



**CONSTITUTION AND REFORM  
EDUCATION CONSORTIUM (CRECO)**

# **PAIN AND SUFFERING IN THE MIDST OF A PANDEMIC**

**SURVEY REPORT ON MONITORING HUMAN RIGHTS  
VIOLATIONS DURING COVID-19 PANDEMIC IN KENYA**

**Trócaire**  
Working for a just world.



**CONSTITUTION AND REFORM  
EDUCATION CONSORTIUM (CRECO)**

## **PAIN AND SUFFERING IN THE MIDST OF A PANDEMIC**

Survey Report on Monitoring Human Rights  
Violations During Covid-19 Pandemic in Kenya

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## ACRONYMS

ACHPR	African Charter on Human and People's Rights.
COVID-19	Corona Virus Disease of 2019
CRC	Convention on the Rights of a Child
CRECO	Constitution and Reform Education Consortium
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
HRBA	Human Rights Based Approach
HRMs	Human Rights Monitors
HRVs	Human Rights Violations.
ICCPR	International Covenant on Civil & Political Rights
ICESCR	International Covenant of Economic Social and Cultural Rights
KHRC	Kenya Human Rights Commission
NGOs	Non-governmental Organizations
OB	Occurrence Book
PLWDs	Persons Living With Disabilities
SDGs	Sustainable Development Goals
UN-CAT	United Nations Convention Against Torture
WHO	World Health Organization
YAA	Youth Agenda

## **ACKNOWLEDGEMENTS**

**T**he Constitution and Reform Education Consortium (CRECO) would like to acknowledge various individuals and organizations that made contributions towards the development and production of this survey report. The report is a product of selfless efforts and commitment by our Human Rights Monitors (HRMs) who interacted with survivors of human rights violations.

CRECO appreciates partnership with Trócaire for the provision of funding towards the project Monitoring Human Rights Violations During COVID-19 Pandemic in Kenya and technical input to and resources of publication of this report.

Many thanks go to our local partners and institutions across the ten counties of the project for their support and mutual engagement in running the project.

Further, our special thanks go to the Situation Room Coordination team under the leadership of Marta Mumbua with support from Boaz Mugoto and the HRMs in their incredible work of data collection and rapid response. We would also like to thank the CRECO Secretariat staff for working tirelessly towards review and publication of this report. We also appreciate CRECO Chair person, Cornelius Oduor, and CRECO Management Committee for leadership and support he had advanced to the Secretariat and the entire CRECO fraternity.

Finally, we also would like to extend our gratitude to all those people who directly or indirectly contributed to the completion of this report in whichever small way. CRECO acknowledges all their input.

### **Joshua Changwony**

Ag. Executive Secretary,  
CRECO Secretariat

## PREFACE

Justice and human rights are at the heart of what Trócaire does and who we are. We believe that every woman, man and child is born equal and with the inalienable right to a dignified life, free from injustice. Our work is grounded in Catholic Social Teaching, which stresses the dignity of each person and their inalienable human rights, along with their responsibilities, regardless of culture, ethnicity, gender or religion. This belief in the unity and diversity of humankind is the basic value we bring to what we do.

Over the past four decades, Trócaire has worked alongside our partners in Kenya to protect and respond to basic human rights. We are therefore very pleased to have been able to support our partner CRECO to capture and share the findings of this very important report on human rights violations during COVID 19. This report places a particular emphasis on the role of the state, as the state is primarily responsible for ensuring the respect, promotion, protection and fulfilment of rights. The report does not disregard the importance of actors such as the civil society, INGOs, and Academia. However, the focus in terms of demanding accountability is on the state, which has a duty to protect citizens against human rights abuses. Finally this report stresses that COVID19 should not be used as a weapon to advance and promote human rights violations.

Trócaire continues to support partner organisations to monitor, document and advocate against human rights abuses with a view to achieving an end to impunity and uphold the observance of international human rights law. Taking a rights-based approach means that we put human rights at the centre of development and strive to ensure that universally recognised standards of human rights are promoted and upheld at all times and in all situations, including COVID 19.

In conclusion I would like to appeal to donors and INGOs to reflect on their commitment to the promotion of human rights in Kenya Funding for this very crucial work has been on the decline over the past decade despite the fact that any violation of people's basic human rights is a violation of the Sustainable Development Goals that Kenya is striving to meet. This cannot be done without additional support to promote Justice and Human Rights.

**Eithne Brennan**

Country Director

TRÓCAIRE



## FOREWORD

**C** COVID-19 pandemic as a global phenomenon brought unprecedented health, social, economic and governance challenges all over the world with the kind of devastation it has caused across nations. As a country, Kenya was not exempt from these challenges and in many regards, social and economic rights appear to have taken a bigger proportion of the myriad types of damages that COVID-19 pandemic has continued to leave in its wake wherever it has impacted.

Respect of fundamental human rights and constitutional provisions is critical even in a pandemic and strict adherence to these provisions of the law is the highest indications of the success of a democracy.

This survey report details a fairly comprehensive review of human rights violations monitoring across the ten counties mapped for the study during the COVID-19 pandemic. The big take away from the study has been the uncontested fact that there has been an increase in the number of human rights violations during COVID-19 pandemic in the country and that most of these violations have not been appropriately prosecuted for the victims to find justice. The study has also indicated the need to have increased political education for Kenyans to be more involved in demanding for their rights and calling for those violating their rights to face the law. Conflict management and non-violent communication strategies would also be very handy for people to be sensitized on ways of resolving their conflicts without descending into physical confrontation and abuse.

I find this survey report very timely in painting the state of human rights protection in the country and capacity and willingness of duty bearers to take responsibility in the incidences of violation of people's rights. This report is not exhaustive in its findings but helps create a mental picture of where we are as a country in our fidelity to the constitution and support of victims of abuse.

I encourage wide circulation and reflection of this report to continue spurring conversations around human rights protection and institutional strengthening to protect vulnerable groups that are most susceptible to human rights violations. Let us continue the conversation until protection of human rights as enshrined in the constitution becomes a reality for every Kenya.

**Cornelius Oduor**

Chairperson,  
CRECO Management Committee

## ABSTRACT

CRECO with support from Trócaire implemented a project titled 'Monitoring Human Rights Violations during COVID-19 Pandemic in Kenya' with the sole objective of carrying out a survey on documenting and analyzing human rights violations during COVID-19 pandemic. The project sought to carry out rapid response on emerging issues and lobby various actors for response/feedback and action. To achieve this objective, CRECO commissioned a survey on human rights violation in this period and setup a Situation Room as a safe space for reporting incidences of human rights violations.

The ten mapped out counties were: Nairobi, Mombasa, Kiambu, Kajiado, Busia, Machakos, Nakuru, Migori, Uasin Gishu and Kilifi targeting groups in grassroots communities (women, youth, people with disabilities and marginalized), public institutions responsible in administration and management of public affairs, maintaining law and order, enforcing various laws and adjudicating the open governance framework.

A baseline survey conducted applied descriptive survey methodology to develop relationships between the data collected. This correlation was based on statistical deductions that informed the observations made. The purposive sampling<sup>1</sup> used relied greatly on government advisory on the ten COVID-19 hotspot counties mapped out for the exercise. A total of 210 respondents were reached across the ten counties targeted with Nairobi County leading with 17% of the respondents followed by Kilifi County at 14%. The lowest response rate of 6% was from Machakos County followed by Busia, Kiambu, and Migori counties each with a response rate of 7%. The number of respondents per county was informed by the number of COVID-19 cases as reported by the MoH in their daily COVID-19 cases briefings in the month of August, 2020.

A breakdown of the incidences per county shows that Nakuru, Nairobi, Kilifi, Uasin Gishu, Migori and Mombasa reported more than 10 cases while Busia, Kiambu and Kajiado reported less than 10 cases.

*The key observations from the survey;*

1. Human Rights Violations – these were very rampant and mostly affected women, PLWDs and children but largely unreported.
2. Physical and Sexual abuse –there were physical abuses reported mostly from intimate partners and rampant abuses by law enforcement personnel against civilians without respecting people's rights.
3. Rapid Response – there was extensive need for rapid response (access justice through legal and advisory support, counselling of victims, material/financial support).
4. Kazi Mtaani Initiative – this initiative was well received by the public and more so the youths and as such it created a safe haven for them from engaging in illegal activities.
5. Access to water and healthcare –there were no person(s) adversely affected during the survey period in access to these two critical services.
6. Public Participation – The respondents indicated that they were not involved in public participation by either county or national government on budget appropriation for COVID-19 mitigation but even though, they did not consider their exclusion in the process as a critical violation of their rights.

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1 <https://www.statisticshowto.com/purposive-sampling/>

*Key recommendations;*

1. Ministry of Interior and National Coordination: Through regular communication, the Inspector General of Police ought to issue circulars, memos and emphasize that law enforcement officers must operate within the law and refrain from violating human rights.
2. Police Officers: Police Officers should adhere to Human Rights approaches when enforcing COVID-19 guidelines and protocols.
3. Members of the public and CSOs: a) There is need for continuous sensitization of the public on Alternative Dispute Resolution & non-violent communication skills in solving disputes & disputes, b) there is need for increased public awareness on why constitutional violation of people's rights to public participation in government processes is a critical human rights violation and may affect the quality of the services rendered to the people.
4. The Judiciary: evaluate remote functions of the courts using human rights standards of acceptability, affordability, adaptability, non-discriminative, adequacy & quality.
5. Citizens: Citizens need to be trained on sex-education with a view of protecting vulnerable members of the society (especially children) against sexual harassment, what to do in the event of sexual harassment and abuse. In supporting victims of sexual abuse, there is need to increase opportunities for psychosocial support for victims.
6. Ministry of Health: We take great cognizant of the deliberate and great efforts being put in place by the Ministry of Health in ensuring there is constant public awareness on the state of Covid-19 pandemic in Kenya and also in informing Kenyans of ways prevention and treatment.
7. Development Partners: We recognize the role of development partners in combating the COVID-19 pandemic through deployment of resources and technical support to both government and civil society. There is need for full disclosure to deter another 'COVID-19 Billionaires' situation in Kenya.

*Some of the challenges noted by CRECO were:*

1. Working with virtual tools for human rights reporting posed an initial challenge to some HRMs at the beginning; repeated support and training helped address the challenge.
2. The data collected for both baseline and critical incidences report was bulky and hence required data analyst to adequately analyze it. This caused some delays at the beginning but seemed much better after the services of a data analyst were utilized.
3. There was reluctance by most respondents to have their cases followed up, preferring to have their violation cases locally addressed or disregarded altogether.

## 1.0. BACKGROUND

The COVID 19 pandemic was a global infectious disease that engulfed the entire world from late 2019 to 2020 after being identified first in December 2019 in Wuhan, China. The disease is caused by Corona viruses that are known to cause respiratory infections. By the time of writing of this report, a vaccine for the virus had not yet been found and there was no specific treatment for it, other than managing the symptoms.

The disease was declared a global pandemic by World Health Organization (WHO) on 11th March 2020. Citing concerns with “the alarming levels of spread and severity,” the WHO called on governments and States to take urgent and aggressive actions to stop the spread of the virus and provide necessary support to those affected. By mid-March 2020, more than 150 countries had reported cases of COVID-19, and the WHO reported there were more than 200,000 cases worldwide. More than 7,000 people had died and the numbers were rising at an alarming rate. By 22nd June 2020, more than 183,000 new cases of COVID-19 were reported to WHO. More than 8.8 million cases have so far been reported to WHO and more than 465,000 people have lost their lives. By the same date, Kenya had recorded 4,797 positives cases, with 125 fatalities and 1,680 recoveries. (Note: The figures referenced are at the time of publishing this report).

Since the first COVID 19 positive case was recorded in Kenya on 13th March, 2020, the government has come up with a raft of measures and mechanisms to contain the pandemic and support the citizens affected by it. On 15<sup>th</sup> March 2020, closure of educational institutions and work-from-home directives were issued. This was followed by a dawn to dusk curfew order issued on 27th March 2020, restraining the movement of all persons from 7 p.m. to 5a.m and subsequently revised to 9 p.m. to 4 a.m., save for essential service providers. Since then other measures such as restriction of movements in vastly affected counties and towns have been put in place to support public health efforts in pre- venting and controlling the pandemic.

Whereas COVID-19 is a public health threat, it has brought with it paralysis in almost all sectors of the country’s economy and other spheres of public life. The impediments to government’s economic aspirations including the Big 4 Agenda<sup>2</sup>, Vision 2030<sup>3</sup> and Sustainable Development Goals (SDGs)<sup>4</sup>; closure of borders; scaling down of public services and closure of businesses have adversely impacted people’s lives and exposed them to vulnerabilities. In order to protect people from the negative impacts of the pandemic, the government has set up incentives such as tax reliefs, cash transfers for the vulnerable and economic stimulus package, as it monitors the management of the pandemic.

There is no doubt that the interventions in place will have direct impact on human rights hence the need for human rights agenda to be at the centre of key decisions being made in Kenya. The WHO Director General in his press statement of 11<sup>th</sup> March 2020, stated “...All countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights..<sup>5</sup>

The Constitution of Kenya 2010 has robust provisions under the Bill of Rights informing Kenya’s

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2 <http://cn.invest.go.ke/wp-content/uploads/2018/12/Government-of-Kenya-Big-Four-Plan.pdf>

3 <https://vision2030.go.ke/towards-2030/>

4 <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

5 WHO Director General Press Statement on 11 March 2020 accessed [here](#)

democracy<sup>6</sup> binding all State organs and all persons<sup>7</sup>. By virtue of Article 2 (5) and (6) of the Constitution, Kenya is bound by its international and regional obligations under various human rights instruments including; the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN-CAT) the International Covenant on Civil & Political Rights (ICCPR); the International Covenant of Economic Social and Cultural Rights (ICESCR); Convention on the Rights of Persons with Disabilities (CRPD); Convention on the Rights of a Child (CRC) and the African Charter on Human and People's Rights (ACHPR). These instruments together with their commentaries and guidelines provide for protection and safeguards that give full effect of fundamental rights and freedoms of persons by States.

Based on this background, The Constitution and Reform Education Consortium (CRECO) recognize that the State has an obligation, within its jurisdiction and internationally, to take measures to combat the pandemic and in doing so it must respect and promote human rights across the whole COVID-19 spectrum. Respecting human rights is crucial to successful response to the pandemic. Therefore, CRECO set up an elaborate process of monitoring the government's response to COVID-19 pandemic with a view of enhancing protection and promotion of human rights.

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6 Article 19 (1) of the Constitution of Kenya  
7 Article 20 (1)

## **2.0. INTRODUCTION.**

CRECO with support from Trócaire, begun implementation of the project "Monitoring Human Rights Violations During COVID-19 Pandemic in Kenya" whose main objectives were to document and analyze human rights violations during this COVID-19 pandemic. The project also sought to carry out rapid response on emerging issues and to lobby various actors for response/feedback and action. To achieve this objective, CRECO commissioned a survey on human rights violation in this COVID-19 containment period and setup a Situation Room as a safe space for reporting Human Rights Monitors (HRMs) who were incidences of human rights violation for rapid response. The information is collected by identified through a mapping process based on government advisories for counties that were considered COVID-19 pandemic hotspots when the pandemic broke out. The HRMs were then trained on basic human rights monitoring best practices and on the specific tools to be used for their assignment.

### **2.1. The purpose of the Survey.**

The main purpose for this survey was to document and analyze human rights violations during this COVID-19 pandemic period, in Kenya for the period ending October, 2020.

### **2.2. The scope**

The ten mapped out counties are: Nairobi, Mombasa, Kiambu, Kajiado, Busia, Machakos, Nakuru, Migori, Uasin Gishu and Kilifi. Beneficiaries targeted by this project include groups in grassroots communities (women, youth, people with disabilities and marginalized), public institutions responsible in administration and management of public affairs, maintaining law and order, enforcing various laws and adjudicating the open governance framework, for the period between August to October, 2020.

### **2.3. Ethical Considerations**

In collecting data in during this survey, CRECO and all the HRMs adhered to all the ethical<sup>8</sup> standards that pertain to data validity, integrity, confidentiality, voluntary participation and consent of the respondents.

### **2.4. Survey Sampling Methodology Used**

This survey used descriptive survey method<sup>9</sup> to develop relationships between the data collected. This relationship correlation was based on mathematical deductions that informed the observations made. In this regard, the computed data from the baseline survey informed the conclusions made on "why" particular human rights violation issues exist along with "what" respondents said about it. The sampling method used for the survey was purposive sampling<sup>10</sup> relying on government advisory on COVID-19 hotspot counties to inform the ten counties mapped out for the exercise. The 30 HRMs considered for this survey were also scouted based on a criteria described in section 3.2 above leveraging on CRECO's existing grassroots network of human rights actors within the mapped out counties.

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8 [https://profiles.uonbi.ac.ke/kuria\\_paul/files/429-825-2-pb.pdf](https://profiles.uonbi.ac.ke/kuria_paul/files/429-825-2-pb.pdf)

9 [https://www.researchgate.net/publication/333220662\\_Descriptive\\_Research\\_Designs](https://www.researchgate.net/publication/333220662_Descriptive_Research_Designs)

10 <https://researchbasics.education.uconn.edu/purposive-sampling/>

## **2.5. The Baseline**

### *2.5.1. Identification of Human Rights Monitors (HRMs)*

Having mapped out the ten target counties for the assignment, CRECO conducted an extensive process of recruitment of Human Rights Monitors (HRMs). The basic minimum requirements for HRMs included post-secondary education and residence in the respective county of interest. Preference was given to applicants that had prior experience in human rights advocacy. Detailed criteria and requirements for the recruitment are provided in annex 1 annexed on this report.

### *2.5.2. Training and deployment of HRMs*

The training of HRMs took place virtually via zoom on 6<sup>th</sup> August 2020. The group of 30 (17 Male 13 female) was divided into two groups for ease of engagement;

Training delivered	Areas of deployment	Critical Incidence Reporting
<ol style="list-style-type: none"> <li>1. Introduction to the project – this covered a briefing of the project and expected outcomes as well as scope of engagement.</li> <li>2. Basics of human rights monitoring – this covered best practices in monitoring human rights including objectivity, confidentiality, and audacity in human rights advocacy</li> <li>3. Basics of data collection – this covered best practices in collecting and handling human centered data.</li> <li>4. Critical Human Rights Monitoring Tools – this covered training on how to administer the baseline survey for the survey as well as the critical human rights incidences reporting. HRMs were also specifically trained on tools to be used in the project as annexed in this report.</li> </ol>	<ol style="list-style-type: none"> <li>1. Nairobi County– Mathare, Kibra, Dandora, Kayole, Kangemi</li> <li>2. Mombasa County - Changamwe, Mshomoroni and Mvita.</li> <li>3. Kiambu County – Juja and Thika town.</li> <li>4. Busia County – Malaba and Busia Town.</li> <li>5. Migori County – Isibania and Migori Town.</li> <li>6. Machakos County – Mavoko, Kathemboni and Kariobangi.</li> <li>7. Nakuru County– Kaptembwo, Naivasha and Kivumbini.</li> <li>8. Uasin Gishu County – Langas, Munyaka and Sergoit.</li> <li>9. Kajiado County – Kajiado Town, Kitengela and Ongata Rongai.</li> <li>10. Kilifi County – Gazelle, Mnarani, Mtwapa and Malindi.</li> </ol>	<p>CRECO engaged in extensive recording of critical human rights violation incidences across ten mapped counties on a weekly basis.</p> <p>The cases reported were categorized as follows;</p> <ul style="list-style-type: none"> <li>▪ Physical Assault</li> <li>▪ Extortion</li> <li>▪ Sexual Abuse</li> <li>▪ Forceful Possession</li> <li>▪ Arbitrary Arrests</li> <li>▪ Unlawful Detention</li> <li>▪ Framing</li> </ul> <p>The process of rapid response often involved engaging with relevant institutions and duty bearers with the view of supporting victims of human rights violations access justice.</p>

Table 1: Training and deployment of HRMs-Oct, 2020.



### *2.5.3. Partnerships to amplify results of human rights violations and COVID-19 –*

#### **Kenya National Interface Team (KNIT)**

In the course of the project, CRECO worked in partnership with different organizations to further amplify the purpose of the report. The partnership was two fronts: involvement of CRECO members at the grassroots level in the counties of project operation for mobilization and contextual dissemination of project results; and strategic partners with other organizations working in the same area to amplify our results at a national level with the view of development recommendations to inform policy changes.

On the strategic partnerships, CRECO worked with KNIT to share results of this project in addition to the work KNIT had done towards developing a post COVID-19 strategy to shape Kenya's recovery strategies across different sectors. Through this partnership, a post COVID-19 Advisory Framework was developed and widely disseminated across the country through a series of virtual meetings. The advisory framework provided a detailed sectoral analysis of the impact of COVID-19 pandemic providing recommendations of how to mitigate the different setbacks that had been occasioned by the pandemic moving forward.

## ABOUT KNIT ADVISORY FRAMEWORK RESULTS

Key Advisory Framework Results		
Key lessons from the COVID 19 pandemic	Sectoral and Thematic focus	Synthesis of conference consensus on priority areas
<ol style="list-style-type: none"> <li>1. A significant majority of citizens have been alienated from the nation's formal Health care system</li> <li>2. Mass awareness and adoption of preventive measures are the most effective methods of dealing with disease pandemics.</li> <li>3. Holistic livelihood security is the basic foundation of a healthy society.</li> <li>4. Health services are a public good that must be accessed by all in society.</li> <li>5. We have to be self-sufficient in meeting our essential health care needs.</li> <li>6. People must be empowered to govern and oversee the management of health care services</li> <li>7. Sustained investment in research and technology development is essential to dealing with emerging diseases and health needs.</li> <li>8. Health is a cross-cutting domain that affects all sectors of the economy.</li> <li>9. Harmonious coordination and collaboration between the national and county governments is key to dealing with major health issues.</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Health Sector</b> – COVID-19 Pandemic And Access To Quality Healthcare In Kenya</li> <li>2. <b>Water, Sanitation &amp; Health (Wash) Sector</b> – Interface And Impact Of COVID-19 Pandemic On Access To Water, Sanitation And Hygiene (Wash) With Reference To People's Urban Settlements</li> <li>3. <b>Education Sector</b> – Interface With And Impact Of COVID-19 Pandemic On Access To Quality Education</li> <li>4. <b>Thematic Areas</b> – Social Impact Of COVID-19</li> <li>5. <b>Mainstreaming Gender</b> in the Post COVID-19 Recovery and Sustainability Framework.</li> </ol>	<p><b>Priority Area 1:</b> Public Goods And The Centrality Of Healthcare</p> <p><b>Priority Area 2:</b> Framework For Policy Cycle Planning For The New Deal (shown below this table)</p> <p><b>Priority Area 3:</b> Anchor New Deal on Relevant Key National and International Instruments</p> <p><b>Priority Area 4:</b> COVID-19 Pandemic, access to Quality Healthcare and Transforming Kenya's Healthcare System</p> <p><b>Priority Area 5:</b> COVID-19 Pandemic, access to Quality Water and Sanitation to Peoples Settlements in Urban Setting</p> <p><b>Priority Area 6:</b> COVID-19 Pandemic, Access to Quality Education and Policy Proposals</p> <p><b>Priority Area 7:</b> Social Impact Of COVID-19 Pandemic On Children, Women, PWDs, Households And Other Vulnerable Groups</p> <p><b>Priority Area 8:</b> Mainstreaming Gender In The Post COVID-19 Recovery &amp; Sustainability Framework</p> <p><b>Priority Area 9:</b> Engagement Planning</p> <p><b>Priority Area 10:</b> A Public Goods As Rights Movement</p>

Table 2: Key Advisory Framework Results-Oct, 2020.

### 3.0. RESULTS AND ANALYSIS

#### 3.1. Human Rights Violation Analysis Baseline Report August 2020

A baseline survey was conducted for 7 days to provide a basis for targeted monitoring of human rights. The purpose of the survey was not only to provide a baseline but also inform development of monitoring tools that targeted specific needs across different counties (in the event that there was such need). (The baseline survey tool used for this exercise is provided in annex 2 below).

#### 3.2. Survey Type and Sampling Method Used

This survey used descriptive survey method to develop relationships between the data collected. This relationship correlation was based on mathematical deductions that informed the observations made. In this regard, the computed data from the baseline survey informed the conclusions made on “why” particular human rights violation issues exist along with “what” respondents said about it.

The sampling method used for the survey was purposive sampling relying on government advisory on COVID-19 hotspot counties to inform the ten counties mapped out for the exercise. The 30 HRMs considered for this survey were also scouted based on a criteria described in section 3.2 above leveraging on CRECO’s existing grassroots network of human rights actors within the mapped out counties.

A total of 210 respondents were reached across the counties targeted with Nairobi County leading with 17% of the respondents followed by Kilifi County at 14%. ) The lowest number of respondents (6%) were from Machakos County followed by Busia, Kiambu, and Migori counties which had 7% of the respondents for the survey. The number of respondents per county was informed by the number of COVID-19 cases as reported by the Ministry of Health in their daily COVID-19 cases briefings in the month of August. Summary of the results are shown in figure 2 below:

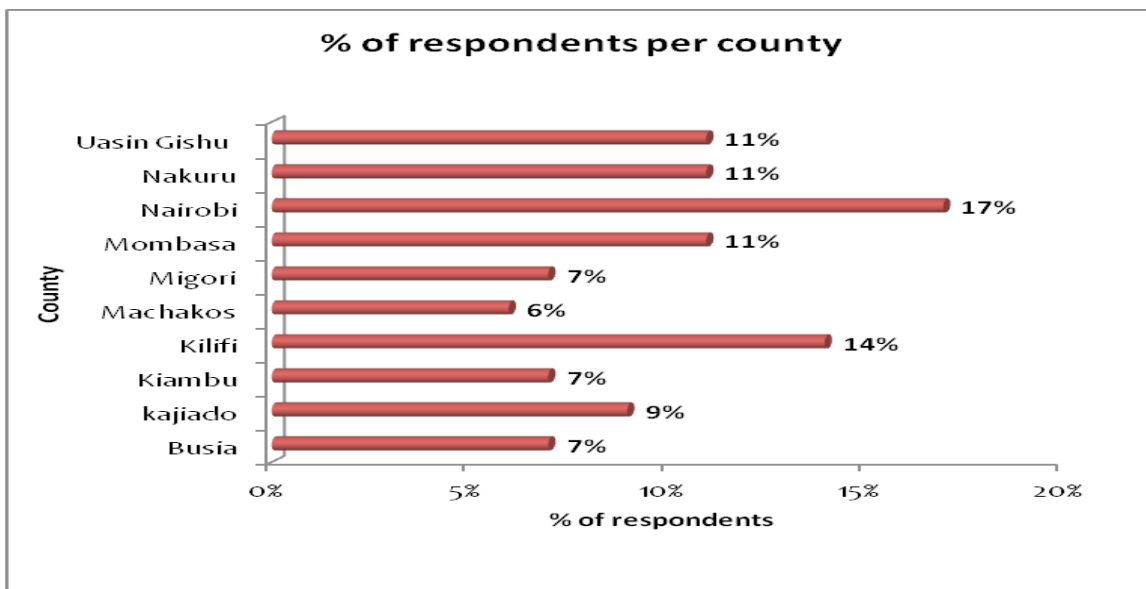
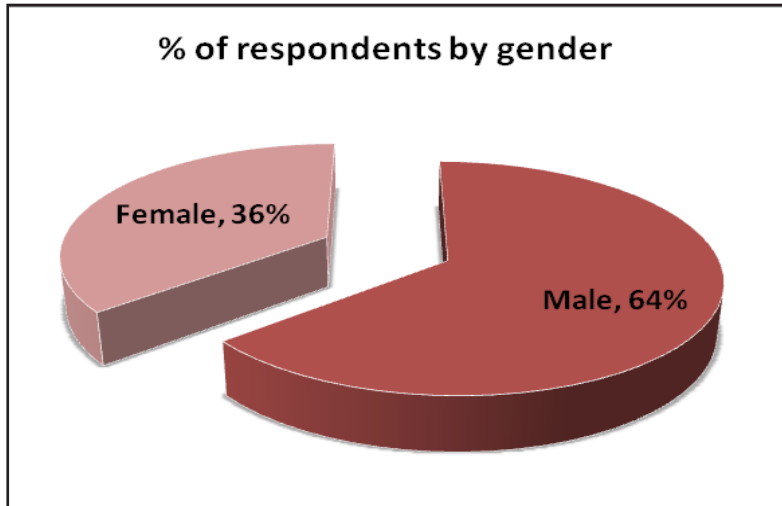


Figure 1: Percentage respondents per county-Oct, 2020.

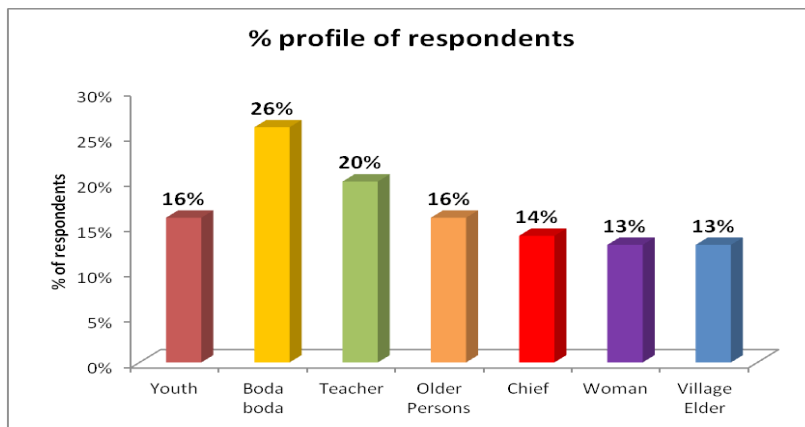
### 3.3. Demographics of the Survey

This section of the survey covered the gender, profile of respondents, and the type of area where respondents live and the category of human rights violation monitored. The summary of the results are shown in figures 3 to 5 below.



*The survey targeted 210 respondents, 64% of whom were male and 36% were female.*

Figure 2: percentage of respondents by gender-Oct, 2020.



*The survey sampled 7 different profiles of respondents; Boda boda at 26%, Teacher at 20%, Youth-16%, Older person (above 65)-16%, Chief-14%, Woman-13%, and Village elder-13%.*

Fig 3: Percentage of respondents profiles-Oct, 2020.

The survey sought to monitor human rights violations under seven thematic categories with respect to how COVID-19 has impacted respondents in different counties. The categories were: 1) Access to healthcare, 2) Access to Water, 3) Discrimination 4) Public Participation 5) Right to information 6) Stigmatization and 7) Social and Economic rights.

From the results shown in figure 5 below, it was found that the area that was most impacted by COVID-19 pandemic across the counties was social and economic rights of people at 37% of the survey. This was followed by stigmatization at 17% and discrimination at 13%. The survey found that access to water was the least of concerns for respondents scored at 4%.

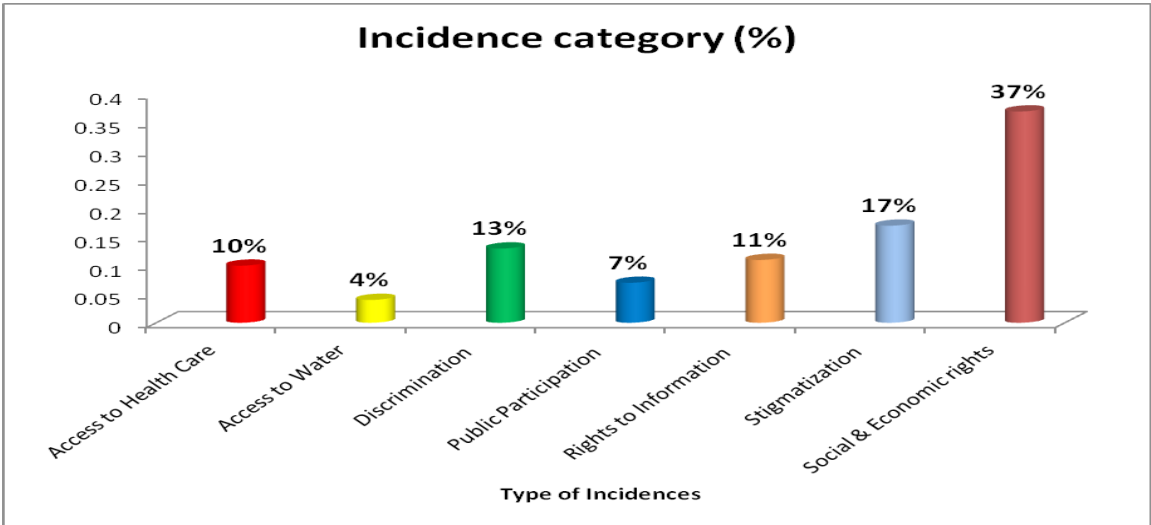


Fig 4: Percentage of incidence categories monitored - Oct, 2020.

**Category 1: Stigmatization in relation to COVID-19**

The survey sought to investigate if people were stigmatized due to COVID-19. 63% of the respondents provided an affirmative yes and 37% responded in the negative. The nature of stigmatization was also sought and it emerged that 28% of the respondents indicated that the stigmatization they had involved people who had tested positive of COVID-19, and those whose travel history indicated areas that were considered hotspots of COVID-19 pandemic was equally at 28%. The least form of stigmatization was the one associated with relatives of persons that were COVID-19 positive at 20%. The summary results are shown in figure 6 below;

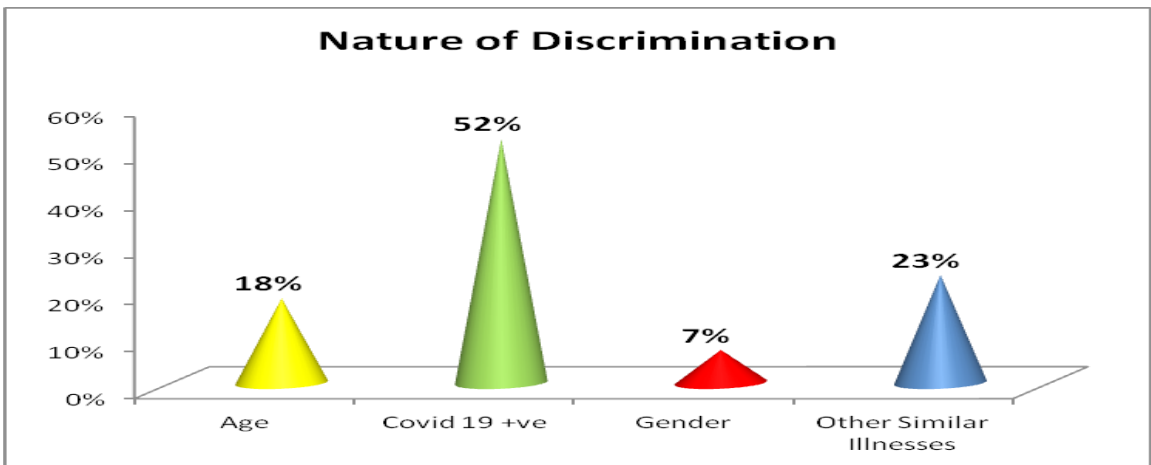


Fig 5: Nature of stigmatization-Oct-2020.

## Category 2: Discrimination in relation to COVID-19

In the second category, the survey sought to find out if there were people who felt discriminated against due to COVID-19 and 65% of the respondents responded in the affirmative and 35% responded in the negative.

On the nature of discrimination, 52% of the respondents indicated that the discrimination they had experienced involved people who had tested positive of COVID-19 followed by those who were ill with other illnesses that had similar symptoms with those thought to be for COVID-19. Only 6% of the respondents associated discrimination in the times of COVID-19 with gender. The summary results are shown in figure 7 below.

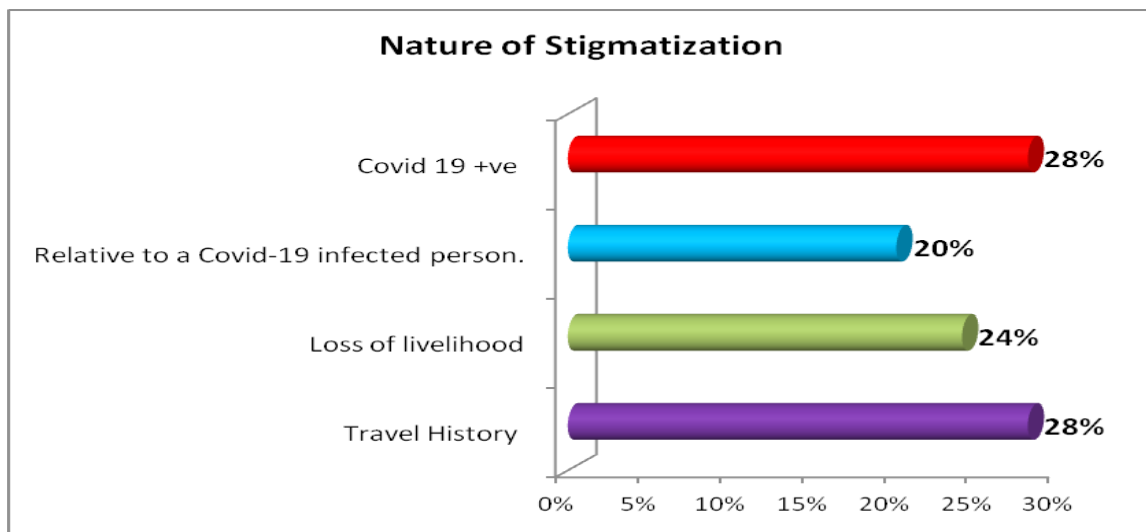


Fig 6: Nature of discrimination-Oct, 2020.

## Category 3: Social and Economic Rights violations in relation to COVID-19

In this category, the survey sought to assess the level of impact that COVID-19 had on people's social and economic rights. Under this category, the survey found that challenges associated with loss of jobs were the most impacted areas for respondents with a cumulative score of 33%. This was followed by domestic violence (21%) and Gender based Violence (10%) with a cumulative score of 31%. The survey also indicated that increased cases of unplanned teenage pregnancies made the third concern for respondents across the counties scoring 21%. Police brutality also featured in the concerns with a 10% score whereas violence against police officers and challenges around housing were least concerning for respondents with 2% and 3% score respectively as shown in figure 8 below.

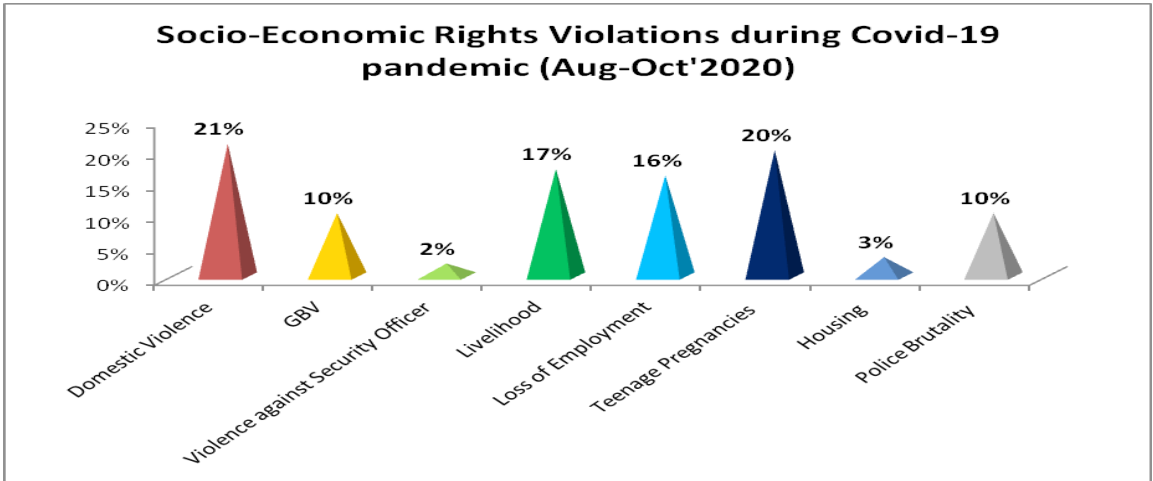


Fig 7: Socio-Economic rights violation during COVID-19 pandemic-Oct, 2020.

In the build up to the commencement of this survey, there were media reports that implied that despite best efforts by the government to provide economic stimulus for affected youth in the country through what was/is called Kazi Mtaani<sup>11</sup>, not many people had benefited from the initiative. In this regard, this survey asked respondents whether they had knowledge regarding that government initiative and 93% of the respondents admitted to being aware of the initiative with 7% saying they were not aware of the initiative as shown in figure 9 below. It therefore meant that the initiative is satisfactorily known across the country and many youths are actively benefitting from it.

Additionally, there were media reports<sup>12</sup> that Kenyans who were engaged in Kazi Mtaani were being paid less than what was announced by the President when launching the project. The survey found that 75% of respondents aware of the project knew that those engaged were to be paid between Kshs. 250 and Kshs. 500 and 21% indicated that there were those that were paid above Kshs. 500. Only 4% of the respondents reported cases where people were paid less than Kshs. 250. This showed that the project was generally acceptable with regards to what was announced nationally and what was happening at the grassroots.

11 National Hygiene Program (NHP) commonly referred to as Kazi Mtaani sought to benefit 270,000 youths across the county with a budget of Kshs. 10 billion announced by the President of the Republic of Kenya. <https://www.capitalfm.co.ke/news/2020/07/thousands-of-youth-to-benefit-from-kazi-mtaani-project/>

12 See media reports on Kazi Mtaani initiative <https://allafrica.com/stories/202008070217.html>

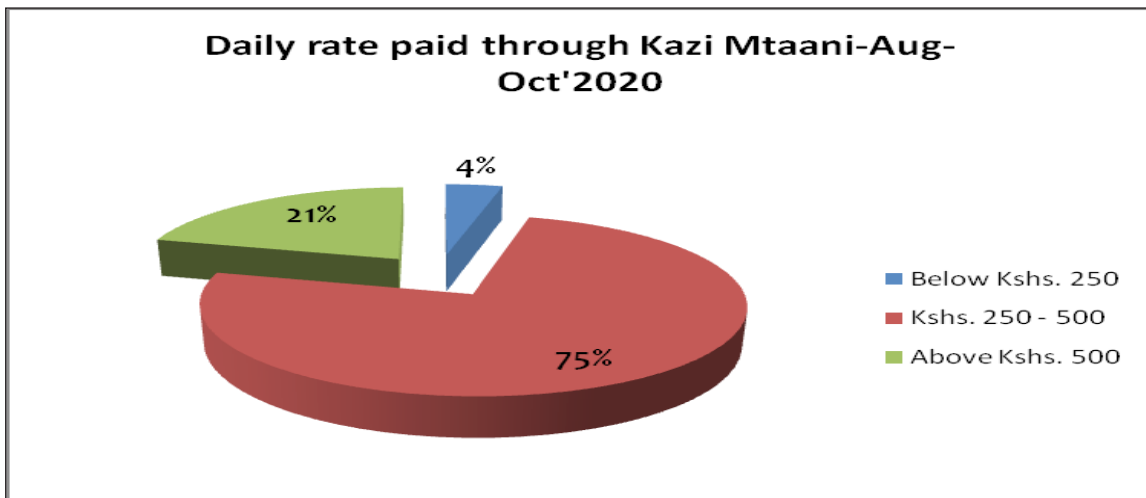


Figure 8: Daily rate paid through kazi mtaani-Oct, 2020.

#### Category 4 and 5: Right to Information and Public Participation in relation to COVID-19

This category of interest sought to inquire whether Kenyans at the grassroots had access to critical information about COVID-19. The first part of this category asked whether people felt sufficiently informed about COVID-19 – its causes, transmission and how to protect oneself. 70% of the respondents said they were sufficiently informed while 30% said they were not as shown in figure 10 below.

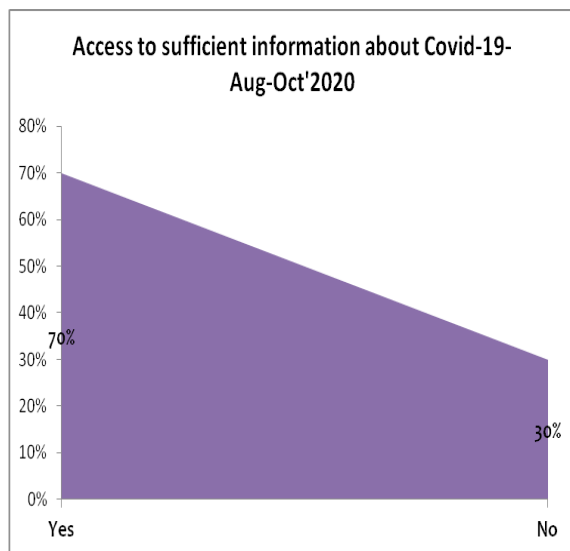


Fig 9: Access to sufficient information on COVID-19.

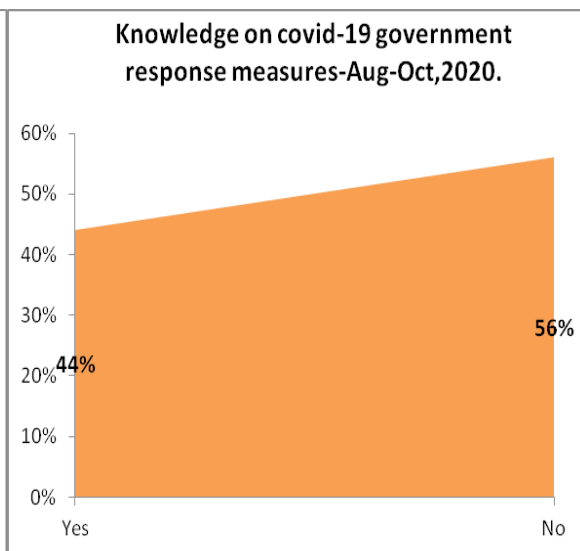


Fig 10: Knowledge on COVID-19 government response measures

When asked on whether they felt sufficiently informed about government response measures, 56% of the respondents responded in the negative and 44% felt sufficiently informed- see figure 11 above. In addition to this, 89% of the respondents indicated that they were not involved in any way in government (county and national) budgetary planning and allocation for COVID-19 pandemic. Only 11% of the respondents indicated that they had been informed or involved in one way or another.



**Knowldege on government budgetary allocation on covid-19 response-Aug-Oct'2020.**

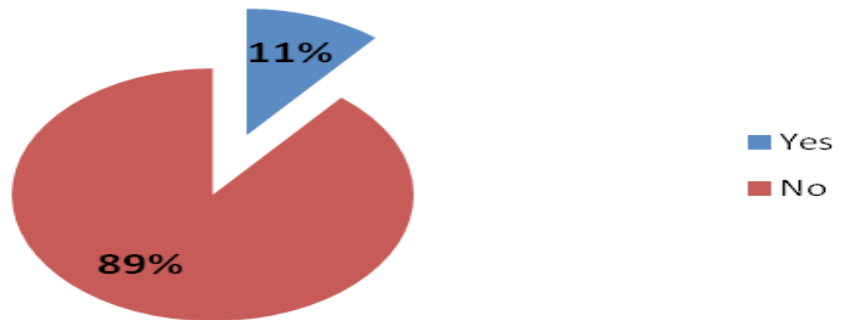


Fig11: Knowledge on government budgetary allocation on COVID-19 response-Oct, 2020.

**Category 6: Access to healthcare during COVID-19 containment period.**

This category sought to assess whether people at the grassroots were able to access health services during COVID-19 when government instituted measures to curtail the spread of the disease. 84% of the respondents indicated that they were able to access health services during COVID-19 pandemic and 16% said they were not able to as shown in figure 13 below;

**Access to Healthcare during Covid-19 period.**

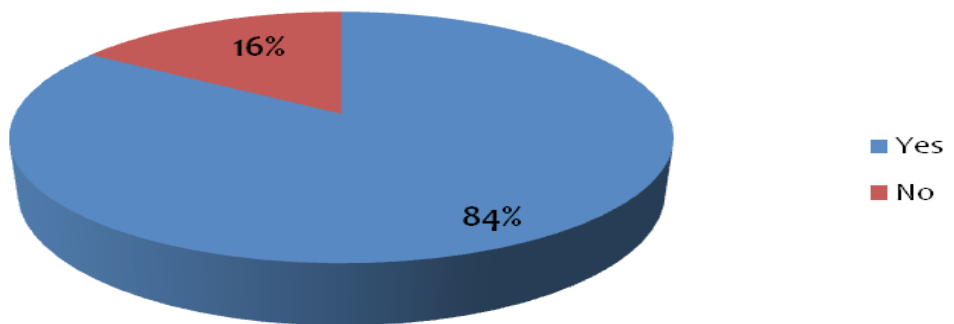


Fig12: Access to Healthcare services

### Category 7: Access to Water during COVID-19 containment period.

This category sought to assess whether people at the grassroots were able to access water during COVID-19 period when government instituted measures to curtail the spread of the disease. In this regard, the focus was on what sources of water were available for them. The survey showed that county piped water was the most common source of water at 48%, which cleared was a reflection by the National Government directives<sup>13</sup> on ensuring that all Kenyans should be able to access clean and running water during this containment period<sup>14</sup>. Access to water through boreholes was at 33% which was also noted as a sign of good neighbourliness through sharing of water with the ones that didn't have access to and hawkers at 10% as shown in figure 14 below.

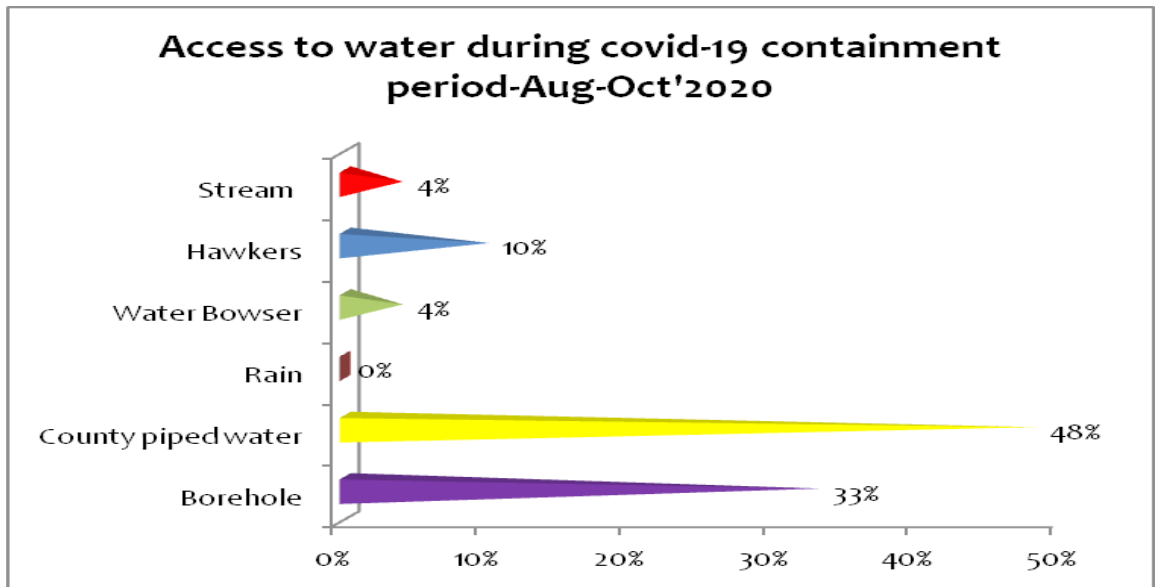


Fig13: Access to water during COVID-19 containment period-Oct, 2020.

13 <https://www.capitalfm.co.ke/news/2020/03/cs-kariuki-directs-water-agencies-to-ensure-adequate-water-supply-for-handwashing/>

14 <https://www.refworld.org/pdfid/4538838d11.pdf>

#### 4.0. CRITICAL INCIDENTS REPORTS RESULTS AND ANALYSIS

##### 4.1. Commissioning of the Critical Incidents Reporting Assignments

In the foregoing analysis of the baseline survey, it was found that there were indeed a number of critical human rights issues that that were worth monitoring in the grassroots that had been worsened by COVID-19 pandemic. In this regard, a weekly critical human rights incidents reporting exercise was commissioned where HRMs were required to collect and report on human rights violations within their respective counties.

The collection and documentation of the HRVs was done using a specially designed online tool that virtually collected data from the field. The monitoring was conducted across the selected 10 counties by the 30 HRMs contracted for the project.

##### 4.2. Results from the Critical Human Rights Monitoring Responses

These results were conducted for three weeks in August and September 2020. A total of 106 respondents were reached for these engagements where 63 % of them were female while 37% were male.

##### 4.3. Reported Cases across the Counties

From the cases reported, figure 15 below shows that the highest county with the cases was Nakuru with 19 cases (18%) followed by Nairobi with 16 cases (15%) and Kilifi with 15 cases (14%). Migori, Mombasa and Uasin Gishu each reported 10 cases (9% each) while Machakos and Busia counties reported 7 cases each (7% each) and Kiambu and Kajiado counties reported 6 cases each (6% each).

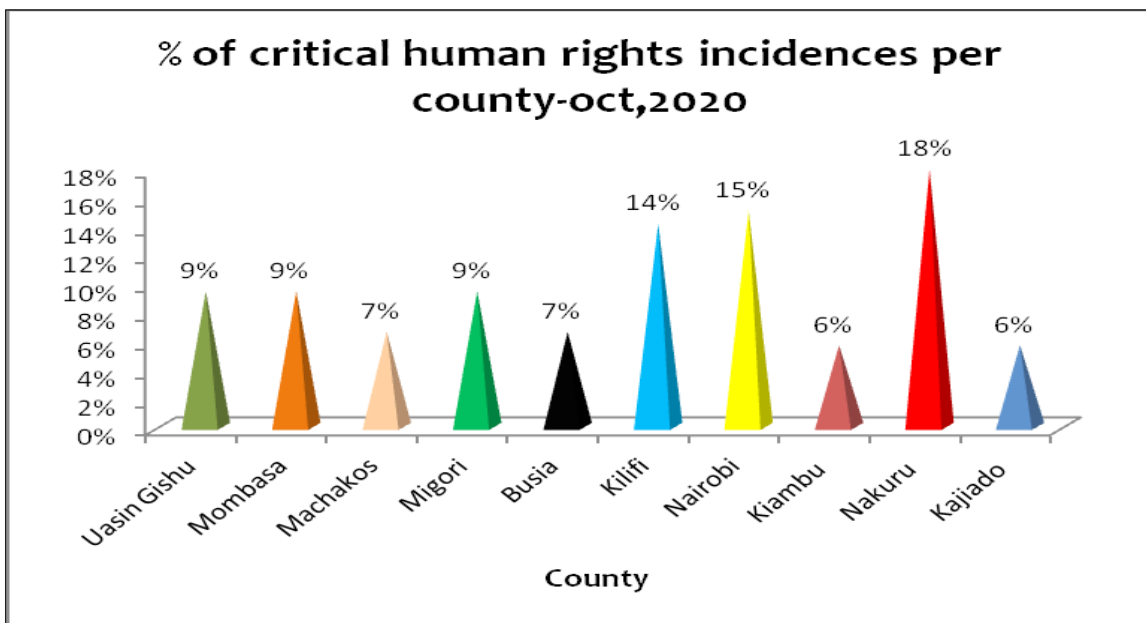


Fig14: Percentage of human rights incidences per county-Oct, 2020.

### 4.3.1. Nature of Cases reported across the Counties

The nature of cases reported across the counties was of different kind(s) as indicated in figure 16 below. It is important to note that 40% of the cases reported related to physical assault; 23% were of sexual abuse nature; 9% regarded unlawful detention and arbitrary arrest; 8% involved extortion and 5% involved forceful eviction. Other forms of incidences amounted to 15%.

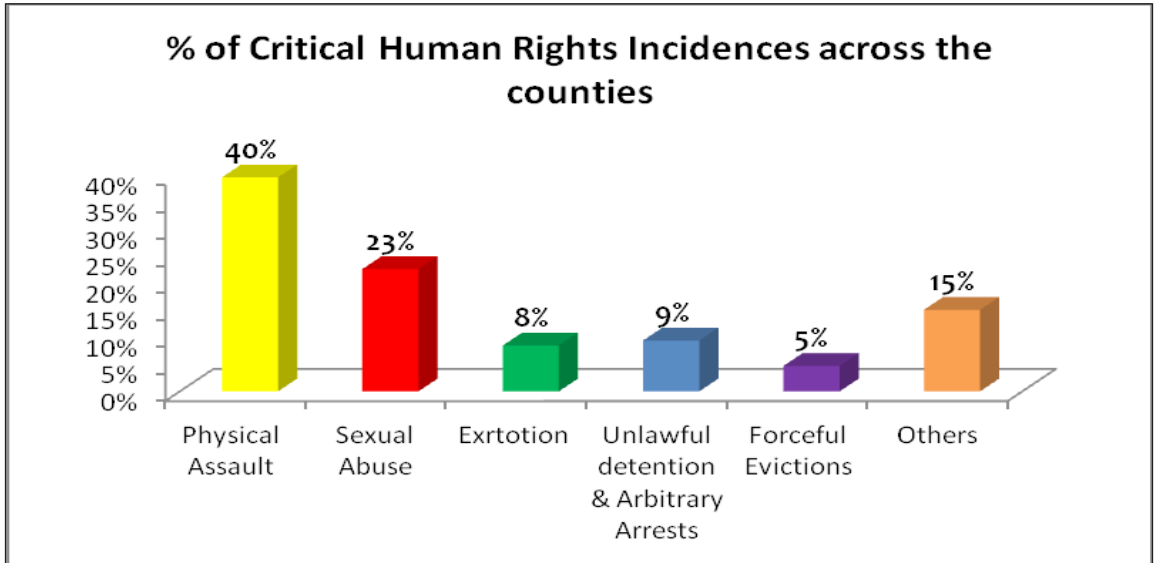


Fig15: Nature of critical human rights incidences across the counties-Oct, 2020.

### 4.3.2. Summary of the key cases reported

There were a number of incidences that were reported and different action taken in response to the incidence. Table 3 below shows a summary of some of the critical incidences reported.

S/NO	INCIDENCE	AREA	TIME & DATE	ACTION TAKEN
	A house help was not paid her salary and when she asked, she was assaulted by the employer losing a teeth in the process.	Syokimau/Mlolongo ward (Syokimau estate) Mavoko – Machakos County	28/07/2020 4.00 pm	HRM has followed up the case to the police and the matter reached the court
	A woman was stabbed by a man after an altercation	YMCA area Nakuru	19.08.20 5.30 pm	Reported at Bondeni police station OB No. 62/19/8/2020
	A man attempted to strangle his woman lover with the accusation that the woman was involved in extra marital affairs. She survived and sustained serious injuries	Furunzi, Malindi town Ward -Malindi Sub County in Kilifi county	11.8.2020 12.40 pm	Victim was referred to FIDA and LSK for legal redress
	A woman was raped by six men one of whom was well known to her	Laini Saba, Kibra, Nairobi	30.8.2020 8.00 pm	Victim refused to report the matter and a counsellor is helping. We have post rape care form
	During a peaceful protest against the loss of COVID-19 funds, police arrested protesters in Nairobi on allegation of flouting COVID-19 rules	Nairobi CBD	21/08/2020 9.30 am	Followed the matter to Central Police Station where the arrested persons were later released without charge
	A woman was wrongfully arrested on allegations of maliciously damaging someone's property.	Kijiwe Tanga	11/09/2020 8:58PM	Followed up on the matter but the lady was released without charges
	In Changamwe, a teacher hanged himself in his residential house after a disagreement with his wife due to economic related issues that led to separation. The private school teacher had complained about having lost his job due to COVID-19 pandemic.	Changamwe, Mombasa	19.8.2020 1.40 pm	The matter was reported to local authorities

Table 3: Summary of assorted incidences and actions taken in response-Oct-2020.

## 5.0. Right to Education: Status of Schools re-opening amid COVID-19 pandemic

Six months after COVID-19 pandemic hit Kenya, the government provided guidelines to be followed by schools for safe re-opening<sup>15</sup>. When schools were opened on October 12, 2020, there were widespread concerns reported on mainstream media by parents fearing that schools may not be well prepared to enforce government issued regulations in curbing the transmission of COVID-19 disease.

Following these observations across local media, CRECO conducted a survey across 210 schools in the ten mapped counties to assess the state of preparedness with regards to government issued COVID-19 guidelines for reopening of their schools. The survey focused on the following areas: 1) Status of schools' reopening – how many of the expected students and teachers actually reported to school and 2) Schools' level of preparedness – with regards to social distancing guidelines for students and teachers as well as schools' capacity to provide hand washing points and sanitizers for learns and teachers.

### 5.1. Schools' reopening assessment

The survey assesses schools' preparedness and adherence to COVID-19 schools re-opening guidelines issued by government for re-opening for Grade 4, class 8 and form 4 students.

#### I) Type of Schools surveyed

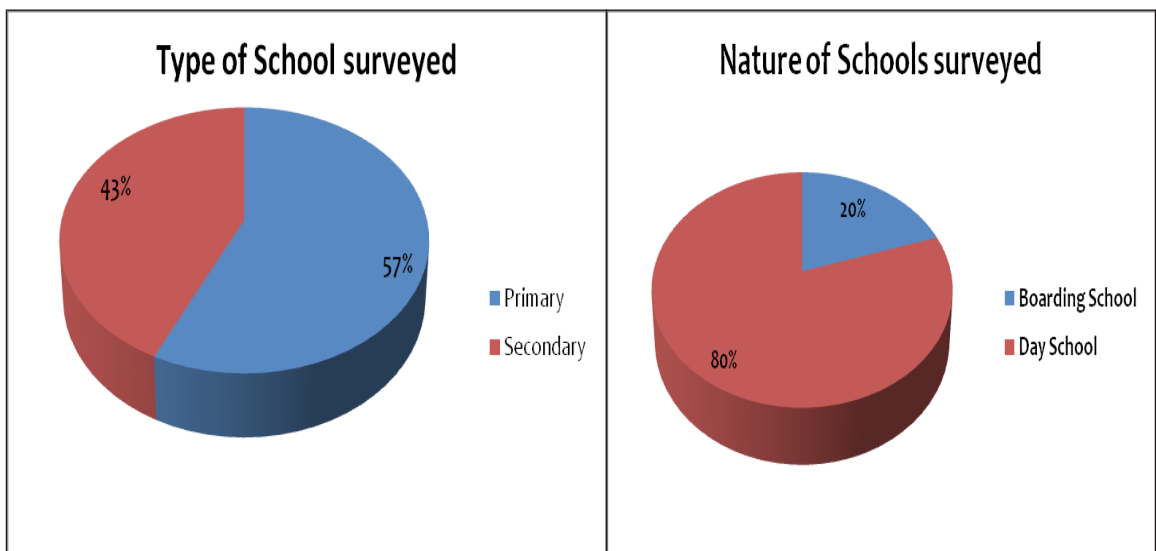


Fig16: Type of school surveyed-Oct, 2020.

Fig17: Nature of school surveyed.-Oct, 2020.

Fig. 17: 57% of sampled schools were Primary schools and 43% were secondary schools.

Fig. 18: 20% of sampled schools were Boarding schools and 80% were Day schools.

15 <https://www.voanews.com/covid-19-pandemic/kenya-partially-reopens-schools-6-months-after-covid-shuttered-them>

## 2) Schools classification

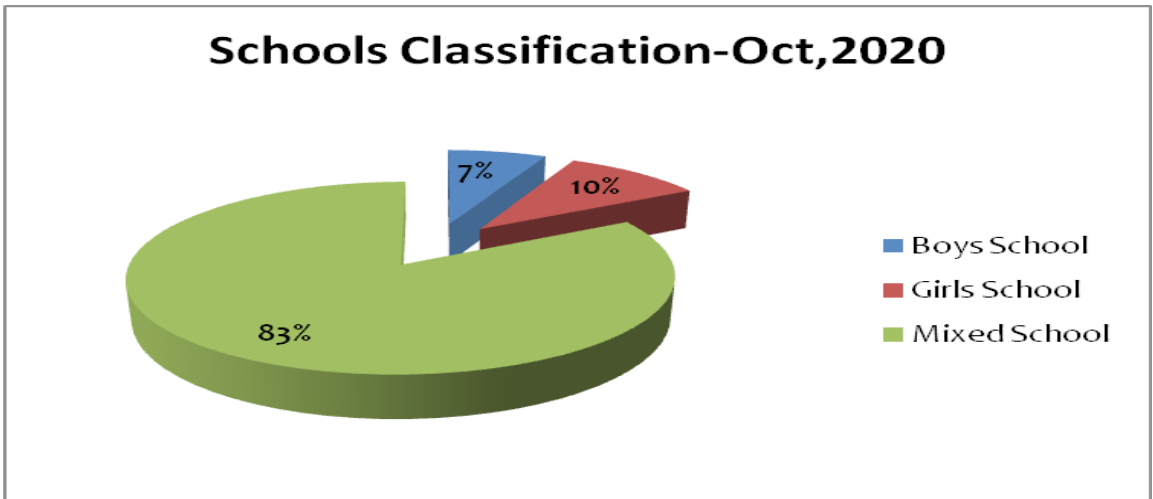


Fig18: Schools classification.

From figure 19, 7% of sampled schools were Boys' schools, 10% were Girls' schools and 83% were mixed schools.

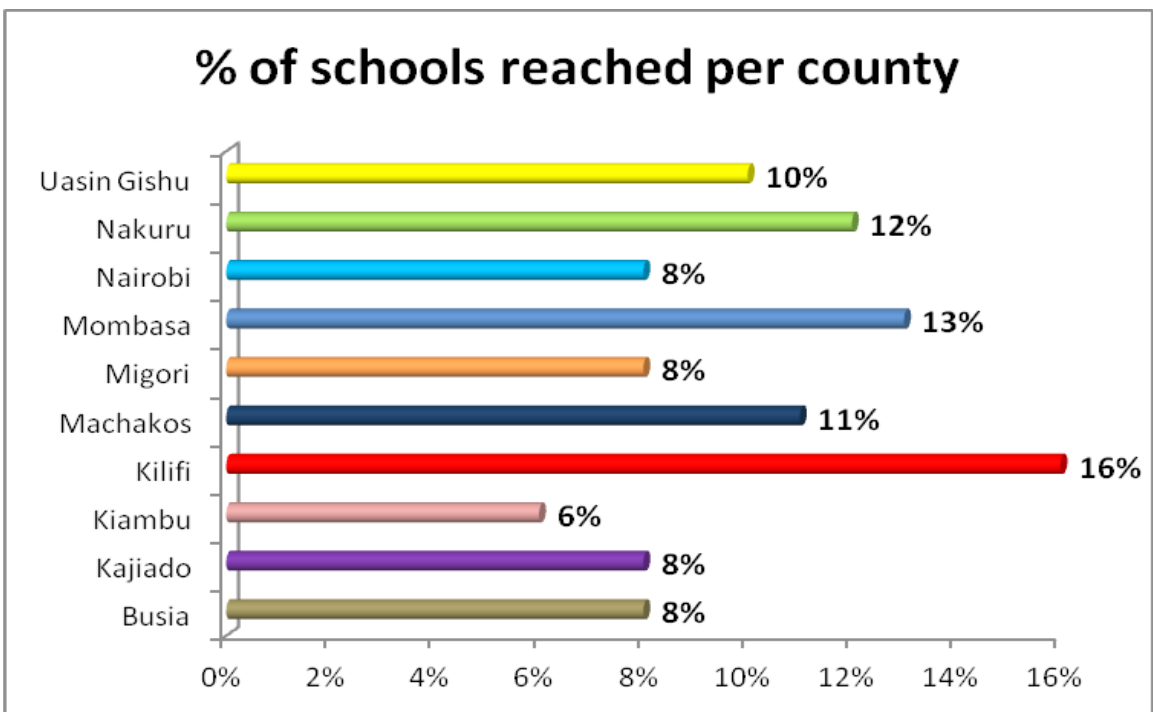


Fig19: Schools surveyed per county-Oct,2020,

From figure 20, 16% of schools sampled were in Kilifi, followed by Mombasa, Nakuru, Machakos, and Uasin Gishu with 13%, 12%, 11% and 10% respondents respectively. Kiambu County had the lowest count at 6% while Busia, Kajiado, Migori and Nairobi all had 8% count as shown above.

3). Schools Return rate: Schools and Teachers

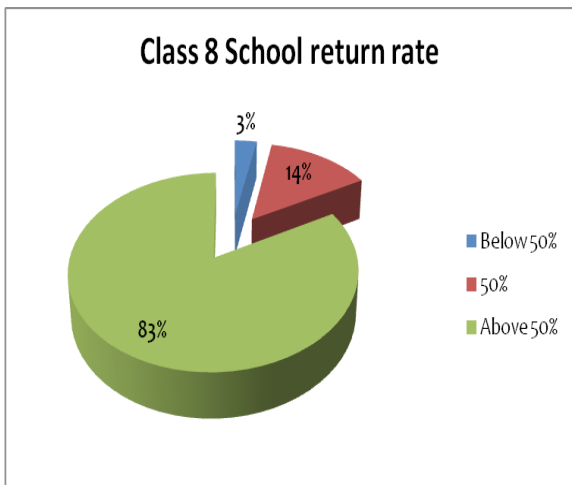
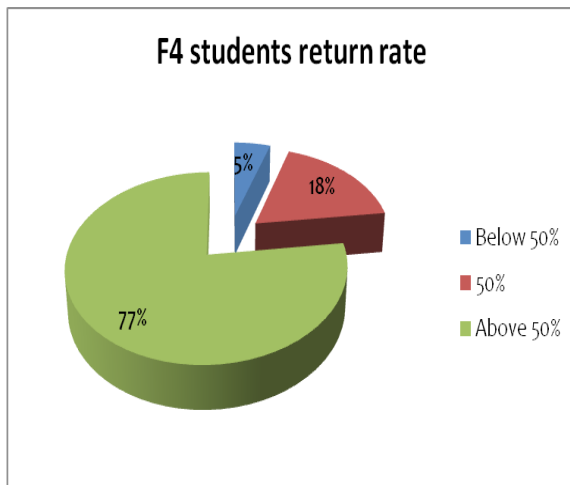


Fig20: Class eight students return rate.

Fig21: Form four students return rate.

From figure 21, standard 8 students return rate above 50% of the school population was at 83%, schools with 50% of the class population return were 14% of the surveyed schools and the schools that registered below 50% population of class eight learners were a mere 3%. This is a clear indication that the school children were really eager to resume their education and moreso to sit for the national examinations. From figure 22, form 4 students return rate above 50% of the school population was at 77%, schools with 50% of form4 population return were 18% of the surveyed schools and the schools that registered below 50% population of class eight learners were a mere 5%. This is a clear indication that the school children were really eager to resume their education and moreso to sit for the national examinations.

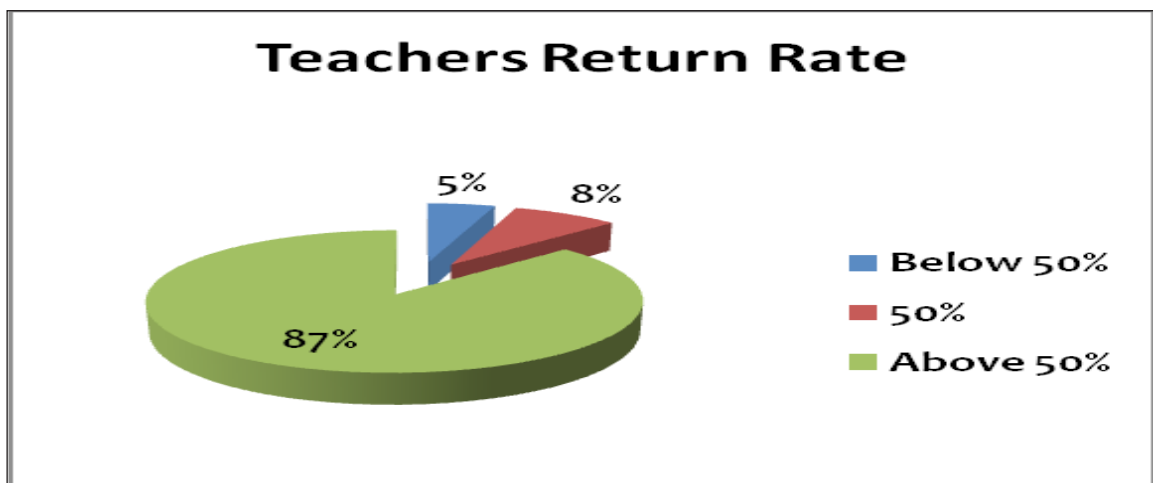


Fig 22: Teachers return rate-Oct,2020.

From figure 23 above, 8% of Teachers return rate was 50%, 87% was Above 50% and 5% was Below 50%. The long stay out of school for the teachers thus affecting their income levels, could have led to the notably good return rate to school.



### 5.2. Reasons for poor school return rate.

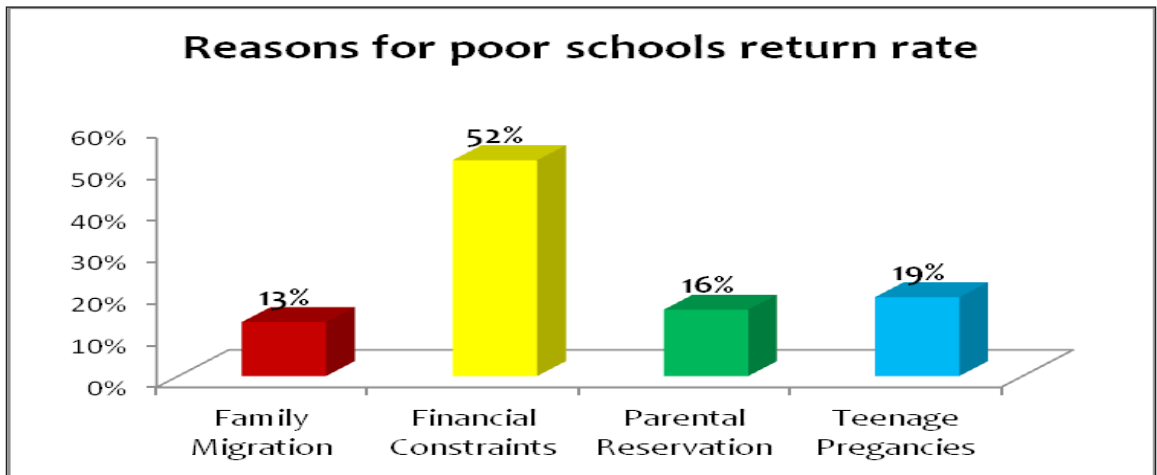


Fig23: Reasons for poor school return rate-Oct,2020.

From figure 24, the survey found out that Financial Constraints due to COVID-19 pandemic containment was the main reason for poor return rate for students (52%); teenage pregnancies was another factor (at 19%); then Parental reservations about schools' capacity to protect their children from COVID-19 (16%). Family migration from where students previously schooled reported 13%.

### 5.3. Schools' Level of preparedness for reopening.

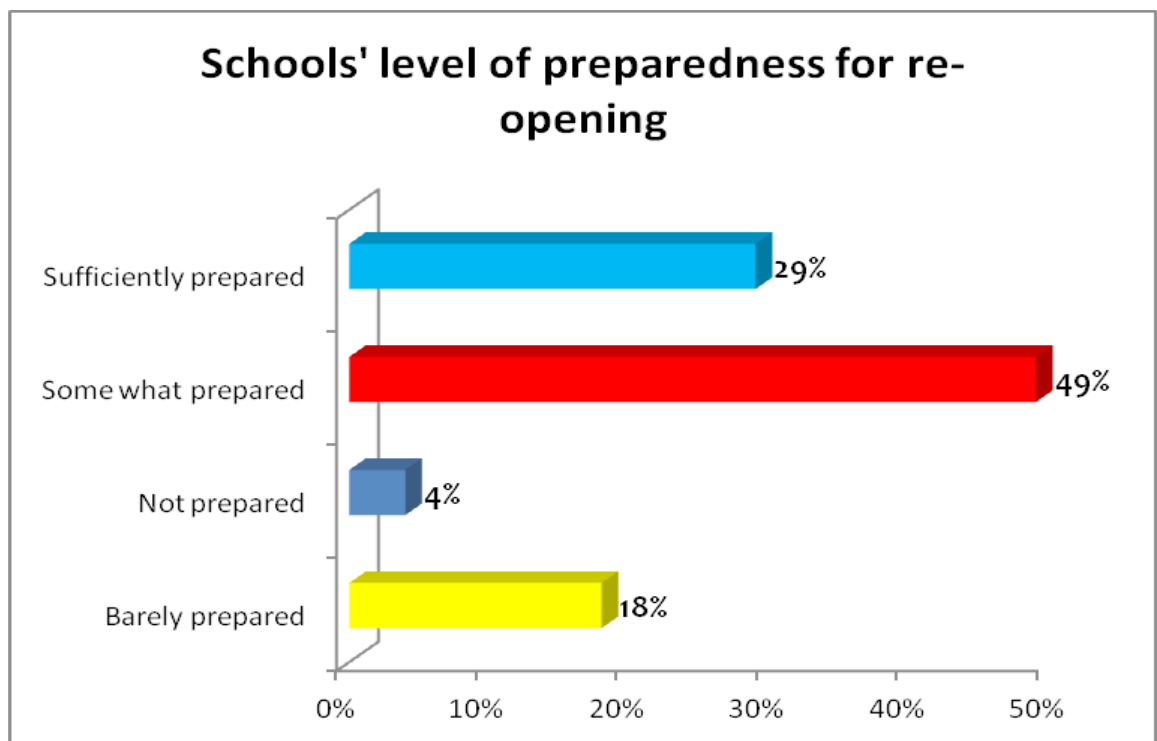


Fig 24: Schools level of preparedness for re-opening.

From figure 25, the survey found out that 49% of schools were somewhat prepared; 29% were sufficiently prepared; 4% were Not Prepared and 18% were Barely Prepared. Cumulatively, 78% of schools sampled felt appropriately prepared while 22% felt inappropriately prepared for re-opening as shown above. Schools level of preparedness was measured by assessing the presence of designated hand washing points with constant running water, presence of soap or hand sanitizers and proper social distancing as per the laid out MoH directives<sup>16</sup>.

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16 See guidelines on health and safety protocols for re-opening of schools: [https://education.go.ke/images/COVID-19\\_GUIDELINES.pdf](https://education.go.ke/images/COVID-19_GUIDELINES.pdf)

## 6.0. CONCLUSION AND RECOMMENDATIONS

Monitoring of human rights during the COVID-19 pandemic containment period in Kenya provided a number of observations that are critical in the protection of Kenyans' human rights in the broader efforts of safeguarding and promoting the basic human rights enshrined in the Kenyan Constitution-2010. This survey showed that there were many cases of human rights violation across the country during COVID-19 pandemic containment period as evidenced by the findings. The cases involving physical and sexual abuse were numerous and more often than not, involved people closely known to the victims.

### 6.1. Key Observations.

- **Physical and Sexual abuse** –there were physical abuses reported mostly from intimate partners and rampant abuses by law enforcement personnel against civilians without respecting people's rights.
- **Rapid Response** – there was extensive need for rapid response (access justice through legal and advisory support, counselling of victims, material/financial support).
- **Kazi Mtaani Initiative** – this initiative was well received by the public and more so the youths and as such it created a safe haven for them from engaging in illegal activities.
- **Access to water and healthcare** –there were no person(s) adversely affected during the survey period in access to these two critical services. The government agencies mandated to provide these services and especially water fully complied with 48% of the respondents reporting access to county piped water.
- **Public Participation** – Whereas the National Treasury undertook public participation when developing the COVID-19 Fund regulations, the participation was limited. Members of the public de-cried that time allocated for their submission was limited to allow meaningful participation.
- The respondents indicated that they were not involved in public participation by either county or national government on budget appropriation for COVID-19 mitigation but even though, they did not consider their exclusion in the process as a critical violation of their rights.
- **Curtailed rights such as freedom of movement and freedom of association** by the government to promote public health and safety during the COVID-19 pandemic containment period is permitted under the Kenyan Cconstitution-2010 and international human rights instruments including the Siracusa Principles<sup>17</sup>.
- Against the constitution, international and regional human rights instruments and recommendations by various human rights agencies, non-derogable rights including the protection against arbitrary denial of the right to life and freedom and security of the persons were violated by law enforcement officers when enforcing the COVID-19 orders and directives<sup>18</sup>.

17 See Siracusa principles here: <https://www.refworld.org/docid/4672bc122.html>

18 <https://www.knchr.org/Portals/0/KNCHR%20COVID%20SitRep%201%20.pdf?ver=2020-07-09-160102-140>

- Law enforcement officers' use of force to enforce the COVID-19 curfew and directives was excessive, arbitrary and unjustified. In addition, it was unlawful since it was against the principles of legality, necessity, proportionality and precaution.
- There were a number of law enforcement officers who applied human rights-based approach during the enforcement of COVID-19 directives and curfew orders.

## 6.2. Key recommendations

- **Ministry of Interior and Coordination of National Government:** Through the IG Police; through regular communication including through circulars, direct and emphasize that law enforcement officers must operate within the law and refrain from violating human rights.
- **Police Officers:** Police Officers should adhere to Human Rights approaches when enforcing COVID-19 guidelines and protocols.
- **Members of the Public and Civil Society Organizations:** (1) There is need for continuous sensitization of the public on ADR mechanisms and non-violent communication skills in solving disputes and differences. (2) There is need for increased public awareness on why constitutional violations of people's right to public participation in government processes is a critical human rights violation and may affect the quality of the services rendered to the people.
- **The Judiciary:** Evaluate remote functions of the courts using human rights standards of acceptability, affordability, adaptability, non-discriminative, adequacy and quality.
- **Citizens:** Citizens need to be trained on sex education with a view of protecting vulnerable members of society (especially children) against sexual harassment, what to do in the event of sexual harassment and abuse. In supporting victims of sexual abuse, there is need to increase opportunities for psycho-social support for victims.
- **Development Partners:** We recognize the role of development partners in combating the COVID-19 pandemic through deployment of resources and technical support to both government and civil society. There is need for full disclosure to deter another 'COVID-19 Billionaires' situation in Kenya.

## 6.3. Challenges Encountered during the study.

There were a number of challenges encountered during while carrying out this survey which include the following:

- Usability of digital data collection tools: Working with virtual tools for human rights reporting posed an initial challenge to some HRMs at the beginning and repeated support and training helped address the challenge

- Data Volume: The data collected for both baseline and critical incidences report was bulky and hence required data analyst specialist to adequately analyze it. This caused some delays at the beginning of the report; once an analyst was worked on the data, the rest of the processes were simplified
- Non-Cooperative respondents: There was reluctance by most respondents to have their cases followed up, preferring to have their violation cases locally addressed or disregarded altogether.

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## **ANNEXES.**

### **Annex 1: Baseline Survey Tool**

The tool used for the survey can be accessed from [here](#)

### **Annex 2: Baseline Survey Analyzed Data sets**

Detailed analysis of the overall baseline results can be accessed [here](#)

Respective detailed analysis for the ten counties can be accessed as follows:

- Busia County analysis can be found [here](#)
- Kajiado County analysis can be found [here](#)
- Kiambu County analysis can be found [here](#)
- Kilifi County analysis can be found [here](#)
- Machakos County analysis can be found [here](#)
- Migori County analysis can be found [here](#)
- Mombasa County analysis can be found [here](#)
- Nairobi County analysis can be found [here](#)
- Nakuru County analysis can be found [here](#)
- Uasin Gishu County analysis can be found [here](#)

### **Annex 3: Critical Human Rights Monitoring Tool**

The virtual tool used for this exercise can be found [here](#).



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