



# GREAT LAKES INITIATIVE FOR HUMAN RIGHTS AND DEVELOPMENT (G.L.I.H.D)

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## GREAT LAKES INITIATIVE FOR HUMAN RIGHTS AND DEVELOPMENT'S HAKI MKONONI PROJECT END REPORT

SUBMITTED TO:



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# GREAT LAKES INITIATIVE FOR HUMAN RIGHTS AND DEVELOPMENT (G.L.I.H.D)

## EXECUTIVE SUMMARY

Great Lakes Initiative for Human Rights and Development (GLIHD) with support from OXFAM Rwanda and in collaboration with key stakeholders and partners has executed a two years gender justice *“Haki Mkononi (Rights in Our Hands)*. The project was aimed at increasing awareness of women and girls on the Maputo Protocol, especially focusing on sexual reproductive health (SRH) rights (Article 14): right to control fertility, protection from HIV and AIDS, and obligation to provide adequate, affordable and available health services and medical abortion under certain conditions. As per project objective the focus was on changing mind-sets and increasing awareness of women’s rights organizations so that they become agents of change and disseminate accurate, adequate and complete messages in the area of SRH rights as per the African Women’s Protocol.

The project was to be implemented mostly through trainings, influencing meetings and community meetings; all of them contributing to the advocacy work that aimed at influencing positive changes in law and policies. In this regard, a number of activities were carried out as per the project implementation plan. The work kicked off with training of media practitioners. Main objective of the training was to increase their knowledge on how to effectively report on human rights in general and SRHRs in particular. A team of 20 media practitioners benefited from the training. They were from both public and private media houses print and online and those working in cities and deep in the rural areas. The choice to start with media was informed and strategic. It was aimed at having a team of media practitioners who would latter, during the implantation, be able to effectively and accurately report on other trainings.

From there followed a series of trainings. Groups of women, men, young girls; all from dynamic community based organization operating from their localities were trained. In this regard sixty persons benefited from the training; 20 women, 20 men and 20 adolescent girls.

Community meetings were also organized at the grassroots level. Such meetings were held in Shyogwe and Cyeza Sectors in Muhanga District, Southern Province. They were also held in Muhoza and Cyuve Sectors in Musanze District, Northern Province. A total of 130 people benefited from the meetings in Southern Province and 125 in Northern Province.

In addition to the above mentioned trainings and meetings, there was also training of health professionals. The training gathered a team of 25 medical practitioners at the districts referral hospitals. GLIHD also held influencing meeting with members of the parliament and other governmental officials at decision making positions.



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The organization also organized a dialogue with 40 law practitioners. The team was composed of judges, prosecutors and advocates. They were chosen based on geographical representation and their court's territorial jurisdictions.

The organization also played an important role in commemoration of 16 days against GBV and other international days relevant to the rights of women such as the International Women's Day (IWD). Some activities were carried out during this period. This includes GLIHD's participation in the launch of the campaign where the events were organized. During the same period, GLIHD organized trainings of women elected leaders in collaboration with National Women's Council (NWC). One training was held in Musanze district, Northern Province, where women members of the NWC executive committees in Northern Province and Kigali City were trained on Maputo Protocol and leadership. Such training was also held in Kayanza district, Eastern Province and targeted women members of the NWC executive committees in Eastern Province. The third meeting took place in Western province.

In addition to the above, the organization availed awareness raising materials. In this regard the organization translated from English to Kinyarwanda its booklet compiling all training materials used during the trainings.

Furthermore, the organization was involved in litigation, where it litigated a case on SRHRs. The case latter gained international recognition as it emerged the 9<sup>th</sup> among 30 cases that were nominated for award worldwide.

GLIHD's work for the period under review was mostly a success with a few challenges. Regarding successes, one may highlight the fact that some of the beneficiaries of the training (Family Magazine, a beneficiary of the media practitioners' training) came up with an action plan which latter was funded by Oxfam. The initiative takes further what the beneficiary got from the training. Another success is that thanks to the trainings, individuals and institutions became aware of the current problems that Rwanda's abortion laws pose on the enjoyment of the SRHRs by women. This is evidenced by the fact that after trainings, some cases were referred to GLIHD and were successfully litigated. Another success that worth mentioning is the result of the leadership training that GLIHD conducted in collaboration with NWC. Thanks to these trainings women who were beneficiaries decided to compete for deferent positions in the local governments' elections and most of them were successful. In the 2015 visit of the Oxfam regional Director to Rwanda, some of those women gave their testimonies on how the skills acquired from the trainings helped them during the campaigns.



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Regarding the challenges one may mention the issue of low levels of knowledge of the laws in general and Maputo protocol in particular. There is also a general confusion of the normative contents of article 14 of the Maputo protocol. Most of the Rwandans read it only in abortion. Another challenge was the time constraint which can mostly attributed to the discontinuation of the project for a long period.

## 1.INTRODUCTION

GLIHD is a human rights-based, public interest, nongovernmental organization registered and functioning in Rwanda. Most of its staff is comprised of lawyers, legal researchers, and University lecturers of human rights law. Its mission is to contribute to the respect, protection, promotion and fulfilment of the rights of individuals and groups in line with international human rights frame- work and obligations of member states. GLIHD's vision is to see the Great Lakes Region where human rights are fairly respected and enjoyed.

The two years gender justice project was a bi-lateral agreement that Great Lakes Initiative for Human Rights and Development (GLIHD) implemented with support from OXFAM Rwanda. The operational Swahili phrased "*Hakimkononi*" meaning "*Rights in our Hands*" serves to express the need Oxfam Great Britain has had with a motive of curbing down gender discrimination, poverty eradication and having a world population where women are aware of their rights and can fully enjoy them. The contractual obligation GLIHD had and tactfully implemented was hinging on rights of women in Rwanda as predetermined in the African Protocol on Rights of Women (Maputo protocol) specifically in awareness and advocacy.

Rwandan laws and policies have developed progressively over the years and their enforcement has been the best however, some challenges due to loopholes have been registered in various laws and policies in Rwanda especially laws protecting women and those punishing gender based violence. A clear handwriting on the wall are articles 165 and 166 of the 2012 Rwandan Penal Code that poses stringent conditions that limits women from fully exercising their sexual and reproductive health rights. Therefore the limitations calls upon or requires many if not, all Rwandan civil society organizations to collaborate with international agencies working around human rights and rights of women together with Rwandan Government to modify the restrictive gender and reproductive health rights laws which limit women from fully enjoying their rights.

This report dwells on the activities implemented during the implementation period by providing details on each activity.



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## 2. MAJOR ACHIEVEMENTS FOR THE PERIOD UNDER REVIEW

During its implementation, Haki Mkononi Project registered a lot of successes. This was realized through trainings, community meetings, public campaigns, lobby meetings with government's high level officials and judicial enforcement of rights. This section discusses all activities realized during the project lifetime by highlighting outcomes of each activity.

### 2.1. Training of Media Practitioners

The implementation of Haki Mkononi Project kicked-off with the training of media practitioners. Twenty media practitioners participated in two day's training which took place from 2<sup>nd</sup>-3<sup>rd</sup> September 2015 at Top Tower Hotel, Kigali.

The training had four objectives:

- Raising awareness of media practitioners on the Maputo Protocol, with focus on Sexual and Reproductive Health Rights of Women and Girls;
- Increasing media practitioners' capacity to report on Human Rights in general and Women's Rights in particular, basing on the Maputo Protocol;
- Assisting media practitioners to develop a sound media strategy on reporting on Human Rights in general and Maputo Protocol in particular; and
- Mobilizing media practitioners to use the Maputo Protocol in advocacy for Women's rights.



*Some of the participants contributing during the training, Mr. Assouman, Chief Editor of Rugari News Paper holding the microphone*

Five main topics were discussed during the training: **Media and the Maputo Protocol; A summary on studies on reproductive rights and current situation in Rwanda; The place of article 14 of Maputo Protocol in Rwandan Legal System; Post abortion care guidelines and Rwandan Penal code Vs Maputo Protocol.**

**Beneficiaries of the training became key stakeholders in future activities mostly in reporting.**



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In addition to the topics<sup>1</sup> discussed during the training, the training also provided a platform to discuss issues raised from the presentation. Participants further, got an opportunity to develop their own action plans that would be implemented from their ends.

Training of media practitioners was a success. Participants got a full package of information that increased their understanding of SRHRs and how to professionally report on them. This was the first training of its kind to have happened in Rwanda. Participants, with assistance from GLIHD's technical team, developed action plan with the aim to take further the implementation of the protocol. Some of the plans got funding from Oxfam.<sup>2</sup> Majority of beneficiaries showed commitments on SRHRs and have been reporting on activities that GLIHD and its partners were implementing.

### 2.2. Training of Women from dynamic CBOs

On 11<sup>th</sup> July 2013, Africa celebrated 10<sup>th</sup> anniversary of the African Women's Protocol. This progressive instrument was meant to make it possible for women in Africa to take part in the political process, to achieve social and political equality with men, to take charge of their reproductive health and to put to end the harmful traditional practices such as female genital mutilation. Both women in rural and urban; rich and poor, educated and uneducated, old and young should equally enjoy the rights enshrined in the Protocol. However, the domestic implementation of the Protocol has had many challenges to make the Protocol a living instrument and not remain dead letters. In Rwanda like in many other African countries, the lack of awareness of the Protocol among the women, particularly rural women was a key challenge.

During the implementation of the Haki Mkononi Project in Rwanda, the focus was put in educating women, particularly rural women on their rights under the Protocol. A group of 20 women from 20 dynamic CBOs got training on the protocol and challenges in its implementation.<sup>3</sup> This was a group of women representatives from their respective CBOs. They are agents of change. The training was held from 9<sup>th</sup> -10<sup>th</sup> September 2015 in Muhanga District, Southern Province.

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<sup>1</sup> The training was facilitated by experienced resource person including lawyers and lectures (Tom Mulisa, Laurent Shenge, Sezirahiga Yves and Christian Garuka) and Medical Practitioners (Dr. Sayinzoga Felix).

<sup>2</sup> Family Magazine's action plan got funding from Oxfam, and the media house has been a key implementing partner throughout the project implementation period.

<sup>3</sup> The topics discussed were: women and SRHRs; a summary on studies on SRHRs in Rwanda; the place of article 14 of the Protocol in the Rwandan Legal System, a presentation on the current Rwanda's Post Abortion Care Guidelines and Rwandan Penal Code and Maputo Protocol



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Both women in rural and urban; rich and poor, educated and uneducated, old and young should equally enjoy the rights enshrined in the Protocol. The project reached women in rural areas and trained them as agents of change. They developed their own action plans that would inform their interventions regarding the implementation of the protocol in their respective communities, CBOs and households.

### 2.3. Training of Young Girls

Article 1(k) of the Protocol defines ‘women’ to include girls. The Protocol states that “Women” means persons of female gender, including girls. However, some domestic interpretations of the Protocol has differently interpreted the concept of Women. In Rwanda particularly, there are instances where interpretations of the term ‘woman’ tends to exclude girls. The report discusses in details the confusion in both terms— ‘women and girls’— under the section regarding judicial enforcement of SRHRs in Rwanda.

From 21<sup>st</sup> -22<sup>nd</sup> September 2015, GLIHD trained young girls on the Protocol. The training module remained largely unchanged with the exception of one topic that focused on the ‘Young girls and sexual and reproductive health rights’. It took place in Muhanga District, Southern Province. The training targeted 20 young girls from 20 dynamic CBOs and had four main objectives:

- Raising awareness of girls from dynamic CSOs on the Maputo Protocol, with focus on SRHRs;
- Increasing the capacity of girls from dynamic CSOs to effectively use the Maputo Protocol;
- Assisting girls from dynamic CSOs to develop action plans on how to integrate Maputo Protocol in their agenda and its implementation.

This training was a very important opportunity for the beneficiaries to understand themselves as rights holders under the Maputo Protocol and not only adult women. They



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were trained as agents of change and therefore they were expected to carry the message to their respective communities, CBOs and families. They also developed action plan that would inform them on how to integrate the implementation of the Protocol in their agenda. Currently, beneficiaries are regarded as key partners in all advocacy initiatives regarding implementation of Maputo Protocol in Rwanda, particularly in improving enjoyment of SRHRs by women and girls.



The Protocol defines 'women' to include girls. Any domestic interpretation contrary to this and which would lead to unequal enjoyment of rights by young girls would be regarded as contravening the provisions of the Protocol.

HakiMkononi Project provided a platform to educate young girls and the community at large that young girls are also rights holders of all the rights provided under the Protocol.

### 2.4. Training of Men

Successful domestic implementation of the Protocol requires not only the women understanding but also that of their counterparts' men. The support and role of men is crucial.

GLIHD's alternative report on the Convention on the Elimination of All of Forms of Discrimination Against Women (CEDAW), submitted to the CEDAW Committee in 2015, revealed that in Rwanda there are still persistent patriarchal stereotypes which hold the view that the dominance of men and submissiveness of women is a natural fact.<sup>4</sup>This situation clearly showed a need to engage men with the view to raise their awareness on the Protocol and increase their understanding on their role in the implementation of the Protocol.

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<sup>4</sup> For more information on the report you can visit the link [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=RWA&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=RWA&Lang=EN).





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On 16<sup>th</sup> and 17<sup>th</sup> September 2015, GLIHD trained a group of 20 men champions. The training was held in Muhanga District, Sothern Province. Twenty men champions were from 20 dynamic CBOs across the District. These were also regarded as agents of change. The training had three main objectives:

- Raising awareness of men from dynamic CSOs on the Maputo Protocol, with focus on Sexual and Reproductive Health Rights of Women and Girls;
- Increasing the capacity and knowledge of men from dynamic CSOs to effectively use the Maputo Protocol to enforce women and girls Sexual and Reproductive Health rights;
- Assisting men from dynamic CSOs to develop a women friendly action plan on how to integrate Maputo Protocol in their agenda and its implementation;
- Explaining the role of men in implementation of the Maputo protocol.

In addition to the package that other groups had, this specific group had a topic specifically dealing with 'male involvement in SRHR'. Given the peculiarities of the group, it was also considered important to take the participants through the Rwanda's Gender Justice Strategy.

This training was a success. It enabled participants to appreciate their role in the implementation of the Protocol in Rwanda. It increased their understanding of SRHRs, particularly knowing that SRHRs are not issues to be left to women alone. Being agents of change, beneficiaries were expected to champion and support any cause that seeks the advancement of women's rights in Rwanda in general and SRHRs in particular.



Men's role in the implementation of the Protocol in Rwanda is Crucial.

The fact that there are still persistent patriarchal stereotypes which hold the view that the dominance of men and submissiveness of women is a natural fact may be major hindrance to the successful implementation of Protocol.

Among key achievements of the Haki Mkononi is that some men in Rwanda have appreciated their role in advancement of SRHRs and are ready to support and champion any cause to that effect.



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### 2.5. Training of Health Professionals

The role of health professionals is so crucial in the implementation of the Protocol, particularly women's enjoyment of the rights enshrined under article 14 of the Protocol. From 22<sup>nd</sup> -23<sup>rd</sup> October 2015, GLIHD held in Top Tower Hotel, Kigali, a training of 25 health professions from all the Districts countrywide. The training had the following objectives:

- Raising awareness of health professionals at the DHs on the Maputo Protocol, with the focus on Sexual and Reproductive Health Rights of Women and Girls;
- Increasing the capacity and knowledge of health professionals at the DHs to effectively use the Maputo Protocol to enforce women and girls Sexual and Reproductive Health rights;
- Assisting health professionals at the DHs to develop a women friendly action plan on how to integrate Maputo Protocol in their agenda and its implementation; and
- Explaining the role of health professionals in implementation of the Maputo protocol.

This training was important as it did not only increase the knowledge of participants on the topics<sup>5</sup>but it was also a platform to discuss existed challenges encountered by health professionals in their work regarding sexual and reproductive health. These included issues that were raised by GLIHD study 'when abortion is a crime: Rwanda.'<sup>6</sup> Among the issues were those of health professionals who report victims of unsafe abortion to Police and biased counseling of women who seek abortion. The study revealed that some of health professionals force women through counseling not to seek abortion regardless of women's situation.

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<sup>5</sup> The topics included: overview of the Maputo protocol on SRHRs, SRHRs for Adolescents/youth and adults in Rwanda, Rwanda Penal Code and the Maputo Protocol: a comparative analysis and Post abortion care guidelines as provided by Rwanda Bio-medical Centre.

<sup>6</sup> The study is available on <http://glihdrwanda.org/wp-content/uploads/2016/10/WHEN-ABORTIONIS-A-CRIME-IN-RWANDA.pdf> and <http://www.ipas.org/en/Resources/Ipas%20Publications/When-abortion-is-a-crime--Rwanda.aspx>



The role of health professionals is crucial in the implementation of the Protocol particularly the rights enshrined under article 14.

Their role is to provide professional services rather than reporting to the Police, the victims of unsafe abortion. They are not also required to provide biased counseling that amount to a forced consent of the women to abandon her request seeking medical abortion.

## 2.6. Influencing Meetings with Individuals in Decision Making Positions

On 9<sup>th</sup> November 2016, GLIHD organized a high level meeting on the state of implementation of the African women’s protocol in Rwanda, key challenges and ways to overcome them. The meeting was held in Top Tower Hotel, Kigali and gathered 20 high level individuals from decision making positions. It gathered law and policy makers; law enforcement officials and CSOs.<sup>7</sup>

The meeting had the following objectives:

- Sharing experience on the state of implementation of the African Women’s Protocol by Rwanda since its ratification in 2004 and lifting of reservation on article 14 2.C. in 2012;
- Discussing the normative contents of health and reproductive rights as set out under article 14 of the African Women’s Protocol and how it was reflected in the 2012 Rwandan Penal Code;
- Discussing key challenges in the implementation of the Maputo Protocol with a specific focus on health and reproductive rights; and
- Propose ways forward on how to deal with key challenges met in implementing the African Women’s Protocol.

<sup>7</sup> Some of the institutions that participated include Ministry of Justice, Ministry of Gender and Family Promotion, Rwanda National Police, Rwanda Correctional Services, National Women’s Council, Media High Council, National Commission for Human Rights and the Ministry of Health.

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Three topics<sup>8</sup> were discussed during the meeting and they were basis for open discussion on the issues pertaining the women’s rights in the Maputo Protocol and its implementation in Rwanda.

This meeting yielded results as it set a platform to openly discuss challenges in the implementation of the Maputo Protocol in Rwanda. It unpacked the contents of the article 14 of the Protocol which remained largely unknown among Rwandans including top government officials. This would later lead to a creation of enabling environment of the Penal code reform advocacy that was ongoing. This was mainly because the same individuals who participated in the meeting also hold positions important in the penal code reform.<sup>9</sup>



*Members of the parliament, OXFAM country director, MHC representative, Members from CSO and GLIHD staff posing for a group photo*

The meeting did not only raised the awareness of the Participants on the Maputo Protocol but also created a good platform to discuss with the right persons on key challenges in the implementation of the Protocol in Rwanda.

In addition the meeting set the ground for GLIHD to engage in on going penal code reform process.

### 2.7. Meetings with Women’s Representatives

National Women’s Council (NWC) is one of the government institutions that implements gender laws and policies. It is represented from the community level up to the country level. Training of members of the NWC executive committees at Proventil and district level was important as they are well positioned to convey the message country wide at all levels. They have both easy accesses to the country level office and community level at the same time. However, it is important to highlight the fact that all the trainings that were organized were attended by both the NWC national office and representative from Law Reform Commission. Since the LRC is the one in charge of proposing amendments in all laws this

<sup>8</sup> The topics were: A General Overview on the Maputo Protocol and the contents of article 14; Status of Implementation of the Maputo Protocol by Rwanda and current challenges in the implementation and The inconsistency of the Rwandan penal code vis- a- vis Maputo Protocol.

<sup>9</sup> One of the example in the MP Nyirasafari who was later appointed Minister of Gender and Family Promotion, the Position that she still hold.



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was a good opportunity for them to hear the views from women elected leaders as trainings were going on. This also yielded good results as the draft penal code as presented by the LRC captures the views of the women.

On 2<sup>nd</sup> and 3<sup>rd</sup> December 2015, GLIHD organized a training for women's representatives that took place in Musanze District, Northern Province. The training gathered members of the National Women Council's Executive Committees from all the 8 districts of the Northern Province and Kigali City. Committee members at the Provincial levels also participated. Seventy (70) participants in total participated.

On 10<sup>th</sup> December 2015 a similar training was organized in the Eastern Province. This one gathered 48 participants. Objectives of the meetings were to:

- Raise awareness of women leaders from all districts of the Eastern Province on the SRHR of women with focus on GBV issues faced by women and girls;

- Increase their capacity and knowledge on how to integrate the African Women's Protocol in their plan of activities, effectively influence its implementation and raise the voice against GBV;

- Utilize opportunities in occupying political seats to raise awareness of local women members encouraging them to resort to resolving family challenges amicably based on the community level; and

- Increase the capacity of women leaders in leadership and communication skills and support them to motivate their fellows to actively compete for decision making positions at different levels and to effectively influence decisions, especially those affecting women's and girls' rights.

Unlike trainings for other groups, the training of elected leaders had, in addition to the topics on the Maputo Protocol, a leadership component. This was mainly because, the trainings took place a few months before the election of leaders in local administration and therefore was an opportunity to encourage them to compete for different positions to enable women's effective representation in decision making positions.



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The trainings served both as a platform to raise rights awareness and opportunity to learn practical skills on how to effectively conduct election campaigns for women. Most of women won positions in local administrative entities from village to Provincial level.



### 2.8. Public Awareness on SRHR as Promoted by the Maputo Protocol

GLIHD's participation in mass campaigns such as commemoration of 16 days against GBV and International Women's Day and its meeting with communities provided an avenue to share the message to a wider range of beneficiaries. GLIHD also organized community meetings. Both participation at different campaigns and community meetings helped GLIHD reaching a wider of beneficiaries.

It is estimated that the meetings reduced the cultural stigma of 1,925 local people had on sexual and reproductive health rights of women and girls. It further increased awareness on protection accorded for sexual rights in the Maputo Protocol and the Rwandan legal system. Majority of the participants were women.



*One of the Community meeting was held in Rongi Sector, Muhanga District, Southern Province.*



*Evening parents' forum was also a good platform to discuss women's SRHRs. In the photo the NWC Secretary [Jacqueline KAMANZI] giving remarks in the Parents' Forum in one of the rural areas in the Northern Province*

**The Women's Protocol can become a living and meaningful document if it is taken to the real people: the community. The failure to do that the precious document remains dead letters.**

## 2.9. Dialogue with legal professionals

On 21st December 2016, GLIHD organized a dialogue with legal professionals. The dialogue took place at Kalisimbi Hotel, Kigali. It brought together a total of 40 participants composed of Judges, Prosecutors and Advocates Participants also were invited from all provinces countrywide.<sup>10</sup>

The dialogue's main objectives were to raise awareness of participants on the African Women's Rights Protocol, encourage them to cite/use the Protocol in the court cases and to strengthen relationships between GLIHD and social justice lawyers. Four topics were discussed:

- i. Overview of the African Women's Rights Protocol and Rwandan Penal Code
- ii. The principle of fair trial and Human rights in Criminal proceedings
- iii. An analysis of the notion of adopting a rights-based approach in sentencing
- iv. The use of International Women's Rights Instruments in Rwandan Courts

<sup>10</sup>Southern Province, Northern Province, Eastern Province, Western Province and Kigali City.

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The topics were facilitated by most experienced resource persons including lecturers at the University of Rwanda, school of law and Senior Judges.<sup>11</sup>

This dialogue was very important as it brought together key players from all sides of the Bar (Judges, Prosecutors and advocates). It increased their understanding of the rights enshrined in the Protocol particularly article 14. It also enabled them engage in a constructive debate of key challenges they face in human rights litigation in general and SRHRs in particular. It was also an opportunity to make new commitment to use international human rights instruments particularly the protocol in Courts.



*Mrs. UMUHOZA Naomi (Lecturer from the University of Rwanda) giving her presentation during the dialogue with legal professional*



*Participants at the dialogue engaged in the discussion*

**The roles of Judges, Prosecutors and Advocates are equally important in making women's rights in general and SRHR in particular, a reality.**

### 2.10. Influencing Policies and Laws

During the period under review GLIHD conducted one on one meetings with key officials from the government's institutions with the view to influencing positive changes in the current penal code that is being reformed.

The above was informed by awareness raising initiatives that revealed challenges and gaps in the penal code *vis- a-vis* the Maputo Protocol. The major challenges are the court order and medical authorization that women who seek legal abortion under the exceptions provided by the penal code are subjected to.

<sup>11</sup>Mr. Tom MULISA, lecturer for the University of Rwanda and the Executive Director of GLIHD, Mrs. Naomi UMUHOZA from the University of Rwanda School of Law, Mr. Jean Paul MAZIMOAKA, University of Rwanda, School of Law, Justice John BYAKATONDA from The High Court of Rwanda and Advocate Yassin TUSSINGWIRE member of Rwandan Bar Association.





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The penal code criminalizes abortion but allows it in cases where pregnancy is a result of rape, forced marriage, incest and when the continuation of the pregnancy seriously jeopardizes the health of the unborn baby or the pregnant woman. In the first three cases a woman is obliged to secure a court order whereas in the fourth case she must produce medical authorizations from two doctors in order to get an abortion.

GLIHD held meetings with key officials with the view to influence penal code reform. Objectives of this ongoing activity are to raise awareness among high level personalities on the Maputo Protocol; highlight inconsistencies between the penal code and Maputo Protocol; highlight gaps in the penal code *visa-a-vis* Maputo Protocol and suggest recommendations in the penal code once adopted. In this example at least four meetings were held during the period under review.

The first meeting was held with the Minister of Justice and Attorney General of Rwanda.<sup>12</sup> The Minister found the issues raised relevant and suggested that at the Ministry level they will ensure that the desired amendments as suggested by GLIHD will be included in the draft penal code and will be defended at all levels. Another meeting was held with the Minister of State within the Ministry of Education.<sup>13</sup> Child defilements and other GBV related cases affect young adolescents in most of the cases. These affect their rights including the right to education. Most of them drop out from school when they get pregnant. In the study 'when abortion is a crime Rwanda' it was revealed that some of the school girls were prosecuted for abortion crime which they committed while at school. In some cases those young adolescents are in detention without even the knowledge of their parents. Based on this GLIHD found it relevant to engage the Ministry of Education and raise the issue with them and seek their support in terms of the penal code review. The Ministry of Education is seen as one of the government institutions that had conservative approaches in dealing with sexual and reproductive health issues among girls. For example, for many years the Ministry has refused condom distribution in schools.

There was also a meeting with one Member of Parliament.<sup>14</sup>

Further, there was a meeting with the President of the National Women's Council (NWC)<sup>15</sup>. GLIHD works in a close partnership with NWC. Main activity was to raise awareness on the Maputo Protocol among women. The activity targets both women in decision making positions as agents of change and women at the grassroots level. Given the mandate of

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<sup>12</sup> Minister Jonson BUSUNJYE

<sup>13</sup> Minister Isac MUNYAKAZI

<sup>14</sup> Hon. Jean Marie Vianney GATABAZI

<sup>15</sup> Mme. Francoise UWUMUKIZA



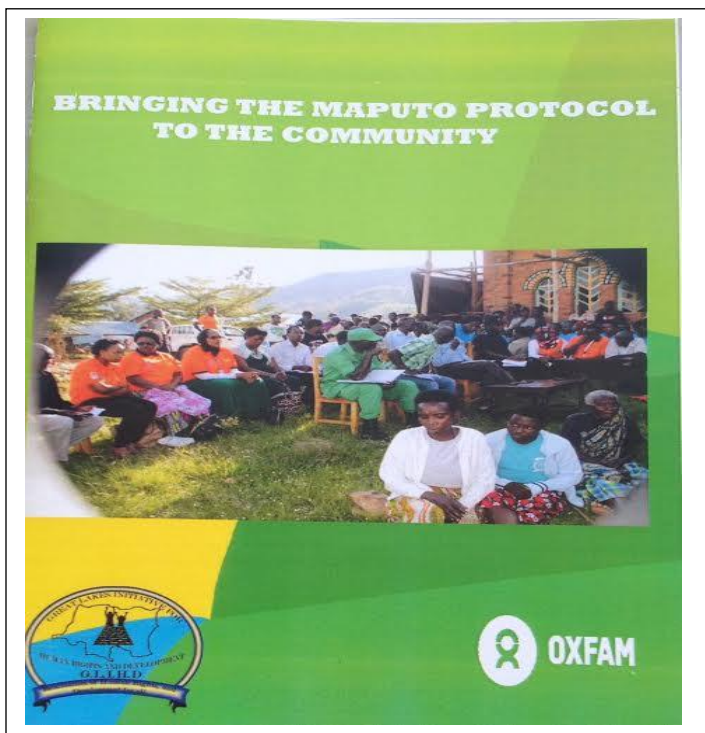
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NWC, GLIHD finds it important to engage them and get their support in penal code reform advocacy.

Currently the draft penal code is still with the Law Reform Commission. There will be a need to closely monitor the progress as the draft will go through multiple stages before it is passed in into law.

### 2.11. Translation of the GLIHD's booklet on the success stories

The first implementation year, GLIHD's intervention focused on the trainings that were aimed at raising awareness of target groups on the Maputo Protocol. Training materials were developed by GLIHD together with its consultants and they mainly consisted of presentations used during the training. GLIHD also litigated cases on SRHR of women. Both the training materials and one successful case were compiled in a booklet as part of the organization documentation of success stories. The document was called '*Bringing the Maputo Protocol to the Community.*' This document that was originally in English was later translated into Kinyarwanda to enable wide range of population to make use of the booklet.



Penal code reform advocacy seeks to address the existing inconstancy between the current Rwandan penal code and international human rights instruments in general and the Maputo Protocol in particular as far as SRHRs is concerned. In support of advocacy initiative, GLIHD conducted a human rights awareness program with an objective to educate citizens about women rights in general and SRHRs in particular. GLIHD developed awareness materials for that purpose.



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### 2.12. Enforcing SRHRs in Courts

#### Background

In 2015 GLIHD successfully litigated a case in the High Court of Rwanda. In this case a 13 year old was defiled and got pregnant. The young girl through her mother, wanted to invoke the right to abortion based on the exceptions provided under the Rwandan Penal code. The intermediate court rejected the claim. However, the High Court reversed the decision of the intermediated court and granted the right.

#### The Case

In this case, a man offered a thirteen-year-old girl a beer, telling her it was coffee, and then raped her. When the girl realized she had become pregnant as a result of the rape, she did not wish to carry the pregnancy to term. She struggled with depression and feelings of shame and could no longer bring herself to attend school. All she could think of doing was terminating the pregnancy, even if it meant risking her life.

The case started in the Intermediate Court of Nyarugenge where the Mother's victim requested the Court to grant her daughter the right to abortion. The Court rejected the request on the ground that there was no criminal charge yet convicting the suspected offender of a crime of rape against the victim. The Court went on to even say that it could as well be possible to be pregnant without being raped and that there was no evidence submitted by the claimant proving that that pregnancy was a threat to the victim's life. Not satisfied with the outcome from the Immediate Court, the claimant through one of the GLIHD's beneficiaries sought the assistance from GLIHD to appeal against the decision of the Intermediate Court.

#### Litigation of the case by GLIHD

GLIHD, through its lawyers appealed the case before the High Court. The appeal was filed on the ground that sexual intercourse engaged with the victim aged 13 years could not be interpreted in any other way other than rape and that the judge of the lower court did not describe any other way through which the victim was pregnant.

In the High Court the prosecution argued that based on the Rwandan penal code only women could seek abortion when they are raped and not minors. However, the court stated that for clarification, the confusion on child defilement and rape is resolved by the



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fact that in the occurrence of both offences (rape and defilement) there is no consent of the victim.

Framing its argument towards the conclusion on determining whether the victim was raped and whether the result could be a basis for her abortion, the court relied on the provisions of article 14(2)C of the Maputo Protocol. The court stated: 'The court also finds that Article 14(2)C of the Protocol to the African Charter on Human and Peoples' rights on the Rights of Women in Africa ratified by Rwanda and domesticated by Presidential order no. 05/01 of 03/05/2015 reserving Article 14.2.c., provides that State Parties shall take all appropriate measures to protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape.'

Based on the above argument the court reversed the decision of the lower court and granted right to abortion to the victim. Further, upon request of the GLIHD's lawyers the Court ordered the specific hospital to perform abortion.

### Execution of Judgment

The same day the judgment was handed down, the Court produced an order which was served by the court itself to the relevant hospital requesting the hospital to perform abortion. The Victim was admitted at the hospital the next day and following day the abortion was successfully carried out.

This judgment set an important precedent to allow girls to have an abortion whether or not a court has issued a conviction for rape. It also illustrates the difficulties women and girls regularly face accessing abortion, even in cases in which abortion is legal.

### Nomination of the Case for Award

GLIHD considers this judgment progressive regarding enforcement of women's reproductive rights especially for minors who are victims of defilement. It thought about how this could be useful in terms of encouraging other judges to move in the same direction.

GLIHD took the initiative of translating the judgment into English and asked the High court for authentication. Then the judgment was shared with different organizations working on SRHR around the world. The decision got the attention of many organizations and as a result was nominated for an award. The case was ranked the 9th among 30 cases that were nominated worldwide.



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International Reproductive and Sexual Health Law Program at the University of Toronto expressed its interest to include the judgment in case summaries, Legal Grounds III: Reproductive and Sexual Rights in African Commonwealth Countries.

### 1. Lessons Learned and Best Practices

- During the period under review a number of lessons and best practices were learned. First of all GLIHD appreciated importance of having good working relationships with intuitions. The work was almost impossible without the meaningful involvement of the public institutions both at national and local level. Line ministries were so important in providing guidance at policy level and in terms officiating all events that were planned. Local government was also so important in terms of determining and choosing beneficiaries. So, without clear strategy on how to work with institutions most of the work would have been impossible. It is worth mentioning that institutions such as Law reform commission, national human rights commission, national women’s council, ministry gender and family promotion and parliament were of great assistance for what was achieved.
- Another important lesson was the use of ‘bottom up’ approach. Indeed we appreciate a lot, groups of beneficiaries who were identified or suggested by local authorities, mostly districts. However, it was so surprising that during the meetings held with members of the communities at the grassroots level we were informed of numerous groups who would be targeted for next phases. They were both victims of GBV and those who are mostly perpetrators of GBV. They suggested that for future intervention it will be also useful to think about the groups such as small business persons at the community level; those who operate as transporters on motor vehicles and bicycles; those working in hair cutting saloons and track drivers. These were mentioned as main GBV perpetrators. Regarding victims, they mentioned house maids, school girls, women sex-workers and women living with disabilities and elderly.
- Another best practice is found in working with media and consortiums. This adds voice on what is done. Media practitioners we trained became of the great help in the next activities. They reported on the activities and shared links and other evidential information that would help in evaluation of activities. GLIHD being part of other partners such as Media high counsel (MHC), and Young Women Christian Association (YWCA) eased implementation of some of the activities.



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- The dialogue with legal professionals revealed the need to create more platforms where legal professionals meet and discuss pertinent issues in their profession. Participants demonstrated the desire to engage each other since the dialogue was a unique opportunity that brought together Judges, Lawyers and Advocates.
- With regard to the follow up on the penal code review, GLIHD learned that there is a need to continue engaging relevant institutions at all levels where the draft penal code will be presented to make sure that desired changes are reflected in the penal code.

### 4. Challenges Faced During the Reporting Period and Ways to overcome them

- Ignorance about the law and illiteracy among the local population resulting in confusing of article 14 paragraph 2.C. with the entire Maputo protocol text which protects the rights of women entirely. Based on this some participants started the training with preconceived negative thoughts that the training is not about anything else but abortion. This resulted mainly in negative reporting on SRHRs which also the project sought to address.
- Misconception about the crime of abortion and infanticide as being the same.
- Abortion-related stigma and cultural sensitivity to keep cases of gender based violence like rape and incest confidential, this hinders the prosecuting and punishing of the perpetrators of these crimes.
- The attitudes, religious stigma and traditional beliefs of some health care providers on abortion who feel they cannot procure abortion yet it is under their duty to assist victims who falls under this category.
- The major challenge faced was the time constraint. This was due to the fact that the implementation of the Haki Mkononi Project was discontinued and had to resume towards the end of the project implementation period. This was coupled with the change in the implementation approach which also suggested some preparations and consultations between GLIHD and Oxfam before resuming the implementation.

### 5. CONCLUSION

The implementation of Haki Mkononi Project in Rwanda was a major success. During the implementation period considerable numbers of women, men, young girls, health professionals, media practitioners, legal professional and community members received messages on the rights of women, particularly SRHRs as provided under the Maputo



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Protocol. Influencing meeting with high level individuals were held with the view to influence policy.

As the project is closing, the penal code reform is in process. The project was an important opportunity through which the public was informed about the existing gaps and inconsistencies between the Rwandan Penal Code and Maputo Protocol. Based on that it is worth mentioning that the Haki Mkononi's legacy was an informed Penal code reform in Rwanda.

The project also contributed much in the litigation of SRHRs in Rwanda. A successful case that GLIHD litigated in 2015 was identified as the result of the implementation of project. The momentum and sense of courage to litigate the case can also, to a great extent be attributed to the fact that the project was ongoing.

During the implementation period there were also some challenges. Few that worth mentioning include time constraint and negative attitudes of some people on SRHRs in general and abortion in particular.

GLIHD acknowledges the relevance of the Haki Mkononi Project as it contributed a lot in furthering women rights in general and SRHRs in particular. It also takes the opportunity to sincerely thank Oxfam for all its support, financial and non-financial that enabled a successful implementation of the Project.

Done at Kigali, on 7<sup>th</sup> March, 2017

Tom MULISA  
Executive Director