

GENDERED RISK; CHALLENGES WHRDs FACE IN THE COURSE OF THEIR WORK

FACT SHEET



INTRODUCTION

A defender is characterized by the activity of promoting and protecting human rights. In answering the question 'Why Focus on WHRDs, the report provides a starting point on the understanding of the challenges faced by WHRDs in Kenya in the course of their human rights work and the reasons why WHRDs in Kenya face these challenges in the course of their human rights work.

Women Human Rights Defenders, who put themselves on the front line in the promotion and protection of human rights, are subject to the same types of risks faced by their male HRDs, but as women, they are also targeted for or exposed to gender-specific violence and violations that have gendered consequences.

Violations that have gendered consequences refers to violations that are experienced by both male and female defenders, but may have different consequences for WHRDs because different social and cultural norms govern the gender identity, sexuality, and gender role of women in different contexts. For instance, arbitrary arrest or detention of WHRDs adds an additional threat of sexual assault or violence when in custody.

Gender-based violence is defined as any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life. E.g sexual assault, rape and structural discrimination on the basis of gender, attacks against her home and family members.

NCHRD-K therefore carried out a survey of WHRDs to better understand the environment within which they are operating in by identifying the challenges they face in the course of their human rights work and attempt to understand the reason why they are facing these challenges. This report has been developed to offer insight into the working environment of WHRDs. The NCHRD-K hopes that the information contained herein will enable organisations working with Women Human Rights Defenders put in place requisite protection measures to ensure the safety of WHRDs as they conduct their human rights work.

This is not a comprehensive report and the NCHRD-K encourages further research on the subject matter to build on the information contained herein.

METHODOLOGY

The information contained herein was collected through the dissemination of an open ended questionnaire that was developed and distributed among Women Human Rights Defenders who were present during a training convened by NCHRD-K and Office of the High Commissioner for

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Human Rights that took place on 10th - 16th July 2016. The NCHRD-K received a total of twenty (20) responses representing the following counties; Busia, West Pokot, Machakos, Isiolo, Meru, Trans Nzoia, Kilifi, Taita Taveta, Lamu, Homabay, Siaya, Kericho, Laikipia, Bungoma, Nairobi, Kirinyaga, Bomet, Vihiga, Mombasa and Muranga.

The questionnaire asked two questions:

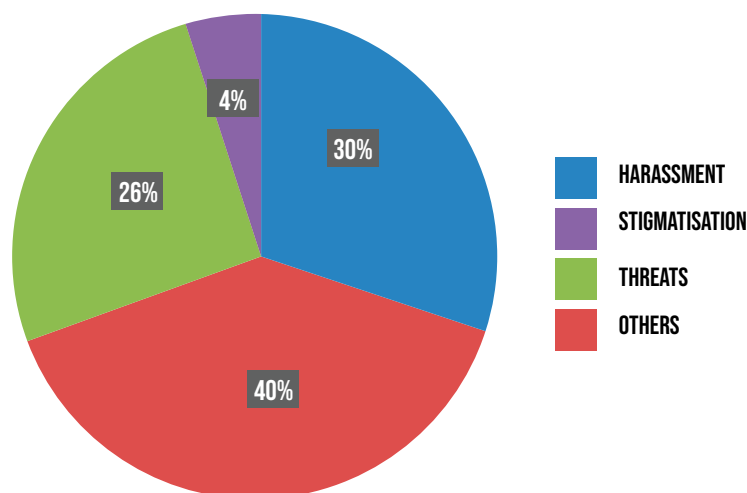
1. Which challenges do you, as a woman human rights defender, face in the course of your human rights work?
2. Why do you think you are facing these challenges as you carry out your human rights work?

FINDINGS

Challenges faced by WHRDs:

- Harassment - 30% of the Women Human Rights Defenders indicated harassment from both state and non-state actors. Especially in advocating for justice for victims of sexual and gender based violence, where they are left vulnerable to physical and verbal abuse by the community and the perpetrators of these violations.
- Stigmatization - 40% of the respondents pointed to stigmatization as being one of the major challenges to their human rights work. This is especially prevalent in pastoralist communities where the stigma is not only brought about by the gender aspect but also by the fact that as a WHRDs one has not is seen as a dissident who has not earned her space to educate men on human rights.
- Threats and Insults - 26% of the WHRDs indicated threats as a challenge to their human rights work. Direct and indirect threats of physical assault, not just to the HRD but also to their families, and verbal abuse instils fear in them, making it difficult for them to pursue matters to conclusion.

Other challenges stated by 4% of the respondents were; psychological torture, defamation, denial of information, assault, limited finance, arbitrary arrest, discrimination, negligence and delay of court process, abduction, suspicion, detention, destruction of property, insecurity, lack of cooperation from state and non-state actors, lack of accountability and denial of freedom of assembly



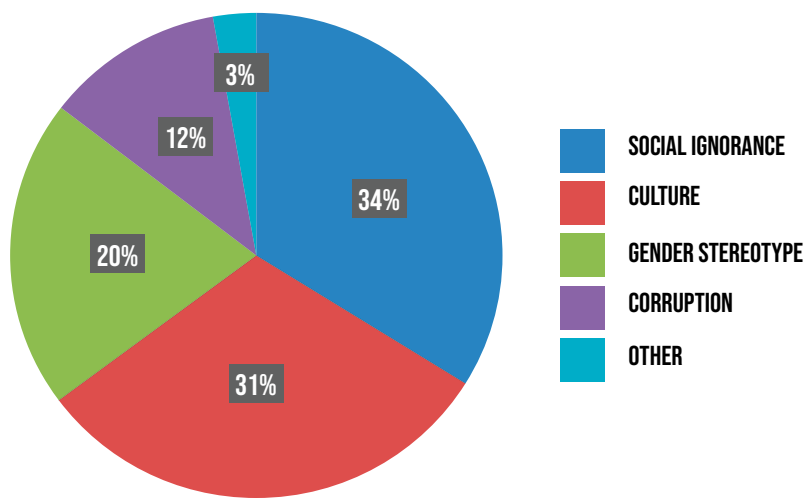
The reasons cited as to why WHRDs face these challenges include;

- **Social Ignorance** - 34% of the women acknowledged that some of the challenges they face is due to ignorance by the community which has not changed their mind set on the role of women in society and addressed their mind to emerging issues pertinent to realisation of human rights. For instance, ignorance on sexual orientation and gender identity issues and women's rights discussions.

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- **Culture** – This is two-fold... cultural barriers which hinder women who are at the forefront of advancing human rights and deep rooted dispute resolution culture which prefers cultural solutions. 31% of the women feel that culture is a contributing factor to harassment and stigma by the community.
- **Gender Stereotypes** - In African culture, and within specific communities, it is unlikely that a woman is able to address certain concerns in a community and is given audience. This was a concern for 20% of WHRDs who stated that as they carry out their human rights work they are seen as “wayward woman who has no business in poking her affairs into other people's business”.



Legislative Framework

Human rights are enshrined in the Universal Declaration on Human Rights (UDHR), and subsequently in conventions and treaties which reinforce and safeguard the human rights principles which are the cornerstone in the protection of Women Human Rights Defenders. At international level the protection of WHRDs can be found not only within the UDHR, but also within the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on Elimination of All forms of Discrimination against Women (CEDAW).

These have corresponding treaty bodies which are committees of independent experts that monitor implementation of the core international human rights treaty. Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty. The UN Declaration on HRDs is not, in itself, a legally binding instrument. However, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding—such as the International Covenant on Civil and Political Rights. The provisions within the international bill of rights are echoed in the African Charter on Human and People's rights (The Banjul charter) which encompasses civil and political rights, economic, social and cultural rights and group rights within one instrument. The Banjul Charter, under Part 1 provides for rights and duties which safeguard the life, dignity and security of the person, access to justice and equal protection before the law and against non-discrimination.

These provisions are found under chapter 4 of the Kenyan Constitution 2010 while substantive legislation, such as the Penal Code and the Sexual Offences Act also offer protection for WHRDs.

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Recommendations

To the State:

1. Develop legislation that supports and safeguards the work of Women Human Rights Defenders espoused in a model legislative framework on the protection of human rights defenders which is in compliance with international and regional set standards;
2. Acknowledge publicly the important and legitimate role of Women Human Rights Defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them and promptly bring to justice through impartial investigations the perpetrators of these violations;

To Funding Agencies of Human Rights Work:

1. Support a coordinated mechanisms for holistic (legal, medical, psychosocial, physical) support to Women Human Rights Defenders at the national and grassroots level

To WHRDs:

1. Develop solidarity mechanisms for regional, national and grassroots WHRDs for learning and lessons sharing through a common communication strategy.
2. To enhance collaboration or partnerships with key actors in the judicial process to ensure their issues find place in the mainstream system, including Court Users Committees, community policing committees and with the police;

To National CSOs:

1. Put in place gender sensitive rapid response mechanisms for WHRDs at risk so as to ensure readily available legal, medical and psychosocial support as well as pre-emptive strategies that will ensure that WHRDs do their work in a safe and secure manner.
2. Support the work of WHRDs and work closely with them at the community and grassroots level to carry out advocacy on issues of concern within the various counties and lobbying of policy makers at national and county level to ensure a conducive policy environments for HRD.