Exploring Prevalence of Sexual Harassment within the Informal Sector in Kenya

A RAPID ASSESSMENT REPORT | DECEMBER, 2020
Exploring Prevalence of Sexual Harassment within the Informal Sector in Kenya | A Rapid Assessment Report
December 2020

Hivos East Africa

Design & Layout by: Joseph Waciira / Aksent Creative Limited
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<tbody>
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<td>ADS</td>
<td>Anglican Development Services</td>
</tr>
<tr>
<td>CAJ</td>
<td>Commission on Administrative Justice</td>
</tr>
<tr>
<td>CEDAW</td>
<td>UN Convention on the Elimination of All Forms of Discrimination Against Women</td>
</tr>
<tr>
<td>COTU</td>
<td>Central Organization of Trade Unions</td>
</tr>
<tr>
<td>COVAW</td>
<td>Coalition of Violence against Women</td>
</tr>
<tr>
<td>COVID-19</td>
<td>Novel Corona Virus Disease-2019</td>
</tr>
<tr>
<td>CREAM</td>
<td>Centre for Rights Education and Awareness</td>
</tr>
<tr>
<td>CRIB</td>
<td>Crime Research and Intelligence Bureau</td>
</tr>
<tr>
<td>CSOs</td>
<td>Civil Society Organisations</td>
</tr>
<tr>
<td>DCI</td>
<td>Directorate of Criminal Investigations</td>
</tr>
<tr>
<td>DEVAW</td>
<td>UN Declaration on the Elimination of Violence against Women</td>
</tr>
<tr>
<td>eKLR</td>
<td>Electronic Kenya Law Review</td>
</tr>
<tr>
<td>FGD</td>
<td>Focus Group Discussions</td>
</tr>
<tr>
<td>FIDA-K</td>
<td>Federation of Women Lawyers-Kenya</td>
</tr>
<tr>
<td>FKE</td>
<td>Federation of Kenya Employers</td>
</tr>
<tr>
<td>GBV</td>
<td>Gender Based Violence</td>
</tr>
<tr>
<td>GBVRCs</td>
<td>Gender Based Violence Recovery Centres</td>
</tr>
<tr>
<td>GJLOS</td>
<td>Governance, Justice, Law and Order Sector</td>
</tr>
<tr>
<td>GROOTS K</td>
<td>Grassroots Organisation Operating Together in Sisterhood (Kenya)</td>
</tr>
<tr>
<td>IG</td>
<td>Office of Inspector General of Police</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>ISA</td>
<td>Informal Sector Activities</td>
</tr>
<tr>
<td>KDHS</td>
<td>Kenya Demographic Housing Survey</td>
</tr>
<tr>
<td>KII</td>
<td>Key Informant Interviews</td>
</tr>
<tr>
<td>KNBS</td>
<td>Kenya National Bureau of Statistics</td>
</tr>
<tr>
<td>KNFJKA</td>
<td>Kenya National Federation of Jua Kali Associations</td>
</tr>
<tr>
<td>KPHC</td>
<td>Kenya Population and Housing Census</td>
</tr>
<tr>
<td>KUDHEIHA</td>
<td>Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers</td>
</tr>
<tr>
<td>MOPSGA</td>
<td>Ministry of Public Services and Gender Affairs</td>
</tr>
<tr>
<td>MSMEs</td>
<td>Micro-Small Medium Enterprises</td>
</tr>
<tr>
<td>NCRC</td>
<td>National Crime Research Centre</td>
</tr>
<tr>
<td>NGEC</td>
<td>National Gender and Equality Commission</td>
</tr>
<tr>
<td>NPS</td>
<td>National Police Service</td>
</tr>
<tr>
<td>NSA</td>
<td>Non-State Actors</td>
</tr>
<tr>
<td>ODPP</td>
<td>Office of Director of Public Prosecution</td>
</tr>
<tr>
<td>SGBV</td>
<td>Sexual Gender Based Violence</td>
</tr>
<tr>
<td>SH</td>
<td>Sexual Harassment</td>
</tr>
<tr>
<td>SMEs</td>
<td>Small Medium Enterprises</td>
</tr>
<tr>
<td>SSQ</td>
<td>Semi-Structured Questionnaire</td>
</tr>
<tr>
<td>ToR</td>
<td>Terms of Reference</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>WIEGO</td>
<td>Women in Informal Employment Globalizing and Organizing</td>
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</tbody>
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EXECUTIVE SUMMARY

In Kenya, available data demonstrates that sexual harassment is rampant in the country (KDHS, 2014; KNBS, 2014). However, its prevalence differs according to context and source of data. Observably, other than the variations on actual rates, most cases also go unreported. There is widespread discrimination of women and gender-based violence in the informal economies manifested in many ways and sexual harassment is becoming an increasing concern. The objectives of this study was to describe the prevalence of sexual harassment in the informal sector in Kenya; identify and describe the factors abetting/ exacerbating sexual harassment in the informal sectors in Kenya; identify, define and categorize anti-sexual harassment response actors within Kenya, and establish an efficient and adaptable linkage and collaboration framework; define the policy, priorities, the gaps, and the strategic next steps within the sexual harassment context in Kenya; and finally, explore the potential and conditions required for concrete partnerships and scale of anti-sexual harassment interventions in Kenya.

This was an exploration study with mixed-methods research design. Data collection entailed policy and literature review, qualitative and quantitative interviews, and non-participant observations. Simple random sampling guided data collection on quantitative data whereas purposive sampling targeted qualitative data respondents. Both quantitative and qualitative data analysis were used to draw the findings and analysis. The research adhered to standard research ethical guidelines and the COVID-19 protocols.

The study has established that sexual harassment was highly prevalent in the informal sector. With an aggregate prevalence of 47%, the females had the highest sexual harassment rate at 58% while the men had a lower prevalence rate at 35%. There were no significant geographical differences on sexual harassment prevalence, though Nairobi reported the lowest prevalence level at 35%. All the sub-sectors targeted for the study recorded above 40% prevalence of sexual harassment. Priority informal sector sub-sectors with more than 50% of the SH cases were floriculture, hotel and domestic and horticulture. Sexual harassment happens most in the working areas and during work hours. The study established that women are the most vulnerable employees and the perpetrators were mostly fellow male employees of the same cadre and the customers. Knowledge and awareness on sexual harassment and relevant laws was low at 36%. There are robust and enough laws to tackle sexual harassment but implementation especially on enforcement was still a big problem. To
address sexual harassment, relevant government actors are broadly classified into legal and policy formulators; legal and policy implementors; and legal and policy enforcers should be targeted. The other stakeholders are non-governmental women focused organisations, faith-based organisations and trade unions. The study identified some of the policy areas for SH intervention as: stakeholder coordination; law enforcement policy enhancement, and evidence-based policy research. The entry areas for SH intervention were identified as mass education, building alliance and network of state and non-state actors (NSA), multiple sectoral and stakeholders, and grievance redress mechanism. From this rapid assessment, several recommendations are made: Adoption of multi-sectoral and multi-stakeholder approach to eradicate sexual harassment in informal economies; rollout mass education campaigns on sexual harassment in informal sector; support institutions to develop anti-sexual harassment policies and grievances redress mechanism; strengthen the reporting, documentation and prosecution of the sexual harassment cases and engage with county government structures of enforcement especially in open spaces or regulatory frameworks to tackle sexual harassment and mainstream gender-based violence redress in all policy frameworks.
01 | INTRODUCTION

1.1 Kenya’s Informal Sector Employment and Contribution to Economy

The 2019 Kenya Population and Housing Census (KPHC) report established Kenya’s economically active population to be 22.3 million of whom 19.7 million were working whereas 2.6 million were actively seeking work. The females contributed 50.2% of the total working population. In the urban areas, the males contributed 50.4% compared to the 49.6% for females in the working labour force. There were about 10.1 million persons aged 18-34 and 4.1 million persons aged 15-24 years in the labour force. The youth, therefore, represented more than half of the active labour. The Kenya Economic Survey Report (2020) indicated that the total new jobs generated in the Kenyan economy were 846,300. Only 78.4 thousand created in the formal employment sector whereas 767.9 thousand were in the informal sector. Excluding small-scale agriculture, informal sector jobs created were 90.7%. Additionally, the total number of self-employed and unpaid family workers with the modern sector had an estimated marked increase of 10,500 persons 152,200 (2018) and 162,700 (2019).

Kenya’s informal sector is not only key but it is also significant to the economy as it contributes to employment creation, production, and income generation. The Economic Survey Report (2020) acknowledges that Kenya informal sector encompasses small-scale economic activities that are generally semi-organised, unregulated and uses low and simple technologies. Hence, the sector is labour intensive. With diminishing spaces in the formal employment sector, youth graduates and those leaving formal employment are increasing joining the informal sector. Quantitatively, the informal sector has recorded a continual and consistent growth over the last five years. As at 2019, the number of informal sector employees accounted for 15.1 million, which was 5.4% increase compared to 2018 values.

4 ibid
1.2 Sexual Harassment and the Informal Sector

The World Bank defines sexual harassment as “any unwelcomed sexual advance, request for sexual favour and other unwelcome verbal, non-verbal or physical conduct of a sexual nature which unreasonably interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive environment.” In this regard therefore, sexual harassment occurs in two fashions: first, a quid pro quo situation, whereby harassers in position of actual or perceived authority use sexual harassment as an enticement for niceties or exchange of employment or other benefits. In this scenario, the alleged perpetrators acts ignorant of sexual harassment repercussions or are aware of the prohibitive policies/regulations but choose to ignore the set policies and regulations. Secondly, is a situation were there is hostility environment at workplace. This encompasses failure by the business to stem or correct unwelcome sexual behaviour with a disruptive effect on a staff or group of staff; sexual actions at workplace that make the staff feel embarrassed, uncomfortable, threatened, humiliated, and/or unsafe; and sexual conduct that sometimes creates an aura of intimidation. In these informal spaces, because of the high unemployment levels among youth, sexual harassment is used as a bait to get employment or income. The decision to hire or not is made on the basis or influenced abetting sexual harassment. Further, the applicant’s response to uninvited or unwelcome sexual advances would determine their retention at workplace, termination or a creation of toxic work environment leading to resignation. The other scenario is where favourable employment benefits or performance assessment leading to promotion, assignment, training, or opportunity for advance is pegged on how a victim employee condones sexual harassment. Sometimes fear of retribution for highlighting an experienced or witnessed sexual harassment that inhibits productivity presents a fertile ground for SH. An employee acting as a whistle blower or who identifies sexual conduct at work could be considered offensive by general standards.

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In September 2020, the UN Women drafted a paper on “Sexual Harassment in the Informal Economy: Farm workers and Domestic Workers” and established that informality of any trade presents challenges such as reliance on verbal and precarious agreement, unsafe working environments, excessively long hours, lack of overtime pay, job security and social benefits such as unemployment pay, sick leave, access to health coverage, exclusion from labour laws and from many trade unions. Women make up the largest portion of low wage workers which is part of the systemic, intersecting forms of discrimination based on gender and sex, race, ethnicity, migratory status and ability. The widespread discrimination of women and gender based violence in informal economy is exhibited in many ways and sexual harassment is becoming an increasing concern.

The data available demonstrates that sexual harassment is rampant in Kenya (KDHS, 2014; KNBS, 2014). Its prevalence, however, varies according to context. Observably, other than the variations on actual rates, most cases also go unreported. Approximately 72.6% of the survivors are not only unwilling to report the abuse or harassment but also do not pursue justice. Unfortunately, sexual harassment is a social, economic, and human rights issue that affects individuals, communities and with dire consequences on national development (NGEC, 2016). COVAW (2018) report underlines the major driver of violence and sexual based harassment as the power imbalance between women and men in patriarchal societies. Indeed, Galtung hypothesizes that violence does not occur in a vacuum, but it is linked to socio-cultural and structural factors that impact on men and women’s choices and behaviour. This perception compromises not just sexual harassment prevention, but also the response to it. Additionally, various reports state that the impacts of sexual harassment may extend far beyond the individual survivors, affecting households, communities and traversing several generations. Numerous reports acknowledge that there is a strong link between economic insecurity and sexual harassment or any other type gender-based violence. This can result into economic consequences, costing estimated 1.2%-3.7% of GDP in some countries due to lost productivity.

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Moreover, NGEC report shows a negative impact of between 7.8% and 10% of the gross domestic product of Kenya, loss of production, and opportunity costs to the sexual harassment and violence survivor, their family, and society. In a previous study in Kenya, 90% of the respondents acknowledged sexual harassment as the most difficult problem experienced by women in the cut-flower sector. The report indicated that verbal slur/sexual harassment was the most common form of sexual harassment at 40%, followed by unwanted touching at 24%, threats of reprisal for not responding to sexual advances at 18%.

Furthermore, casual workers in the sector enjoy very limited protection under the labour laws such as right to collective bargaining or paid leave. The Employment Act (2007) does not respond effectively to the needs of the informal sector as illustrated in the context of this study. Indeed, the ILO refers to the informal sector as “casualisation of labour and has expressed concerns in the increased use of casual labour in formal employment.”

1.3 The Goal of the rapid assessment

The main goal of this rapid assessment was to understand the situation of sexual harassment within the informal sector in Kenya. The findings are meant to help build-up a unified mitigation/response system for anti-sexual harassment campaign in Kenya.

1.3.1 Specific Objectives:

The following specific objectives guided the data collection and data analysis:

1. To describe the predominance of sexual harassment in the informal economies in Kenya
2. To describe the factors exacerbating sexual harassment in the informal sectors in Kenya
3. To identify and categorize anti-sexual harassment response actors within Kenya
4. To define the policy context within the sexual harassment context in Kenya

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02 | RESEARCH METHODOLOGY

2.1 Research Design

Exploratory sequential mixed-methods design was employed in order to understand sexual harassment situation and the surrounding environment in the informal sector. This integrative approach concurrently allowed for the quantitative and qualitative research methods to address the research objectives. While it has been speculated there is high prevalence of sexual prevalence in the informal sectors, there is limited evidence on what the actual situation about sexual harassment within some sectors. This research design was best suited for study in the circumstance where there is only anecdotal literature and data.

2.2 Study site and sub sectors

The study covered the informal sector in five counties, both rural and urban: Kericho, Kiambu, Murang’a, Nairobi and Nakuru counties. Each of the geographical site had a dominant subsector that led to their selection as follows: Nakuru-floriculture and domestic services; Kiambu-horticulture, domestic services, tea and coffee; Murang’a-tea, coffee, horticulture and Jua Kali; Kericho-tea and hotel services and Nairobi-Jua Kali, hotel and domestic services, floriculture, and horticulture. Both females and males were fairly target in the study. Both gender and all ages in the study as the informal sector highly representative of the whole population.

2.3 Target Population

The study targeted workers involved in the informal sector activities from a broader perspective that included but not limited to floriculture, horticulture (vegetables sellers and food vendors), tea and coffee farm workers, non-farm agricultural, metal, scrap metal dealers and wood work, car wash operators, barbers, beauty and body art activities, public transport sector (taxi, boda boda, online taxis and car hires, and matatus), security guards, food hawkers and fruit vendors, hotel services and housekeeping, domestic work (residential and non-residential, and casual home care/cleaners), public works and construction, second hand cloth and boutique sellers, tuckshops and kibanda sellers, Mpesa\textsuperscript{16} and Lotto points agents, and emerging gig economy online and offline works. Both gender and all ages were considered in the rapid assessment.

\textsuperscript{16} Mobile Money agents
For purposes of analysis, the target population was grouped under five cluster categories for understanding sexual harassment in their workplaces: Floriculture, Horticulture, Tea and Coffee, Hotel and Domestic Services, and Jua Kali.

2.4 Sampling Procedure, and Sample Size calculation

2.4.1 Simple random sampling

For quantitative data, the study used simple random sampling method in different data collection sit to identify the respondents. The sampling observed established and local context relevant skip patterns to ensure that the sample was as representative as possible. To avoid repeat or double sampling, left arm rule to skip at least 3 to 5 different sampling points used in a linear direction unless the settlement pattern was clustered. In the case clustered areas, land mark areas were marked and the research assistant would only return to the same point after a designated period of 30-60 minutes and meeting different persons in other localities.

2.4.2 Purposive Sampling

For qualitative data, purposive sampling was used to identify the focus group discussion and key informant interview participants. The non-participant observation areas were also identified purposively in Wakulima markets, Muthurwa market, along Landhis road, City Stadium, Bama Market and Mutindwa Markets of Nairobi City County.

2.4.3 Sample Size Calculation

The following formula was used calculate and determine the sample size of this study:
With a degree of confidence being 95%, margin of error being 0.06, p=0.5, q(p-1)=0.5, value of z-score is 1.96 and a differential factor being 2, then the estimated sample size was 768 respondents.

2.5 Data Collection Techniques

2.5.1 Desk Review

The assessment undertook an extensive review of existing literature, existing policies and laws that are responsive to deterrence of sexual harassment at workplace. The literature on sexual harassment in the informal sector was however limited. Data review was also extend to involve review of international laws, conventions, national laws, and policies that address sexual harassment or the wider sexual and gender-based violence as most material jointly reported both issues. The reviewing of these laws, policies, conventions and protocols, the analysis considered the chapters, articles or statutes that prohibit sexual harassment at workplace and further considered recommendations for redress and remedial action for the victims. In terms of Kenyan laws, the focus was on establishing lacuna in law that require review or legislations to curb sexual harassment in both public and private spaces.

2.5.2 Interviewer administered questionnaire

Qualitative data was collected using an interviewer administered questionnaire that had been translated into Kobo Collect for ease of data collection and management.
2.5.3 Focused Group Discussion

Table 1: Focus Group Discussion Participants

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Number of groups</th>
<th>Males (Members in each group)</th>
<th>Females (Members in each group)</th>
<th>Cumulative total of participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kericho Tea and Horticulture</td>
<td>2</td>
<td>8</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Jua Kali in Nairobi</td>
<td>2</td>
<td>8</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Mixed Small shop owners in Nairobi</td>
<td>1</td>
<td>8</td>
<td>-</td>
<td>8</td>
</tr>
<tr>
<td>Boda boda Riders in Murang’a</td>
<td>1</td>
<td>10</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Tea and Coffee farmers in Murang’a</td>
<td>1</td>
<td>9</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>Tea Farmers in Kiambu</td>
<td>1</td>
<td>1</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>Domestic Workers in Kiambu</td>
<td>1</td>
<td>10</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Flower farm</td>
<td>1</td>
<td>1</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>27</td>
<td>52</td>
<td>79</td>
</tr>
</tbody>
</table>

2.5.4 Key Informant interviews

For qualitative data collection, the assessment involved key informant interviews, which were undertaken with representatives of Jua Kali Association, Boda boda Association, directors in tea estates in Kericho, and supervisors of flower farms in Naivasha. These key informants coordinated and had responsibility for other participants working their sectors.
2.5.5 Observations

Non-participant observation was conducted in different markets within Nairobi City County. The research assistants visited the targeted markets and to observe the interactions of market people and whether there constituted sexual harassment. Observation charts and a checklist were used to record data.

2.6 Validity and reliability

All the research assistants went through an intensive research training comprising of research methods, sample identification, interviewing processes, and ethical consideration in the study. The research assistants then undertook an online research ethics certification module before they were deployed for data collection. The data collection tools were then translated into Swahili while maintaining the original meaning of the questions. A pre-testing exercise for the data collection tools was done in Kibra Sub County, Nairobi City County. Various questions were refined based on the experience and feedback that come from this exercise.

2.7 Data Analysis and presentation

Qualitative data/ information analysis was done through a Content analysis approach. The information drawn was clustered into themes and subthemes 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.

The quantitative data was analysed using Statistical Package for Social Scientists (SPSS) v.26 of 2019 and complemented with Ms Excel 2019 for charting. The analysis led to statistical values that have been used to generate the prevalence rates, the levels of awareness and the factors that abetted sexual harassment. 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.
2.8 Ethical Safeguards

The rapid assessment received ethical clearance from the Kenyatta University Ethical & Review Committee (KUERC). Permission to collect data was granted by the local administrators (chiefs) from the respective data collection sites. The respondents who were interviewed were explained the aim and benefits of the study and gave their consent to participate in the study wilfully and helped the research assistants to complete the questionnaires. Anonymity of the responses / questionnaires, privacy and confidentiality was assured and maintained throughout the data collection and analysis process. Additionally, all the research assistants were recruited from the local communities in order to minimize travel and exposure risk to COVID-19.
We the People
03 | RESULTS

3.1 Introduction

This section presents in-depth findings drawn from the primary and secondary data from this assessment.

3.2 Demographic Data

The study targeted a sample of 768 and achieved 794 participants for quantitative data approaches.

Table 2: Demographic Characteristics of Respondents

<table>
<thead>
<tr>
<th>Demographics</th>
<th>Item</th>
<th>Frequency</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>County</td>
<td>Kiambu</td>
<td>152</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Nakuru</td>
<td>117</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Kericho</td>
<td>150</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Murang’a</td>
<td>149</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Nairobi</td>
<td>226</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>794</td>
<td>100</td>
</tr>
<tr>
<td>Age-Group</td>
<td>18-24 years</td>
<td>198</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>25-29 years</td>
<td>199</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>30-35 years</td>
<td>201</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>35+years</td>
<td>196</td>
<td>25</td>
</tr>
<tr>
<td>Category</td>
<td>Education</td>
<td>Residency</td>
<td>Occupation</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>---------------------</td>
</tr>
<tr>
<td></td>
<td>Non-Formal</td>
<td>15 2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Primary</td>
<td>122 15</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Secondary</td>
<td>352 44</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Post-Secondary</td>
<td>305 38</td>
<td></td>
</tr>
<tr>
<td>Rural</td>
<td>289 36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urban</td>
<td>505 64</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Floriculture</td>
<td>70 9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horticulture</td>
<td>68 9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tea &amp; Coffee</td>
<td>84 11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic &amp; Hotel Services</td>
<td>88 11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jua Kali</td>
<td>484 61</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-employed</td>
<td>409 52</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanent job</td>
<td>88 11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract</td>
<td>161 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Casual</td>
<td>136 17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-3 years</td>
<td>445 56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4-6 years</td>
<td>183 23</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6+ years</td>
<td>166 21</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
All the geographical areas were proportionally represented and all the age-groups equitable represented in the study. Further, majority of the participants had secondary education qualification (44%) and post-secondary education qualification (38%). The rural participants constituted 36% to the study compared to 64% for urban participants. The Jua Kali sector contributed 61% whereas the other occupations had range of 9-11%. Self-employment contributed about half of the survey participants.

3.3 Prevalence of Sexual Harassment in the Informal Sector

Prevalence of sexual harassment in the informal sector, for the purposes of the study, was measured as the sum of the proportion of those personally experienced sexual harassment and proportion of those who only witnessed sexual harassment (SH).

3.3.1 General Prevalence of Sexual Harassment in the Informal Sector

The prevalence rate for sexual harassment in the informal sector was 47%. Among females the prevalence was higher at 58% compared to males at 35%. More women are exposed to sexual harassment than men in the informal sector. This could be associated with more women joining this employment space and no proper guidelines on sexual harassment.

![Figure 1: Prevalence of Sexual Harassment in the Informal Sector](image-url)
During the focus group discussions with female tea sector workers, it was highlighted that:

“...Sexual harassment happens all the time in the farms. It happens when we are on field assignments. We are a mixture of both young men and women. So, when we are going about the job you will find men mishandling ladies in the name of jokes...” - FGD discussant

Sexual harassment prevalence in different geographical areas vary. The flower farms and tea catchment areas of Naivasha (Nakuru) and Kericho reported above 50% prevalence rates of sexual harassment. Other areas of Kiambu and Murang’a were significantly high with SH prevalence rates of 47% and 45% respectively (figure 2).

Figure 2: Prevalence of SH by Locations (5 Counties)

Nairobi City County area reported the least prevalence rate of sexual harassment (35%). During participatory observation in three informal sector business location, the study observers reported witnessing sexual harassment especially at bus
picking points and the *Jua Kali* artisan shades. The most affected were itinerary fruit vendors and food hawkers who subjected to unwanted touch or uncomfortable comments and body shaming. The perpetrators (mostly male employees of *Jua Kali* artisans) would call their ‘victims’ with sexually suggestive names that they perceived as compliments but were grossly sexually harassing. Sexual harassment in the informal sector business spaces is rife in Nairobi and is largely unreported.

Talking to chairlady of a *matatu* association, she confirmed that:

> “Sexual harassment occurs on a daily basis in the markets and matatu stages....our culture favours men than us women. Women face sexual harassment and other problems everywhere.”

However, sexual harassment did not only target women exclusively, but also men reported cases from fellow men or sometimes females. At the bus terminus, along Landhis Road near *Muthurwa* in Nairobi City, some *matatu*17 touts hurled sexually uncomfortable abuses towards colleagues or boarding customers. Boda boda operators corroborated the finding that men were not spared of sexual harassment.

### 3.3.2 Sectoral Prevalence of Sexual Harassment in the Informal Sector

The study considered examining the prevalence of sexual harassment in the informal sub-sectors and established that all the five targeted subsectors reported above 40% prevalence rates. The floriculture, horticulture, and hotel and domestic services registered above average sexual harassment prevalence rates. In all the sub-sectors, females reported above average prevalence rate whereas in the sub-sectors of floriculture and hotels and domestic services, the males reported above 40% prevalence rate. There are fewer males in horticulture sub-sector and therefore they may not be susceptible to sexual harassment (figure 3).

---

17 Public transport common in Nairobi-14, 25 and more seater buses.
In the focus group discussion with females working in the floriculture sub-sector, it was revealed that sexual harassment is highly prevalent. Even the tea and coffee workers decried sexual harassment and said it is now a crisis. In the hotels and domestic services sector, women FGD participants said that it happens almost daily and every time one is plying their trade. One non-residential domestic worker, Rhoda\(^{18}\), a lady who earns a living through washing and cleaning of homes in Naivasha explained,

“I believe women in the cleaning business are easy targets. When a customer takes you to his house to clean, you do not know what to expect. You are innocently going to work but if he decides to sexually violate you, the odds are against you. The places we go are very private and before you raise an alarm, he will be done with you. So, we are just taking risks”

\(^{18}\) Not her real name
3.3.3 Frequency of Occurrence of SH at Informal Workspaces

To assess the frequency of occurrence of sexual harassment (SH) in the informal spaces, the participants were asked whether they regularly experience or witness the SH in their places of work. It was reported that 20% of sexual harassment incidents occurs regularly and 67% of it occurs occasionally (figure 4).

![Pie chart showing frequency of occurrence of SH at workplace]

**Figure 4:** Frequency of Occurrence of Sexual Harassment at Work Place

In the geographical regions, sexual harassment was reported regular in Nakuru, Kiambu and Nairobi (figure 5). In Naivasha (Nakuru), most of the respondents worked in the flower farms and because of intensity of work, sexual harassment would become common be mostly unreported.
In the different sub-sectors, or instance, workers in the floriculture reported 30% regular incidences of SH. Horticulture and Jua Kali reported about 20% of the incidences of sexual harassment as regular.

Figure 5: Regular Occurrence of Sexual Harassment at Workplace
3.3.4 Areas where Sexual Harassment is common

To further understand the depth of sexual harassment at informal work spaces, the study assessed some of the areas where sexual harassment would occur. Findings show that in all the subsectors, 68% of study participants report occurrence of sexual harassment in their working area. Sometimes, this sexual harassment would occur outside the working areas, which is not within the authority of the business owners or may not be witnessed by colleagues at workplace. There was minimal sexual harassment reported on online or via email. The study noted that most of the workers in the informal sector did not own smart phones or internet enabled gadgets and therefore would not experience or report sexual harassment in these sectors. The other reason was employees were in constant person to person interaction with their perpetrators and therefore there would be no incentive to use ‘indirect’ means of sexual harassment.
Table 3: Where did you experience or witnessed Sexual harassment?

<table>
<thead>
<tr>
<th>Sub-Sector</th>
<th>Working area</th>
<th>Outside working area</th>
<th>Specially organised places</th>
<th>Online via phone/email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floriculture</td>
<td>69</td>
<td>28</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>Horticulture</td>
<td>56</td>
<td>40</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Tea &amp; Coffee</td>
<td>65</td>
<td>26</td>
<td>10</td>
<td>-</td>
</tr>
<tr>
<td>Hotel &amp; Domestic Services</td>
<td>84</td>
<td>16</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Jua Kali</td>
<td>67</td>
<td>23</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Aggregate</td>
<td>68</td>
<td>24</td>
<td>4</td>
<td>4</td>
</tr>
</tbody>
</table>

Below are the excerpts of discussants:

“The general setting of the jua kali structures makes it easy for sexual harassment to occur. There are places that are not well lit and during the night, it is very dangerous to pass there” - Vegetable vendor in Nakuru
3.3.5 Most Prevalent Times of Working Day for Sexual Harassment

The study sought to establish which times of the working days were the workers mostly likely to experience or witness to sexual harassment. It has been established that most incidences of sexual harassment occur during work hours across all the subsectors. This means the informal workspaces expose more employees to sexual harassment and this requires to be redressed.

Figure 7: Most Prevalent Timing for SH across Sub-sector

Kimetto\textsuperscript{19}, director at one of the tea farms, as key informant explained:

\textit{“Sexual harassment is commonly witnessed during breaks, change of shifts (some do not complete their shifts hour because they have upper hand). It happens every day but only a few or none acknowledge them as sexual harassment.”} - Director at one of the tea farms

\textsuperscript{19} Not his real name
In the floriculture, the people in night shift\textsuperscript{20} experienced SH at 41\% and this means both day and night shift workers were not spared sexual harassment. In other sub-sectors, this what informal sector workers explained:

“This is common, very common to us. Be it us who move around or my friends who operate in the market stalls in town. These things happen during work hours. If you are working in a stall and you find yourself with a customer who is interested in you, he can use the opportunity to harass you”

- Wanjia, Itinerary food vendor in Kiambu

Yet, another respondent concurred: “This is a common thing for us in this sector. This happens during workhours since it is convenient for our clients. The nature of our job also plays a role in this. You must go to their private rooms to clean and if he wants to do anything to you, he can set you up. Some clients even refuse to pay until they take you to bed first”.

- Rhoda, Mama fua (Means cleaning lady in English), a non-residential domestic worker.

3.3.6 Most Vulnerable Persons to SH in Informal Sector

At work place, different employees suffered sexual harassment at different rates. Across the sub-sectors, females experienced more sexual harassment at 80\% than males. Only 10\% of men in these sectors were considered vulnerable. On age, more youth experienced high levels of sexual harassment especially in horticulture, domestic and hotel services, and Jua Kali. Samuel, an NGO sector employee however explained that, “Women workers are more vulnerable than men and youth. Their gender exposes them to violence due to the social cultural norms within the society that place women at the lower echelon in the informal sector”.

\textsuperscript{20} Considered after work hours when senior staff are off work
Table 4: Most Vulnerable Employees to Sexual Harassment

<table>
<thead>
<tr>
<th>Vulnerable persons</th>
<th>Floriculture</th>
<th>Horticulture</th>
<th>Tea &amp; Coffee</th>
<th>Domestic &amp; Hotel Services</th>
<th>Jua Kali</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>84</td>
<td>81</td>
<td>90</td>
<td>93</td>
<td>74</td>
<td>80</td>
</tr>
<tr>
<td>Men</td>
<td>6</td>
<td>4</td>
<td>10</td>
<td>7</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>Youth</td>
<td>22</td>
<td>46</td>
<td>39</td>
<td>43</td>
<td>56</td>
<td>46</td>
</tr>
<tr>
<td>New Recruits</td>
<td>25</td>
<td>8</td>
<td>26</td>
<td>16</td>
<td>18</td>
<td>18</td>
</tr>
</tbody>
</table>

3.3.7 Most Common Perpetrators of SH in Informal Workplace

The study broadly classified likely perpetrators as business owners, supervisors (senior managers), workmates (colleagues of same cadres or rank) and the external customers. In the horticulture, hotel and domestic sub-sector and Jua Kali, the study established high rates of customer-instigated sexual harassment (table 4). In floriculture, the supervisors and workers were the perpetrators, perhaps due to the fact that they have limited interaction with customers, who by matter of fact, are overseas. In tea and coffee, workmates were most highlighted as perpetrators because of close interaction at workplace.

One kiosk hotel manager in Kericho explained he was aware of sexual harassment by customers. He is quoted: “I was once texted by a random customer who had asked for my number to make her payment through Mpesa. The lady started sending me suggestive texts and even stalked me only liking my online pictures excessively.”
Table 5: Most Common Perpetrators of Sexual Harassment

<table>
<thead>
<tr>
<th>Sub-Sector</th>
<th>Common Perpetrators of Sexual Harassment</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Business Owners</td>
<td>Supervisors</td>
</tr>
<tr>
<td>Floriculture</td>
<td>9</td>
<td>50</td>
</tr>
<tr>
<td>Horticulture</td>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td>Tea &amp; Coffee</td>
<td>16</td>
<td>23</td>
</tr>
<tr>
<td>Hotel &amp; Domestic Services</td>
<td>23</td>
<td>14</td>
</tr>
<tr>
<td>Jua Kali</td>
<td>23</td>
<td>15</td>
</tr>
<tr>
<td>Informal Sector</td>
<td>19</td>
<td>20</td>
</tr>
</tbody>
</table>

The FGDs also confirmed what the interviews with individual workers suggested that in the sectors the customers were the main perpetrators as reported below:

“My clients are the perpetrators of such violence. When you are dealing with a client you never know what they are planning. They may be having other plans yet you are innocent. Also, we must have a good relationship with them and they may mistake that for an interest in them.” - Peter, mitumba (Second hand clothes) seller.

“Sexual harassment occurs, and it is not only the business owner, supervisors, who harass women, but also fellow colleagues or fellow farmers in tea sector”

- Kiambu FDG
“The customers that we wash the clothes for harass us. Most of the times if they choose you to wash their clothes, it is because they have other ill intentions and they are looking for that opportunity to advance their intentions and their private homes gives them the best environment” - Mercy, Mama Fua (Means cleaning lady in English)

“We mainly experience sexual harassment from our customers”. - Thomas, Florist in Nairobi

The following are excerpts from the key informants interviewed on most common perpetrators:

“Sexual harassment happens to women co-workers. I have witnessed it happen in the hotel services. Customers can also make uncomfortable body comments...”
Food Kiosk Hotel Manager in Kericho

“The perpetrators are managers, supervisors and workmates in the tea sector.”
Sometimes they are the young men who push you at the tea buying centres,”
Wanjohi, Key informant in Kiambu.

“The main perpetrators are bosses and seniors who are not afraid of repercussions and work with impunity.”-Lydia, a supervisor in a coffee milling machine.

“I am a supervisor in a tea estate. I supervise tea sellers in their various tea buying centres. I have worked for three years. The sexual harassment I have witness include unwelcomed sexual comments and jokes. The sexual harassment is rare though commonly done during tea selling hours. In many cases, it occurs when the supervisor meets with the tea sellers”-Shadrack, Tea Estate Supervisor
Focus group discussants pointed majorly to fellow employees of the same rank as the main perpetrators as stated above. The key informants highlighted mostly persons in senior or managerial position of work. For targeted intervention, it is important to understand who are the perceived perpetrators of sexual harassment in the informal workspaces and target them in each sub-sector.

3.4 Knowledge and Awareness of Sexual Harassment in the Informal Sector

Knowledge and awareness level is critical to understanding sexual harassment in the informal sector. Sexual harassment knowledge and awareness is low at 36%. Though, more females than males were slightly aware of sexual harassment in the sector. Tea and coffee sub-sector had higher awareness of the sexual harassment compared others. The study established that Ethical Tea Partnership and Unilever have implemented projects on sexual and gender-based violence in the tea sub-sector and this accounts for higher awareness.
3.5 Factors Abetting Sexual Harassment in Informal Sector

With high prevalence levels and low levels of awareness reported; it is important to establish some of the factors abetting or exacerbating sexual harassment in the informal sector working spaces.

Based on the survey findings, it was established that cultural attitude of men and women influenced sexual harassment than other factors (table 5). During the focus group discussions, females of Naivasha, pointed at culture as key factor abetting sexual harassment. Nyambura, a psycho-social counsellor, explained “The social culture is partly to blame for this. Sometimes the men have the sense of entitlement and think it is their right to have any lady they want. They do not respect our right to say no. Additionally, there is permissiveness from the people and the perpetrators tend to go scot free. I also believe there is a general lack awareness by the victims and the
community at large about their rights, what comprises sexual harassment and how to handle such issues. The victims do not know where they are supposed to report such perpetrators”.

Feeling of entitlement over others mostly by men, increases ‘victims’ vulnerability because of poverty and need for jobs. In addition, poor enforcement of laws to arrest and prosecute perpetrators were reported as some probable factors exacerbating SH in the informal sector. A key informant in Murang’a conceded by saying, “Women are being looked down upon by the society since they are weak and vulnerable”. Additionally, in Kiambu, one coffee farm supervisor explained, “The culture of impunity. Women who work in the tea and coffee farms are considered less superior. Most workers are sexually harassed for they are not aware of what sexual harassment is. A Key informant in the tea farms in Kericho concurred with negative perception of women in society as an influence on sexual harassment cases, “Also, the cultural norms for respect of women have eroded and hence men cross boundaries. The gender roles associated with women, for instance, subordinate to men makes men abuse women sexually...”.
### Table 6: Factors Abetting Sexual Harassment in Different Sectors

<table>
<thead>
<tr>
<th>Factors</th>
<th>Floriculture</th>
<th>Horticulture</th>
<th>Tea &amp; Coffee</th>
<th>Domestic &amp; Hotel Services</th>
<th>Jua Kali</th>
<th>Agg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Sexual Harassment Awareness</td>
<td>25</td>
<td>19</td>
<td>26</td>
<td>14</td>
<td>24</td>
<td>22</td>
</tr>
<tr>
<td>Cultural attitude regarding men and women</td>
<td>56</td>
<td>54</td>
<td>48</td>
<td>43</td>
<td>53</td>
<td>52</td>
</tr>
<tr>
<td>Feeling of entitlement over others</td>
<td>34</td>
<td>23</td>
<td>45</td>
<td>36</td>
<td>34</td>
<td>35</td>
</tr>
<tr>
<td>Offenders know SH targets need job</td>
<td>44</td>
<td>19</td>
<td>29</td>
<td>50</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>Insubordination of women and junior staff</td>
<td>19</td>
<td>12</td>
<td>35</td>
<td>25</td>
<td>21</td>
<td>22</td>
</tr>
<tr>
<td>Abuse of drugs and alcohol</td>
<td>13</td>
<td>38</td>
<td>42</td>
<td>27</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td>Level of awareness of law and policy framework addressing</td>
<td>30</td>
<td>32</td>
<td>27</td>
<td>24</td>
<td>31</td>
<td>30</td>
</tr>
<tr>
<td>Lack of punishment for SH offenders/Enforcement</td>
<td>22</td>
<td>38</td>
<td>45</td>
<td>27</td>
<td>30</td>
<td>31</td>
</tr>
<tr>
<td>Employees reporting SH to senior officers</td>
<td>19</td>
<td>6</td>
<td>6</td>
<td>14</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>Report SH to non-responsive Senior Officers</td>
<td>31</td>
<td>37</td>
<td>60</td>
<td>33</td>
<td>34</td>
<td>36</td>
</tr>
</tbody>
</table>
Even though, the low awareness of sexual harassment definition was not rated highly compared to other factors, 22% of participants significantly believe it is a problem and contributed to the many cases of SH. Wanjohi, a key informant in Kiambu stated, “Most of the people are illiterate hence they lack understanding of what sexual harassment is”. A vegetable vendor in Nairobi illustrated that, “Lack awareness of what sexual harassments is. Unless its rape they do not consider it serious”. This means that unless there is rape or physical violence such as assault, the people may not take serious sexual harassment.

Another influencing factor is low awareness of law and policy on sexual harassment which was considered by 30% of participants as likely motivator of SH. This was tied very closely to weak law enforcement. During the KII in Naivasha, it was explained that lack of policies and laws to punish offenders was to blame as it allows for repeat sexual harassment offences. Most of the businesses were also accused of not adhering or enforcing sexual harassment policies.

Inaction and lack of responsiveness of senior officers who received reports on sexual harassment was also highlighted by 36% of participants as factor in high prevalence of SH. Alcohol and substance abuse among employees at during working hours was blamed as contributory to the SH cases.

In Murang’a and Kiambu, drug abuse was highlighted as contributing to sexual harassment.

“Alcohol and substance abuse are a key factor contributing to sexual harassment”, excerpt from FGD Kiambu

Drug abuse is high in coffee sector causing an increase in sexual harassment cases in the informal sector. You find that during this period the economy has gone down, and most people are desperate to get a source of income. I have received a few cases of sexual harassment where a field supervisor has promised to give a job with a sexual favour involved. But you also find women, most especially the young ones intentionally getting close to supervisors or even me so that they can be considered for jobs daily and so that they can be given easier tasks-excerpt from Coffee Farm Worker in FGD Murang’a
Poverty and the need for jobs was also pointed as key influencer of sexual harassment. A director in one of the tea farms, illustrated, “I think most people fall victim because of different needs. Some money, some jobs the perpetrators also continue to do this because the victims do not talk, or the victims do not take much action terming it as “normal”. Again, Peter, a hotel manager in Kericho, emphasised, “Poverty is one of the contributing factors because most of the vulnerable people need money, which they pay in return with being harassed sexually.” In Nairobi, a Charles, a butchery owner, opined, “Sexual harassment is a common thing. It is not a major concern within the work place. We are used to it.....”. Further, a fruit vendor indicated that a day hardly passes without giggling, hisses or even shouting to a passer-by, mostly another female hawker in a sexually suggestive manner. Sexual harassment in the Jua Kali sector goes unreported because, the harassers are mostly clients, and the victim would fear losing them. In Kiambu, the women workers reported that they experience sexual harassment but never reported. “Since, we want how to survive and get a livelihood, we do not confront the men who abuse us. We are uncomfortable but we have chosen not to bother”.

In Marikiti market and other markets, the respondents in FGDs noted that human porters and carriers of goods and men hawkers are notorious in sexual harassment. “They hurl abuses, body shaming, and intimidate the pedestrians, especially women. I have been a victim many times.” This kind of experience corroborated by another respondent that “there are ‘cartels’ who control the hawking spaces.

Mary, a vendor in Nairobi said, “...If you complain about sexual harassment, especially on things such as unwanted touch or unsolicited sex comments that have been normed in society, they would consider you a ‘Mutiaji’ (meaning a person who has poor interpersonal skills or who wants to put others in trouble).”

The above are indications of need for job, poverty and feeling gender power relations influence SH.

Further, unmanned work environment especially at night or in non-open spaces also contribute to high levels of sexual harassment. In the tea sub-sector, peak seasons presents more work and as a consequence working overtime. Many women are not protected at these times and susceptible to harassment. In Kiambu, Dennis a tea factor manager explained, “...When it is the peak season for tea and coffee, this is the time when women are harassed. They have to sell the tea or coffee at night and this makes them vulnerable”. Similarly, in Kericho, Shadrack, a tea supervisor added, “Sexual harassment
occurs occasionally in the sector. Women are the ones commonly affected. The fact that women must work in these same environments as men (plucking tea together, makes them vulnerable.

In other workplaces, staff especially those working at night or early morning has been highlighted as a serious influence to sexual harassment incidences. “...Women who work in the flower farms are at the greatest risk. The nature of their job means they either must go to work early or leave late at night. Where they are supposed to take the vehicle is far from the houses and this puts them in a big risk”, FGD discussant in the flower farm. In tea farms and buying centres, a KI from Kiambu agreed that sexual harassment is common and it is generally witnessed by many, “...It happens occasionally. It’s very common when there is a power blackout during tea peak seasons.” When the workplace has not alternative power sources then the employees working in unlit areas would be susceptible to sexual harassment.

Another factor abetting SH was pointed out as exposure to dirty media that seek to normalise sexual harassment. Key informant in Naivasha highlighted, “Also, the media should be filtered especially for the youth because all we see is sexual in nature and these plants a seed in them and they are prone to become harassers.” Finally fear meted on victims through bullying or other psychological torture or harassment, hence making it a costly venture to report, especially if it does not involve extreme forms of sexual abuse such as rape.

3.5.1 Impact of Covid-19 on Informal Sector and Sexual Harassment

Globally, COVID-19 has ravaged lives through creating an environment that is highly uncertain, unclear, and with unfamiliar risks. The informal sector has been affected by aggressive and often disorganising anti-business restrictions linked to the COVID-19 pandemic. For instance, there was an aggregate shift in demand for certain economic items. The vegetable and fresh food sellers suffered due to reduced demands as people stocked dried and long-lasting food in anticipation of COVID-19 lockdown. The shopping was moved to one-stop business formal areas that disadvantaged the informal businesses through intensive competition and market share. Reduced business hours due curfew restrictions meant decreased earnings for informal sector businesses.21 Both men and women were reported to have been severely impacted on by COVID-19 in the informal sector.

Additionally, women reported to be more at risk due to burdens of taking care of the families in line with their gender roles. They had to undertake the double roles of domestic work and working in the informal sector to fend for their families. One of the respondents stated that “COVID-19 has reduced income opportunities creating mental stress for women thus increasing their vulnerability in the informal sector as well as being confined at home. COVID-19 has led to job loss and salary cut. As a result, women find themselves seeking financial support or losing jobs which makes them become more vulnerable”.

A KII from CSO named Peace Warriors stated that “It has become difficult for women workers. I know some who have been harassed and lost their jobs. Domestic workers (residential and non-residential) have been the mostly affected”.

Restricted international travels and ban on second-hand cloth imports as reported in a section of the media has rendered many people in the sub-sector jobless, no earnings and depressed. Some of those at home without jobs suffered gender-based violence (GBV) and were unable to seek services of counselling or legal redress as these were non-classified essential services. In many parts of Kenya, including Nakuru, Kiambu, Kericho, Murang’a and Nairobi, the open-air markets were closed and where they were open, it was for a short time and the business was not vibrant as people stayed at home. Government COVID-19 daily briefings highlighted that 45% of women and girls aged 15 to 49 have experienced physical violence and 14% have experienced sexual violence. An article published in the Daily Nation on the 10th of April, 2020 also noted a spike in cases of SGBV in the country. In May 2020, FIDA-Kenya reported that between 15th April 2020, when they launched toll free number, and 3rd May 2020, at the height of COVID-19 pandemic, there were a total of 289 reported cases of SGBV cases. This showed a sharp increase in cases of SGBV during the pandemic.

The respondents in FGDs too agreed that COVID-19 has had implications on their livelihoods and the effects of this meant women continue to be vulnerable and subjected to sexual harassment as they try to get into the informal sector looking for jobs. This means that work around COVID-19 should mainstream protection of women against sexual harassment in the informal sector. The negative impact of COVID-19 on the informal sector has trickled down to household welfare via reduced job opportunities and lower earnings. Unemployment has almost doubled compared to its pre-COVID level. Wage workers, and especially women who are still employed face a reduction in working hours and earnings. Almost 1

22  COVID 19 Gender Assessment: Gender Perspectives, Kenya, 2020
in 3 household-run businesses are not operating currently, with revenues decreasing across all sectors. Remittances have fallen, and few households have benefitted from direct government cash assistance. Youth are also negatively affected by the pandemic, with revenues and profits strongly reduced for micro-enterprises run by young entrepreneurs, with only few of them making use of government and non-governmental organizations (NGO) support programs.

The COVID-19 pandemic caught several Micro, Small and Medium Enterprises (MSMEs) especially the informal sector businesses unaware and unplanned. The ripple effect of these restrictions caught up with SMEs, which is viewed as a growing economic pillar in Kenya. With their regular income cut down to half and reduced availability of credit, MSMEs faced impending liquidity crisis while managing both household and business expenses. About 80% of the MSMEs are in the informal sector, are not only registered but also do not have banking behaviour and therefore did not benefit from the stimulus package. The reduction of turnover tax from 3% to 1% did not reflect much for informal sector businesses. To cushion against the severe shocks of COVID-19, the Kenyan government announced economic packages to assist MSMEs. These packages were largely aimed at providing liquidity to companies. The government authorised that all pending bills by government and semi-autonomous state agencies to clear pending bills for goods and services supplied. This was meant to cushion small businesses with more part-time or temporary employees. However, this has not brought relief to the MSMEs where a majority of men and women work, thus exacerbating gendered poverty and sexual harassment among women trying to eke a living in the informal sector.

3.6 Sexual Harassment Response Actors

3.6.1 Government Actors

The government actors who respond to sexual harassment are broadly classified into legal and policy formulators; legal
and policy implementors; and legal and policy enforcers. Specific to legal and policy formulation and implementation of sexual harassment, the study has identified the following offices:

a. **The Presidency** - This is the top most office in government and the obligated to spearhead the elimination of sexual harassment in both public and private spaces under the authority of Kenya. The president is obligated by law to respect, uphold, and safeguard the constitution and ensure the protection of human rights and fundamental freedoms and the rule of law. The presidency therefore would an amiable message carrier against sexual harassment and other forms of gender-based violence in all workspaces.

b. **Ministry of Interior and Coordination of Government Functions** - The Ministry mandated to implement the National Government Coordination of Functions Act (2013). It has a grassroot presence in that the national government administrative continuum, from the County Commissioner (CC)-County level, Deputy County Commissioner (DCC)-Sub-County, Assistant County Commissioners-Ward level, Chief-Location, and Assistant Chief-sub-location, who are tasked with promoting security and government policies engage with communities through barazas. This institutional framework would support awareness creation of sexual harassment and also work to identify the cases for prosecution at their level. Under these team, there are village elders and the Nyumba Kumi who work with the community to maintain law and order, share community level intelligence information with respective government officers, and share information on government laws and policies at their level. They would be important in awareness creation on sexual harassment as well as share different laws that would punish the offence of SH.

c. **Ministry of Public Services and Gender Affairs (MOPSGA)** - The Ministry is mandated to provide policy direction on public service as well as the promotion of gender equity and equality. The department of gender affairs would develop guidelines for businesses to comply with anti-sexual harassment laws. This department too would disseminate popular versions of the Sexual Offences Act 2006. Annually, working with other development partners, the Ministry organises and celebrates ‘The International Day to End Violence Against Women and Launch of 16-Days of Activism Against Gender-Based Violence (GBV),’ the latest one having been conducted on 25th November, 2020 and themed, ‘Orange the World: Fund, Respond, Prevent, and Collect.’ The Ministry has intervened on GBV issues: a) strengthening GBV

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28 10 houses for community policing.
prevention and response mechanism. The Ministry launched National GBV Hotline HAK 1195 in 12 counties (Turkana, Kilifi, Kwale, Lamu, Isiolo, Elgeyo Marakwet, Mandera, Bungoma, Nairobi, Kajiado, Nyandarua, and Migori) and hashtag '#Jitokeze, no violence is good. In 2019, the Ministry developed the National Policy on Gender and Development seeking to provide guidance and facilitate the implementation of gender equality provisions in the constitution and other instruments through legislative, policy measures and programmes required to address the gender inequalities and existing gaps by both levels of Government and non-state actors, including the private sector. This policy provides for the review and harmonisation of all gender related laws and policies to align them to the Constitution to ensure that they adhere to the principles of equality and non-discrimination. Another milestone, is the establishment of Project Management Unit (PMU) training of duty bearers (Police Service, Judiciary, Prosecution and Medical staff) on standard operating procedures for management of sexual violence survivors, mapping of GBV service providers in the country, public awareness on GBV prevention; development of guidelines on the establishment of Gender Based Violence Recovery Centres (GBVRCs) for survivors of GBV, development of regulations for establishment of Safe and Protective Spaces for GBV Survivors, development of a GBV service provider’s resource manual. Lastly, the Ministry has established and strengthened of County GBV Sub Sector Working Groups in 4 Counties (Kilifi, Homa Bay, Narok and Nairobi) and development of draft Regulations/Rules to operationalize Protection Against Domestic Violence (PADV) Act 2015.

d. Ministry of Labour and Social Services (MoLSS) - The Ministry has Labour and Social Protection Departments. The Labour Department is focal and with a responsibility to implement the three major labour laws: The Employment Act 2007, The Labour Institutions Act 2007, and the Labour Relations Act 2007. The department mandated to formulate and implement the National Labour Legislation Policy through the National Labour Board and sectoral wages councils as well as the National Tripartite Consultative Council. Lastly, the department is also responsible for operationalizing the tripartite mechanism in handling labour issues through a tripartite dialogue process which involves consultation between workers, employers and government representatives and this presents an opportunity to discuss sexual harassment in the informal sector.

30 http://www.psyg.go.ke/?page_id=348
e. **State Law Office and Office of Attorney General (AG)** - Under this office, there is the Department of Justice that is tasked with facilitating the realisation of good governance and respect for the rule of law and promotion of human rights and the upholding of ethics and integrity. This office provides national legal aid services as per sec 5 of the Legal Aid Act 2016) to provide legal services to indigent, marginalized, and vulnerable persons. This study therefore reasonably believes that national legal aid services would benefit victims of sexual harassment in the informal sector to seek justice. Under the AG’s office, there is the Victims Protection Board that provides for protection of victims of crime and for reparation, compensation, special protection for vulnerable victims and the development of a mechanism for dissemination of information and provision of support services. Further, the board is charged with the implementation of preventive, protective and rehabilitative programmes of victims of crime. There is the Governance, Justice, Law and Order Sector (GJLOS) Reform Coordinating Secretariat tasked with strengthening Inter-agency and Inter-Sectoral collaboration and coordination within the GJLOS and other sectors of the economy, and the National Council of Administrative Justice (NCAJ).

f. **National Gender and Equality Commission (NGEC)** - The NGEC is tasked with ensuring that gender is mainstreamed and gender equality promoted in all public and private spheres. NGEC would be a good partner in development of guidelines, policies and even messaging statements. Prevention and redressing of sexual harassment are part of the NGEC mandate as informed by section 8 of the National Gender and Equality Commission Act 2011.

g. **Kenya National Commission of Human Rights (KNCHR)** - The KNCHR is tasked with responsibility of promoting and protecting human rights in public and private spaces. KNCHR working with private sector businesses developed a National Action Plan (NAP) on business and human rights, to address most of human rights cases that went unreported especially sexual harassment due to fear of inaction and victimization.

h. **The Commission on Administrative Justice (CAJ) (also Office of the Ombudsman)** - Mandate is two-fold and extends to both national and county governments: i) tackling maladministration (improper administration) in the public sector and is to investigate complaints of delay, abuse of power, unfair treatment, manifest injustices or discourtesy; and ii)  

32 https://statelaw.go.ke/departments/victim-protection-board/  
33 https://www.ngeckenya.org/
overseeing and enforcing the implementation of the Access to Information Act (2016). Therefore, CAJ would help track cases of sexual harassment delaying courts or request employers to provide important information that would facilitate cases. 

i. National Parliament - Both senate and national assembly have a role to formulate, amend or repeal laws that would be effective in addressing sexual harassment in the informal sector business. National Assembly operates with committees, and the study has identified the ‘Labour and Social Welfare’ and ‘Trade, Industry and Cooperatives’ that would be tasked with drafting laws related sexual harassment. There are friendly individual parliamentarians and senators who would be lobbied to present private members bills on sexual harassment and take it the floor of the house. The study established that in the last three years, there have been attempts to amend the Sexual Offences Act, 2006 to make more punitive and match the emerging realities of sexual offences in Kenya. In 2019, Hon. Gathoni Wamuchomba\textsuperscript{35} sought to amend the act to provide stringent regulations as to collection, analysis, tracking, and access to forensic evidence relating to sexual assault (Sexual Offences (Amendment) Bill, 2019), which is still actively being debated in Parliament. Hon. Moses Malulu Injendi also sought to amend the penal provisions of sexual offences act but later withdrew. Another Amendment in 2017/18, was introduced by Hon. Florence Mutua, who sought to have sections of Sexual Offences Act including providing for awareness campaigns, establishment of special sexual offences units in police stations and prohibition of out of court settlements between victims and families of victims and sexual offenders. Lastly, Hon. Jessica Mbalu sought to amend the Sexual Offences Act to establish one stop centres in every constituency to deal issues of sexual offences. This was later withdrawn. On small businesses, Hon. Gideon Keter introduced the Small Business Bill (2018) to streamline the small businesses sector in Kenya but later withdrawn.\textsuperscript{36}

j. Council of Governors - Through its Gender Committee, the Council Governors would be an effective entry point to the counties on any county specific laws, policies and programmes on sexual harassment targeting county administration.

\textsuperscript{34} https://www.ombudsman.go.ke/#our-mission
\textsuperscript{35} Kiambu County Woman Representative
\textsuperscript{36} http://www.parliament.go.ke/sites/default/files/2020-10/DLS%20COMBINED%20LEGISLATIVE%20PROPOSAL%20TRACKER%20-%20OCTOBER%202020.pdf
k. **County Governments (Executive)** - Control and coordinate county enforcement agency, issuance of business licences and accompanying compliances. The county government would therefore be targeted for development of policies or laws that target eliminating sexual harassment within businesses that they regulate. The county law enforcers could support in arresting perpetrators of sexual harassment in market places. In addition, respective gender departments would finance programmes aimed at creating awareness on sexual harassment in the informal sector businesses within their authority areas.

l. **County Assemblies** - The role of county assembly is legislation, oversight, and representation of the people. The assemblies tasked with appropriation of budgets, under this function they develop the finance bill, that would institute penalty in a business that do not comply.

Some of the institutions identified for sexual harassment legal and policy enforcement were identified as:

a. **Kenya National Police Service (NPS)** - Office of Inspector General (IG) of Police, Department of Gender Affairs and Community Policing, the Directorate of Criminal Investigation (DCI) and the specific police station gender desks. In its strategic plan, the National Police Service (NPS) identifies capacity building and enhancement of officers; and research and development of crime areas as priority areas and strategic objectives.

b. **The Directorate of Criminal Investigation** - The DCI is tasked with investigating several threats including cyber bullying, sexting, sexual extortion, access to pornography and violent content, identity theft, and grooming among others. DCI detectives work daily to arrest individuals or groups that engage in such violations. This means reported cases of massive (normalised) sexual harassment at a workplace would be handled by DCI. The DCI has an Anti-Human Trafficking and Child Protection Unit that seeks to comply with the constitutional standards of Human Right; Crime verification–receiving and recording of crime reports and prepares and handles over the complaints to legal unit and DPP for perusal and advice; and liaise with NPS and other stakeholders in crime prevention, for example, Whistle blowers. There is also Serious Crime Unit that has sub-division of Cyber Crime Unit (investigations), child protection unit, and administrative civilian support unit. Lastly, the DCI has the Crime Research and Intelligence Bureau (CRIB).
tasked with profiling offenders, crime research and analysis, and providing advisory.  

c. **The Judiciary** - As the third arm of Government, the Judiciary has the task to interpret laws and settle disputes. The Judiciary also processes those in conflict with the law who would sexual harassment offenders. The Judiciary has the opportunity to build jurisprudence and case laws through the different cases of sexual harassment that they resolve. Some of the identified landmark rulings on sexual harassment were: Cause 1979 of 2015, J W N vs Securex Agencies (K) Limited (2018) eKLR, who was awarded Ksh.1 million in damages and the other is Cause 53 of 2017 of Lydiah Mongina Mokaya vs St. Leonard’s Maternity Nursing Home Limited (2018) eKLR, the claimant was awarded more than Ksh. 1 million.

d. **Office of Director of Public Prosecution (ODPP)** - The mandate of ODPP as derived from Article 157 of the Constitution is to institute and undertake prosecution of criminal matters and all other aspects. The ODPP made a request to Federation of Women Lawyers (FIDA Kenya) council to present members who can work closely with state prosecutors to ensure the needy in society have access to justice. The ODPP sought to donate some prosecution powers to prosecute cases and through continued support and collaboration, more cases of Sexual Gender Based Violence (SGBV) will be expedited.

### 3.6.2 Non-State Actors

Some of the Non-State Actors (NSA) that were identified are women-led and women focused non-government organisations (NGOs), trade unions, and the private sector (employers and employees) of the informal sector:

a. **The Non-Government Organisations** - Some of the institutions identified were Hivos, Centre for Rights Education and Awareness (CREAW), Federation of Women Lawyers (FIDA–Kenya), Coalition on Violence Against Women

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38 [http://kenyalaw.org/caselaw/cases/view/153700/](http://kenyalaw.org/caselaw/cases/view/153700/)
39 [http://kenyalaw.org/caselaw/cases/view/160649](http://kenyalaw.org/caselaw/cases/view/160649)
(COVAW), Equality Now, Grassroots Organisation Operating Together in Sisterhood (GROOTS Kenya), Life Bloom International Services, Nairobi Gender Violence and Recovery Centre, SDGs Forum Kenya, Kenya Female Advisory Organisation (KEFEAD), DSW-Kenya, Women’s Empowerment Link (WEL), Men for Gender Equality Now and Men Engage and Peace Initiative Kenya. These organisations have mounted extensive policy advocacy and campaign against Gender-Based Violence (GBV), sexual reproductive rights and other legislative reforms, either collectively or individually. These organisations would be considered allies and make significant contribution towards development and enactment of several gender responsive laws and policies. Specifically, FIDA-Kenya hosts weekly free legal aid clinics in all their offices, the sexual harassment victims seeking legal redress can seek support. CREAW is part of the membership of the National Gender-Based Violence (GBV) working group coordinated by the National Gender and Equality Commission (NGEC) and the National Women’s Steering Committee. Additionally, CREAW is a co-convener of the Kenya Chapter of Africa Unite, which is the United Nations (UN) Secretary General’s campaign vehicle against GBV. Worth noting, CREAW is a member of the Solidarity for African Women’s Rights (SOAWR) and the SDG Group. The SDGs Kenya Forum engages with multiple stakeholders (State and NSA) to implement, monitor, and report on SDGs and the Agenda 2030. Lastly, organisations such as Kenya Human Rights Commission (KHRC) convened the ‘Working Group on Business and Human Rights Africa Gender Consultation on the Gender Lens to the UN Guiding Principles on Business and Human Rights (October 2018) in Nairobi’.

b. Faith Based Institutions - There are different faith-based institutions that would be engaged on the sexual harassment. Some of the identified: Inter-Religious Council of Kenya (IRCK), Kenya Conference of Catholic Bishops (KCCB), Catholic Justice and Peace Commission, Anglican Development Services (ADS), Kenya Evangelical Alliance, National Muslim Leaders Forum Kenya (NAMLEF), Supreme Council of Kenya Muslims (SUPKEM), Council of Imam and Preachers Kenya (CIPK), Hindu Council of Kenya, National Christian Council of Kenya (NCCK). These teams implement programmes within communities and carry spiritual nourishment to their faithful and would be targeted to carry anti-sexual harassment messages. Some of these organisations are already fighting against sexual harassment, for instance, Muslim for Human Rights (MUHURI) were watching brief on the victim’s behalf at Kilifi Law Courts after an employee of Kwale County Government was reported to used his position and raped a job-seeker, as drafted in the court documents.

41 https://www.fidakenya.org/
42 home.creaw.org
c. **Private Sector Interest Organisations** - The study identified Ethical Tea Partnership that seeks to offer training to tackle discrimination and harassment in agricultural sector in Kenya. Kenya Private Sector Alliance (KEPSA) was part of the team that developed the National Action Plan on Business and Human Rights in Kenya and tasked to explore the possibility of adopting a leadership role in ensuring employees of their members have effective access to remedy options and their human rights are enshrined and protected. Kenya Association of Manufacturer, through their Women in Manufacturing (WIM) programme has mainstreamed gender-based violence, including sexual harassment.

d. **Trade Unions** - The study identified COTU, KUDHEIHA and Kenya National Federation of Jua Kali Associations to promote rights of workers in the informal economy which can reduce situations of vulnerability to violence and harassment. Other organisations albeit international would include ILO and Women in Informal Employment Globalizing and Organizing (WIEGO) to help raise awareness of occupational safety and health risks amongst market traders and amongst women workers in markets.

e. **Business Associations and Networks** - The other business networks and association to be targeted for anti-sexual harassment campaigns would Kenya Network Association of Small Business (KENASB), Associations of Private Security Companies, and Association of Family Business Enterprises (AFBE) among others have a responsibility to effectively implement the legislation and public polices as well as improved practices on their part in support of prevention and redressing sexual harassment. Others are Association of Bartenders in Kenya among others.

f. **Managerial and Supervisory level employees** - Have a role to prevent sexual harassment through development strategies, including training and awareness-raising, to assist managers and supervisors in general supply chains and even clients (customers) to become better aware of the risks of gender-based violence.

g. **Employers** - Have the responsibility of creating a harassment-free environment that protects employees. To avoid being caught up by sexual harassment issues in the workplace, employers should be able to not only follow the legal

43  [https://afbekenya.org/who-we-are/](https://afbekenya.org/who-we-are/)
provisions but also strive to provide a support mechanism where they can freely table allegations without fear of reprisal. The informal sector business employing more workers and with high susceptibility to sexual harassment such as security firms, barbers, salon and beauty spas, hotels and hospitality firms, and ride-hailing services for transport and household deliveries.

3.7 Kenya’s Legal and Policy Framework Responded to Sexual Harassment

3.7.1 International Law, Conventions, and Policies Ratified by Kenya

Globally, there are several instruments outlining internationally agreed norms and standards aimed at addressing Sexual and Gender Based Violence (SGBV). Kenya has ratified and subscribes to many of them including: The Universal Declaration of Human Rights (UDHR, 1948)\textsuperscript{44}, the International Covenant on Civil and Political Rights (ICCPR, 1976)\textsuperscript{45}, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, 1979)\textsuperscript{46}. Under these conventions, states including Kenya are obligated to “(a)To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; and (b) To repeal all national penal provisions which constitute discrimination against women. Others are the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)\textsuperscript{47}, the United Nations Convention on the Rights of Child (CRC, 1989)\textsuperscript{48}, the Beijing Platform for Action (1995)\textsuperscript{49}, UN Resolution 1325 (2000)\textsuperscript{50}, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000)\textsuperscript{51}, The ILO Convention 182 on the Worst Forms of Child Labour\textsuperscript{52}, and The Optional Protocol on the Convention of the Rights of the Child on Child Trafficking, Child Prostitution and Child Pornography\textsuperscript{53}. At the regional level, the normative framework includes instruments such as: The Protocol to the Africa Charter on Human and Peoples’

\textsuperscript{44} UN, (1948). United Nations Declaration of Human Rights, UN Publication, NY
\textsuperscript{45} UN (1976). UN International Covenant on Civil and Political Rights (ICCPR), UN Publication, NY
\textsuperscript{46} UN (1979). Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), UN Publication, NY
\textsuperscript{47} UN (1984.) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Publication, NY
\textsuperscript{49} UN (1995). Beijing Platform for Action, UN Publication, NY
\textsuperscript{50} UN (2000). UN Resolution 1325, UN Publication, NY
\textsuperscript{51} UN (2000). UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, UN Publication, NY
\textsuperscript{52} (ILO) 1999). ILO Convention 182 on the Worst Forms of Child Labour, ILO Geneva

Sexual harassment or Sexual Gender-based Violence in its various manifestations negatively affects individuals, their families, and the entire community. At the individual level, sexual harassment results in pain and psychological trauma. At the social level, it often results breakdown of the family unit. Economically, it results in an economic burden on the government, in terms of increased spending on health care, social services, the civil and criminal justice system, absenteeism from work, and lost productivity and output. Sexual harassment creates an unequal political landscape in which all those affected are denied the opportunity to participate in decision-making for development. Article 2 (5) of the Constitution of Kenya\textsuperscript{58} makes international law a source of the country’s laws. The Constitution provides that the “general rules of international law shall form part of the laws of Kenya” and further that “Any Treaty or Convention ratified by Kenya shall form part of the law of Kenya under this Constitution.” By ratifying the above-mentioned treaties Kenya has demonstrated its commitment to combat GBV. This calls for the development of a policy framework guiding the implementation of GBV instruments.

3.7.2 Kenya’s Legal and Policy Framework Addressing Sexual Harassment

The Government is committed to the elimination of all forms of Sexual and Gender Based Violence (SGBV), and to the effective provision of quality and accessible services to all survivors. Kenya has a robust legal framework prohibiting various forms of SGBV which include: Sexual Offences Act (2006)\textsuperscript{59}, which among other things broadens the definition of sexual offences; the Sexual Offences (Amendment) Act, 2011\textsuperscript{60} that strengthened the 2006 Act; the Sexual Offences Regulations

\textsuperscript{55} AU (2004). Solemn Declaration on Gender Equality in Africa, AU Publication, Addis Ababa
\textsuperscript{56} UN (2012). International Conference of the Great Lakes Region Protocol, UN Publication
\textsuperscript{60} GOK (2011). Sexual Offences Amendment Act, Government Press, Nairobi

### 3.7.3 Kenya’s Institutional Framework Addressing Sexual Harassment

The key government institution charged with co-ordination of sexual harassment or issues related to SGBV prevention and response interventions is the Directorate of Gender in the Ministry of Devolution and Planning. Other key institutions include: the National Gender and Equality Commission (NGEC) with a responsibility of oversight on gender issues; the Ministry of Health with the responsibility of delivery of quality services for GBV survivors/victims; the criminal justice system for enforcement of law and order; the Task Force for the Implementation of the Sexual Offences Act under the Attorney General’s Office; Gender Units/Focal points in government ministries and agencies; the Police Gender Desks; the

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61 Act Strengthened, Government Press, Nairobi
National Steering Committee to Combat Human Trafficking; and the Kenya Police Service’s Anti-Trafficking Unit among others.

The initiatives put in place by the government to address sexual harassment include programmatic initiatives which are sector-based, mostly in the areas of health, justice, and security. Other efforts directed to referrals, co-ordination, and emergency response. Some multi-sectoral initiatives have included the GBV Response Centres based within health facilities offering comprehensive care services, GBV Helplines 1195, 116 and 1192. Initiatives in the health sector include: capacity building for response including training of GBV clinicians; the Post Exposure Prophylaxis (PEP) kits distribution programme; and the GBV Information Management System (GBVIMS). In the security sector, programmes have included the establishment of Gender Desks at police stations and the development of a training curriculum on GBV for police officers and the continued sensitization of police officers. The government has prepared programmes on SGBV for prosecutors and deployed them to specifically deal with sexual harassment or SGBV cases in areas with high prevalence.

3.7.4 Policy Priorities and Strategic Next Steps for Sexual Harassment Intervention

The study has established the following issues as challenges for the government addressing sexual harassment and therefore presents them for policy priorities and strategic next steps:

a. Limited co-ordination of stakeholders working on sexual harassment prevention and response;

b. Inadequate programmatic focus in addressing sexual harassment in the public and private sector work places;

c. Inadequate enforcement of legislation to curb the vice due to lack of policy framework implementation;

d. There is weak data capture, management and a poor Monitoring and Evaluation (M&E) framework for sexual harassment management;

e. Inadequate gender and sex disaggregated data for monitoring and evaluation of sexual harassment
programmes

f. Weak utilization of existing research to inform policy and programming; Limited documented evidence on what works for primary prevention of sexual harassment in the country among others.

3.8 Entry Areas for Efficient and Adaptable Linkages and Collaboration on SH

The study has identified some of the entry areas for efficient and adaptable linkages and collaboration framework for sexual harassment:

1. Mass education on sexual harassment to improve awareness and knowledge on sexual harassment and sensitize both those who would be victims and those likely to be motivated to perpetrate the sexual harassment to understand the gravity of the crime.

2. Building alliance and network of state and non-state actors to combat sexual harassment within the informal sector. For instance, work to strengthen the organizational networks and trade union to lobby them to include sexual harassment safeguards in their trade bargaining agreements. Additionally, support to community support structures such as the faith based organisations (FBOs) to build capacity on effective messaging on sexual harassment. The different gender-based violence and gender working groups at national and county level should be deliberate and focused on anti-sexual harassment interventions in their actions.


4. Developing grievance and redress procedure that can be emulated and enforced for all agencies.
3.9 Strategic areas for Concrete Partnership and Scaling of Anti-SH Intervention

The study identified the following as strategic and concrete partnerships and scaling of Anti-Sexual Harassment intervention in Kenya:

1. **Continual consultations, surveys and in-depth researches on sexual harassment:** The interventions on sexual harassment should seek to give workers in the informal sector spaces to voice their issues through surveys, and participatory researches. These researches can be in form of consultation with workers in the informal spaces especially women, to understand emerging trends of sexual trends, document what is working, and how to intensify anti-sexual harassment action. Carrying out periodic knowledge, attitude and practice surveys will help establish if the trends are going down and these will provide evidence for key intervention areas and convince managers, employers and supervisors that sexual harassment is a problem in their factory or farm. Lastly, prioritising women’s safety audits as a tool to take account of women’s safety in the world of work, covering safety in relation to the planning of lighting within work areas, security cameras, footpath, open spaces, and transport.

2. **Mass education:** This entails developing strategies, including training and awareness-raising, to assist the informal sector businesses become better aware of risks of sexual harassment. This mass education should take a whole school approach where all sectors of the economy carry messages of anti-sexual harassment workplace.

3. **Leverage on technology and media to communicate anti-sexual harassment messaging:** Identification and mapping of hotspots of sexual harassments and have the messaging target the audiences.

4. **Institutionalise Sexual Harassment Grievance Redress Mechanism:** Collaboration with authoritative law enforcement agencies and informal sector businesses to create inclusive, responsive reporting and effective mechanisms for seeking redress. This would entail development of generalised human resource procedures and policies; workplace sexual harassment policies covering complaints and redress; sexual harassment
committees, and setting up and running hotlines.

5. **Open and free spaces for social dialogue:** Capitalise on the free spaces to carry out social dialogue and working in partnership with other identified actors.

6. **Economic Costs of SH:** It is important to conduct specific case studies to determine the costs borne by businesses because of sexual harassment due to low productivity. This will be useful in assessing its economic impact on employers and families. The information gained will be key for advocacy work for the government, private and social sectors to invest on sexual harassment prevention programmes.
04 | CONCLUSIONS AND RECOMMENDATIONS

Based on the study findings, it can be concluded that:

1. The prevalence of sexual harassment in the informal sector is very high. The aggregate sexual harassment prevalence is 47% and among women it is 58%. For men, sexual harassment prevalence is relatively low at 35% in the informal sector. The priority focus subsectors should be floriculture, hotel and domestic services and horticulture. Further, sexual harassment happens mostly within the work areas and during working hours and women workers being the most vulnerable. The most common perpetrators have been identified as fellow workmates (same cadre of employment) and customers. The study recommends the following:
   a. Interventions to hasten eradication of sexual harassment at informal workspaces be done;
   b. Adopt multi-sectoral and multi-stakeholder approaches to develop anti-sexual harassment intervention especially targeting customers in informal sector spaces;
   c. Strengthening the existing law enforcement processes such as reporting, legal processes, and litigation, capacity building of enforcers among others.

2. The study established there is low awareness (36%) on sexual harassment as a crime and concern in the workplaces. Based on these finding, the study recommends:
   a. Interventions on messaging and information sharing on sexual harassment and its effects at workplace;
   b. Organise and conduct continual and periodic researches to monitor trends on sexual harassment in the informal spaces;
   c. Target creating policies and regulations for informal sector business and targeting organised and registered
institutions such transport SACCOs, trade unions, associations and networks and other informal sector businesses;

d. Invest in mass education campaigns on sexual harassment at informal working areas.

e. Sensitisation on SH, working with men and women and non-state actors in the sector for eradication of the vice.

3. Different factors were considered to be abetting sexual harassment in informal spaces. The study however, identified three significant factors: gender power relations and cultural normalization of sexual harassment in public and private sector; low support and unconducive conditions at workplace; and poor reporting and grievance redress mechanism (GRM). It will be important to consider the following:

   a. Need to sensitize the informal sector businesses on the sexual harassment and why it is unhealthy for their business. Support the organisations in computing the cost of sexual harassment in their businesses and relate to productivity;

   b. Advocate for proper budgeting and investment in employee friendly and harassment free businesses;

   c. Support institutions to develop sexual harassment policies and grievances redress mechanism;

   d. Advocate for gender equality in all sectors and mainstreaming sexual harassment in all policies across informal sectors;

   e. Work with cultural gate keepers to address the vice and ensure community sensitisation, working with men and women champions in SH.
4. There are robust and enough laws to tackle sexual harassment but implementation especially on enforcement of the law was still a big problem. Anti-sexual harassment interventions should consider:

   a. Building alliance and networks among multiple sectors and stakeholders to support law enforcement;

   b. Strengthen the reporting, documentation and prosecution of the sexual harassment cases;

   c. Advocate for specific reporting of sexual harassment independently in crime statistics;

   d. Engage with county government structures of enforcement especially in open spaces or regulatory frameworks to tackle sexual harassment.