, and service projects.

**c. Master of Laws (LL.M.) student(s); law student interns; visiting prosecutor**

LACE will be hosting an Indiana deputy prosecutor, is now hosting the two IU Law-Indianapolis human rights law student interns, and is sending a LACE Kenyan lawyer to IU Law-Indianapolis LLM in January 2009 for her Master of Laws (LL.M.) degree studies which she will undertake with a law school full scholarship conditioned on her returning as a LACE staff attorney for two years. IU Law Interns Matt Trick and Aaron Stark will deliver a presentation on *Studying Law in the U.S.* at the Moi Faculty, which may help recruit additional LL.M. students to study in the U.S.



*LACE founders, left-right: LACE former Legal Director Juliet Mule, Moi University Law lecturer Vincent Mutai, Indiana Court of Appeals Judge Patricia Riley, Advocate Eric Gumbo & USAID-AMPATH's and IU Law Professor Fran Quigley.*

**d. Indiana Law Delegation to Eldoret – October 2009**

In October 2009, LACE will host a delegation of Indiana government and private lawyers, judges, and law faculty, including IU-Indy Law Dean Gary Roberts, Judge Riley, and Professor Quigley. The delegation will visit with Kenyan judges, law professors, bar members, and LACE clients. As discussed below, there has been discussion about our IU law students returning to Kenya with the October delegation.

**e. Collaboration – IU law human rights interns at LACE**

Interns Matt Trick and Aaron Stark have their hands full during their short stay working at LACE in July and August. Projects they are working on include: helping to create a LACE newsletter; creating “Know Your Rights” brochures to help victims; help prepare Kenyans prepare reports to submit to the United Nations about human rights violations in Kenya; drafting a law article featuring the holistic approach to legal aid service provided by LACE; going on rounds with physicians to understand better the holistic approach; visiting the Imani workshop for HIV-AIDS patient artisan productions; drafting legal documents; developing legal templates for routine; consulting aide clinics for advice on operations; meeting with clients and assisting with client intakes; preparing court documents and accompanying advocates to court; and making at least two presentations at Moi Faculty of Law.



Also, there has been discussion of our two Indiana law student interns, Matt Trick and Aaron Stark, joining the Indiana legal delegation to help further cement ties among the Indiana legal community, IU-Indy law school, the Moi Law Faculty, LACE and the Eldoret legal community.

In a very short amount of time, Matt and Aaron became fully integrated into the work of LACE, and they stand to continue to make solid contributions during the remainder of their internships, and when (and if) they return to Eldoret in October 2009 for during the Indiana Law Delegation visit.

There is no better example of collaboration and cooperation than that involving LACE and our two Indiana human rights law interns.

#### f. LACE hosted my Eldoret visit

LACE also hosted my recent visit to Eldoret. After communicating with LACE, its leadership, and Moi Law Faculty, I gave a presentation at the Moi Law School on the topic of *Slavery, the Transatlantic Slave Trade, Hurricane Katrina, and the Right to Health for Africans in the Diaspora and Africans in Africa*. I discussed the relationship between the right to health and all other civil, political, economic, social, cultural and other rights. I also spoke about legal education in the United States, and my two US students gave a powerpoint presentation about that after I left Eldoret. LACE administrators who had studied law in the US participated, as did the current LACE staff member who will commence study at IU-Indy Law in January 2010.

#### (10) Competence and reliability.

LACE is unquestionably competent and reliable. I've worked with many human rights NGOs, including groups that have existed for many years. LACE, in 10 months, has accomplished what it sometimes takes other NGOs years to accomplish. LACE has a steadily growing case load involving clients with a wide range of legal issues that relate to and flow from their HIV-AIDS status. LACE has successfully represented clients in Eldoret courts, and in negotiations regarding child custody, inheritance, improper disclosure of status, and discrimination because of status. I didn't spend much time with LACE clients, but I saw many waiting outside the small LACE offices, patient, knowing they could count on LACE. LACE can't guarantee that any LACE client will prevail on any specific legal issue. But LACE can, and does, guarantee that it will represent all its clients zealously, with the clients' interests paramount.

Yes, LACE is competent and reliable.

LACE has successfully helped many clients in a short time. For example, LACE helped an HIV-positive Kenyan widow inherit from her deceased husband's property that her in-laws had refused her; assisted a mother and infant son abandoned by the husband upon discovering the wife's HIV status; and assisted a client who was sexually assaulted but couldn't afford fees to file a police report or have a post-assault physical exam.

Without LACE, these people would have had no access to justice. LACE has built an advocacy model that effectively responds to legal issues surrounding HIV-AIDS, one of the great human rights challenges of our era.

#### VII. Conclusion

In less than a year, LACE has become the leading legal services centre servicing the poor in Eldoret, and indeed in all of Western Kenya. LACE provides high quality representation to a marginalized sector of society – individuals and families affected by HIV-AIDS—who are discriminated against, ostracized, deprived of medical and social services, and afflicted with a wide range of other legal problems. Furthermore, LACE has branched out from its initial model of representing civil clients, and now also advocates for victims of gender-based violence. LACE is blossoming.



*The 2007 post-election crisis displaced 1000s of Kenyans. Many IDPs—internally displaced persons—have legal issues and are eligible for LACE legal assistance.*

recognized human rights. LACE's command of the substantive human rights law issues it deals with, and LACE's determination to carry out its missions, render it highly likely to continue to be successful in righting wrongs perpetrated on its indigent clients.



*LACE lunch meeting. Right to Left: Mr. Vincent Mutai (Lecturer, Moi Law Faculty); Ms. Milkah Cheptinga (LACE Legal Director); Ms. Juliet Mule (LACE's Former Legal Director); Mr. Matt Trick (IU Law Intern), Mr. Aaron Stark (IU Law Intern); Ms. Anne Konuche (Lecturer, Moi Law Faculty); Mr. Maurice Oduor (Lecturer, Moi Law Faculty)*