

Canadian-African partnership 160 Girls trying to put an end to rape in Kenya

BY PEARL ELIADIS, SPECIAL TO THE GAZETTE SEPTEMBER 27, 2012



The Equality Effect legal team: While African lawyers will take the lead in filing the proceedings, financial and legal support for 160 Girls is being provided by a team of Canadian criminal, constitutional and equality-rights lawyers.

Photograph by: Sally Armstrong, .

On Oct. 11, the International Day of the Girl Child, a unique Canadian-African partnership will launch a legal test case called 160 Girls. The case is being filed on behalf of Kenyan children between 3 and 16 years of age. They are suing the Kenyan government for failing to protect them from rape.

United Nations statistics show that 83 per cent of Kenyan women experience physical violence and abuse as children. According to a 2006 report from the National Commission on Human Rights in Kenya, a girl or woman is raped in Kenya every 30 minutes.

At the centre of efforts to put an end to this is Mercy Chidi. Chidi is the courageous and indefatigable Kenyan head of Tumaini (meaning “hope” in Swahili), a rescue centre located in Meru province. The centre helps rape victims with counselling and legal support. Reconstructive surgery is needed for the little ones, and retroviral medication helps prevent AIDS infection. The work seems endless. Case workers, staff and their families are themselves subject to threats of physical violence, rape and other forms of retaliation.

Behind the medical treatments and the case statistics are heartbreaking stories.

One 11-year-old was raped by her grandfather when he lured her into his hut by asking her to help him find a flashlight. The assault only stopped when the girl's brother attacked the grandfather with a machete, enabling her to escape. Another girl was 11 when she and her 6-year-old sister were raped by their own father. A third child who had been raped was assaulted again by the police when she tried to file a complaint.

Police do not even bother investigating many of the crimes. Even when they do, the evidence mysteriously disappears or is handled improperly, resulting in cases getting thrown out. Rural, penniless girls are asked to pay for medical forms needed to press charges. In one case, police demanded that a girl explain herself and describe just what she had done to provoke the attacks and bring the rape on herself.

A few years ago, after meeting with lawyers, Chidi decided that more, much more, could be done to end the sexual violence in her community. Helping the girls after the fact was one thing, but Chidi wanted to know if there was a way to stop the violence before it started.

Enter the new Kenyan constitution, introduced in 2010. It is arguably one of the most progressive in the world. Armed with its powerful legal protections, a team of Kenyan lawyers and social workers will file a constitutional challenge on behalf of the girls. The case will be brought against the government for failing to protect the lives, liberty and physical security of these victims of "defilement" (the term for sexual assault of minor children in Kenyan law). Each of the girls has decided to stand up and denounce the violence perpetrated against her.

African lawyers will take the lead in filing the proceedings, but financial and legal support for 160 Girls is being provided by a Canadian organization called the Equality Effect. A team of Canadian criminal, constitutional and equality-rights lawyers has been working for more than three years pro bono, alongside their African counterparts, to develop the legal arguments and put the evidentiary foundations into place.

Even if the case is not successful at first, a groundswell of support has risen up around the world to buoy the project and give the girls a voice to tell their stories. That in itself is a success.

Private donors across Canada have been incredibly generous. Canadian visual artist Andrea Dorfman and U.S. street artist Swoon have rallied to the cause, producing videos and artwork on the project. Canadian journalist Sally Armstrong recently won an Amnesty International prize for her work in covering 160 Girls.

For lawyers who believe that human rights and the rule of law can change lives and bring justice, this is the case of a lifetime. For the girls, who will transform themselves from victims to victors, it will be a precedent and an inspiration for other girls. For the government of Kenya, the case offers a magnificent opportunity to do the right thing and show that a developing country will uphold its laws and protect all its citizens.

Most of all, the 160 Girls project has shown how a group of girls who were alone, vulnerable and injured can come together, heal, and do their part in changing the world. Oct. 11, 2012, will be a critical step forward.

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