



SUMMARY REPORT

SEXUAL HARASSMENT IN THE INFORMAL SECTOR WORKSPACES: PREVALENCE, LAW & REDRESS IN KENYA

DECEMBER 2020

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01 | Introduction

Kenya's Economic Survey Report 2020 revealed that an estimated 90.7% of the new employment opportunities created were in the informal sector, excluding small-scale agriculture.¹ Further, the Kenya's working labour force estimated to be 22.3 million where 19.7 million (88%) were working whereas 2.6 million (22%) are actively seeking work. More than half of total working population are Kenyan women and similar proportion is youth (10.1 million).² Informal sector is both important and influential in employment creation, sustaining production, and income generation.³ The Economic Survey Report (2020) acknowledges that Kenya informal sector encompass small-scale economic activities that are generally

semi-organised, unregulated and use low and simple technologies. The average minimum wage for the informal sector employees was Ksh.21,310.85 for Nairobi, Mombasa, and Kisumu, Ksh.19798.61 for former municipalities (including Ruiru, Mavoko and Limuru), and Ksh. 16,841.40 for other smaller towns. This is above the daily poverty line but certainly below the living wage in these areas. The Kenyan population is increasing joining informal sector over the last 5 years. In 2019, the Economic Survey Report (2020) placed the number of informal sector employees 15.1 million and which had increased 5.4% compared to 2018.⁴

Table 1: Persons Engaged in Kenya's Informal Sector 2015-2019

Categories	2015	2016	2017	2018	2019
Informal Sector Urban ('000)	4271.4	4511.8	4801.9	5070.7	5337.4
Informal Sector Rural ('000)	7765.4	8238.1	8737.6	9212.9	9714.2
Total Informal Sector Employees ('000)	12036.8	12749.9	13539.9	14283.6	15051.6
Aggregate Employees ('000)	14758.5	15565.6	16471.4	17295.8	18142.7
% of Informal Employees	82%	82%	82%	83%	83%

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¹ KNBS (2020), The Economic Survey 2020, Kenya National Bureau of Status

² KNBS (2020), 2019 Kenya Population and Housing Census, Volume IV, Distribution of Population by Social Economic Characteristics

³ Komollo F.O (2007) 'Revitalization of Informal Sector Activity Sites, the Case of the Landhies-Jogoo Road Façade'. University of Nairobi: An Unpublished BA (Planning) Development Project.

⁴ KNBS (2020) Economic Survey 2020

The UN⁵ defines Sexual harassment as any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment is with the body of sexual offenses that include gender-based violence (GBV), sexual-based violence (SBV), and sexual and gender-based violence (SGBV). While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders and is about how the victim feels not regardless of the motive of perpetrator.



02 | Existing Evidence on Sexual Harassment and Effect on Informal Sector

There is limited documented evidence of the cases of sexual harassment in the informal sector. Hardly any specific Kenyan context study had been adduced. In Africa, there are two studies that stand out, a Nigerian Garage case and Ethiopian Hotel workers' case. In the Nigerian study, sexual harassment of female adolescents in 4 motor garages in Ilorin was not only pervasive, widespread but also very alarming. All participants disclosed had daily experiences of sexual harassment.⁷ For the Ethiopian case, the focus was on building experience and developing a context specific and data-driven coping strategy framework for sexual harassment victimization against women working in the hospitality workplaces. The study established that coping strategies of sexual harassment were influenced by the individual, environment, and cognitive reappraisal. Four coping dimension strategies were established as normalization, engagement, help-seeking, and detachment with the respective barriers. The normalization encompassed silence, acceptance, denial, refusal, grief, and tolerance. For the engagement dimension consists of confrontation, negotiation, retaliation/threatening, and discrimination of perpetrators. The help-seeking dimensions comprised discussing with friends, complaining to supervisors, consulting professionals, and accusing the perpetrators. Lastly, the detachment dimension entails job-hopping, job-withdrawal, and distancing. A variety of barriers deterred all dimensions. The new coping strategic framework can serve as a valuable guide to design context-specific interventions that make the women and the stakeholders prevent sexual harassment, decrease the barriers, and alleviate effects.

⁵ UN WOMEN (2013) Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority: The Secretary General's Bulletin (ST/SGB/2008/5)

⁶ Picture Courtesy of <https://www.picuki.com/tag/markiti>

⁷ Abdullahi Ali Arazeem, Mariam Seadat Khan, and Ajimati Tomilola Ifeoluwo (2017). **Myth of the Informal Sector: A Study on the Sexual Harassment of Female Adolescents in Four Motor Garages in Ilorin, Nigeria.** Perspectives on Global Development and Technology 16 (2017) 717-735. 10.1163/15691497-12341458.

In September 2020, the UN Women drafted a paper on “Sexual Harassment in the Informal Economy: Farm workers and Domestic Workers”⁸ emphasised on the susceptibility of informal economy workers to sexual harassment. The wide spread discrimination of women and gender violence for women informal economy is exhibited in many ways and the sexual harassment is becoming an increasing concern.

03 | Methodology

We employed an exploratory sequential mixed-methods approach using both quantitative and qualitative research methods to collect data and describe sexual harassment situation in the informal sector in Kenya. A total of 794 respondents were selected randomly and interviewed using a structured interviewer administered questionnaire to gather quantitative data. For qualitative data, key informant interviews were undertaken with representatives of Jua Kali Association, Boda boda Association, directors in select tea estates in Kericho county, and supervisors of select flower farms in Naivasha counties. In addition, non-participant observation was conducted in different markets within Nairobi City County. Secondary data was also gathered through desk review. All COVID-19 safety protocols⁹ were observed during the data collection process.

Qualitative data / information analysis was done through Content analysis approach. The information drawn was clustered into themes and sub-themes to complement the data collected quantitatively. Part of the qualitative data was captured verbatim and presented in text boxes or as quotations. All the qualitative data was reported

anonymously.

Quantitative data was analysed using Statistical Package for Social Scientists (SPSS) v.26 of 2019 and complemented with Ms Excel 2019 for charting. The data was disaggregated by gender, age, and geographical areas targeted in the study. All the quantitative data was presented in charts, graphs and tables as representative percentages and frequencies.

04 | Prevalence of Sexual Harassment in Kenya

Hivos East Africa undertook a rapid assessment study of sexual harassment in the informal sectors in Kericho, Nakuru, Nairobi, Kiambu and Murang’a counties in Kenya.

The following were the key findings:

- » There was low (36%) awareness and understanding of sexual harassment¹⁰ in the informal sector. Slightly more (37%) females than males (33%) had knowledge and awareness of sexual harassment in the sector.
- » Sexual harassment was reportedly more predominant in the informal sector at 47%. The female workers in the sector reported a higher prevalence rate at 58% with males reporting at a rate of 35%. Regionally, in Kericho county more than 50% of informal sector workers had experienced sexual harassment whereas in Nakuru, Murang’a and Kiambu Counties sexual rate of harassment was approximately 40% and 30% in Nairobi County.

⁸ UN Women (2020), Sexual Harassment in the Informal Economy: Farmworkers and Domestic Workers” New York, September 2020.

⁹ <https://kma.co.ke/Documents/Case%20management%20protocol.pdf>

¹⁰ Most mentioned forms of Sexual harassment - Someone behaves in a way that makes you feel distressed, intimidated, or offended and the behaviour is of a sexual nature; Unsolicited sexual comments or jokes/ Verbal remarks of a sexual nature (including jokes) directed towards you or in your presence; Unwelcomed sexual advances; Uninvited and Unwanted touch; Sexually assaulted-rape or Garrotting/ physical beating; Unconsented Sending messages, emails, social media etc with sexual content; Comments about your body that made you uncomfortable; Sexual coercion: promises or hints at enhanced career prospects in return for a sexual favour, or threatens adverse career impact if you do not respond favourably; Persistent and unwanted invitations of a sexual nature, and Unconsented displaying photos, pictures, or drawings of a sexual nature.



- » Most prevalent types of sexual harassment experienced was uninvited or unwanted touch. Two in every 10 informal workers had experienced uninvited or unwanted touch. Several informal sub-sectors that reporting higher incidences of sexual harassment included horticulture (both vegetable and flower), boda boda¹² /matatu operators, mama fua (casual home cleaners), hotel service attendants, tea pickers, barbers/salon and Mitumba (second-hand cloth sellers). Secondly, there was a specific complaint on uncomfortable comments about the body or body shaming.
- » Most of the perpetrators of sexual harassment were cited as customers and workmates. It was reported that 2 in every 10 respondents cited to have been sexually harassed by their customer whereas approximately 12% reported

¹¹ Picture courtesy of <https://pickyourday.com/activity/1581>

¹² Public Service Cycle Transport

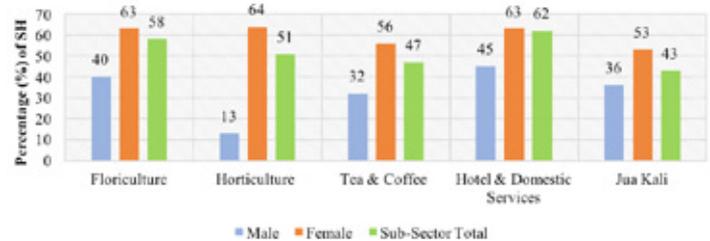


Figure 1: Sexual Harassment Prevalence in Different Sub-Sectors

work colleagues.

- » Women, youth, and new recruits at informal workspaces were the most vulnerable to sexual abuse.
- » Most convenient time for sexual harassment was during working hours and this happened within the working area.

05 | Factors that increase sexual harassment

- » Sexual harassment is highly influenced by poverty and the feeling that the victim have that they do not have other economic / income opportunity alternatives.
- » Deep-rooted sexual harassment was reportedly fuelled by cultural attitudes and the feeling of entitlement over others particularly for males.
- » Drug abuse and alcoholism was mentioned as a key factor in increased sexual harassment.
- » The COVID-19 was said to have accelerated sexual harassment particularly were those with diminished incomes or lost jobs are sexual harassed for jobs.



Women Keeping Fit at Nakuru Wakulima Market¹³

06 | Recommendations to Redressing Sexual Harassment in Informal Spaces

I. Dealing with normalisation and acculturalisation of Sexual Harassment in public and private informal sector working spaces.

Generally, sexual harassment is considered a serious issue or even crime. In the informal sector settings most of the time sexual harassment is perceived as the norm and the complainants/ victims end up being stigmatised and “labelled” negatively. It is nearly a ‘crime’ to report a sexual harassment occurrence. There is need to develop strategies

for deculturalisation of sexual abuse and sexual harassment informal spaces:

- » Sensitize the public on the criminality of sexual harassment with a higher threshold as other sexual offences;
- » Encourage victims and witnesses to report on the SH cases to authorities and law enforcers;
- » Advocate for installation of CCTV surveillance systems within residential or closed working spaces;
- » Advocate with the judiciary and other strategic litigants for prompt and speedy resolution of sexual harassment cases;
- » Embed anti-sexual harassment clauses / articles in the employee contracts.

II. Simplify Definition of Sexual Harassment Definition and Disseminate Information

The definition of sexual harassment must emphasise the feeling on the victim as opposed to the intention of the perpetrator.

- » There is need to widely disseminate information on sexual harassment to the public and among informal sector workers.
- » Print and distribute the popular version of the sexual offences act 2006 and any other relevant Acts of parliaments.

III. Strengthen the enforcement of existing Anti-Sexual Harassment Laws and Policies

There are several anti-sexual harassment laws and policies

¹³ Picture courtesy of the Standard Media: <https://www.standardmedia.co.ke/pictures/766/woman-traders-use-nakuru-wakulima-market-to-keep-fit>

however, however, weak enforcement remains a challenge. To remedy this, the following measures should be adopted:

- » Lobby for express inclusion of sexual harassment as a stand lone crime in the penal code;
- » Training for the police manning the gender desks on sexual harassment within the police stations and other law enforcers such as chiefs, assistant chiefs, Nyumba Kumi , and County Enforcement Officers (*Kanjo*);
- » Develop a reporting template for the police on the cases reported on sexual harassment (The OB is usually bulky to trace back on cases recorded);
- » Improve on case management of sexual harassment and classify it as a disturbance to mental wellbeing with implications on mental health;
- » Support full implementation of the National Policy on Gender Based Violence and lobby for development of county specific policies on GBV to capture context;
- » Expand role of actors in law enforcement such as the county law enforcers, *Nyumba Kumi*¹⁴ among others;
- » Include sexual harassment as one of the offences to be discussion before securing a job or transferring discussed opportunities.

IV. Innovative strategies for customer instigated sexual harassment

The main perpetrators of the sexual harassment were mentioned as customers. The biggest challenge is that many businesses are sole-proprietor informal businesses or individuals offering services to the persons and sometimes they are desperate and helpless. The following are some of the recommendations to deal with this crisis:

- » Develop a social-ethics and code of conduct;
- » Demand focused law enforcement and sexual harassment resolution. For companies with more than 10 employees for an anti-sexual harassment resolution committee. For individual businesses operating with groups or trading blocs such as Boda boda associations, *Matatu* SACCOs, encourage them to develop rules on anti-sexual harassment and make them binding;
- » Provide toll free numbers and templates for reporting experienced or witnessed cases of sexual violence;
- » Work with community media to sensitize customers on sexual harassment crime.
- » Persistent employees who sexual harass colleagues should have their contract terminated;
- » Decongest the market place so that there is space for movement and safe distance to reduce unwanted and uninvited touches.

V. Opportunity under Devolution for Redressing Sexual Harassment

The county governments have special role in issuance of single business permits and liquor licences and developing policies at county levels. The following is recommended:

- » Advocate for inclusion of sexual harassment clause/ articles in the county by-laws and have county enforcement officers track and monitor this offence and possibly fine the offenders;
- » Develop a county specific Policy on GBV and Sexual Harassment
- » Put an Anti-Sexual Harassment compliance condition on the issuance of single business permits and liquor

¹⁴ Local security surveillance set up(group) at village level that is composed of ten families. Keeping each other accountable to their safety & security.

- » Under civic education provision undertake mass training on sexual harassment;
- » Place Information, Education and Communication (IEC) materials of sexual harassment in the County Service Centres or websites;
- » Have Members of County Assembly (MCAs) who are anti-sexual harassment champions;
- » Form a directorate or office dealing with sexual harassment, SGBV, and other sexual offences;
- » Deter/ close and withdraw business permits for businesses accused of sexual offences, particularly sexual harassment from County public procurement opportunities.

VI. Data Collection and Documentation

Lack of data on sexual harassment is a problem. Interventions should include:

- » Monthly and quarterly reporting on sexual harassment by companies with more employees and the registered groups dealing with common interest trades.

- » Quarterly bulletin on sexual harassment prevalence, reports, and case resolutions.
- » Differentiated reporting of sexual harassment in researches. Working with the National Crime Research Centre to track cases of sexual harassment specifically.

VII. Establish an Effective Complaints Redress Mechanism on Sexual Harassment

Complaints Redress Mechanism on SH is generally lacking. It will be important to have:

- » An established complaints redress mechanism at organisation level or community level.
- » Effective case management system on the reported cases of sexual harassment.
- » Give feedback to redressed victims of sexual harassment.

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