



FIDA-KENYA

FEDERATION OF WOMEN LAWYERS IN KENYA



JUSTICE GONE
VIRTUAL

Vision

A society that respects and upholds women's rights.

Mission

The promotion of women's individual and collective power to claim their rights in all spheres of life.





FIDA-KENYA'S
VIRTUAL JUSTICE
CENTRES
"ONE OF A KIND"

FIDA-Kenya VJC

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Our Profile

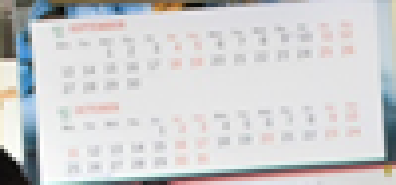
The Federation of Women Lawyers (FIDA-Kenya) is a women's rights organization established in 1985 during the 3rd UN Conference on Women held in Nairobi. With a membership of over 1,400 women advocates, lawyers, and law students, FIDA-Kenya is committed to creating a society that respects and upholds women's rights with a mission to promote women's individual and collective power to claim their rights in all spheres of life. FIDA-Kenya has 3 offices in Nairobi, Mombasa, and Kisumu which are supported by a wide network of partners. FIDA-Kenya has been promoting access to justice for thousands of women through the provision of legal aid, self-representation training in women and women prisons, pro bono lawyer scheme, legal representation, and strategic impact litigation on matters including child custody and maintenance, land and matrimonial disputes, labour and economic rights. In 2020, when the Covid-19 pandemic worsened the vulnerability patterns for victims of SGBV, FIDA-Kenya launched its toll-free line to clients to ease reporting of cases and obtain support.

Another key area of intervention is the participation of girls and women in political, economic/social leadership, and governance systems, through capacity strengthening sessions for women leaders at the grassroots and county levels and for women-led CBOs and feminist groups. Concurrently, FIDA-Kenya has focused on root causes of systemic discrimination, advocating for the participation of women in the public and political sphere, for the promotion of sexual and reproductive health rights, and for the eradication of all forms of SGBV including harmful traditional practices such as female genital mutilation and child marriage. The education and advocacy programmes conducted had a wide impact on structural, institutional, and legal reforms that ensures gender responsiveness. FIDA-Kenya's advocacy work is implemented through participation in different policy initiatives at the national and international levels. At a national level, it works with the Judiciary through Court Users Committees to hold discussions on emerging issues on SGBV. At the local level, the organization engages Councils of Elders and local authorities on enhancing access to justice through Alternative Dispute Resolution.

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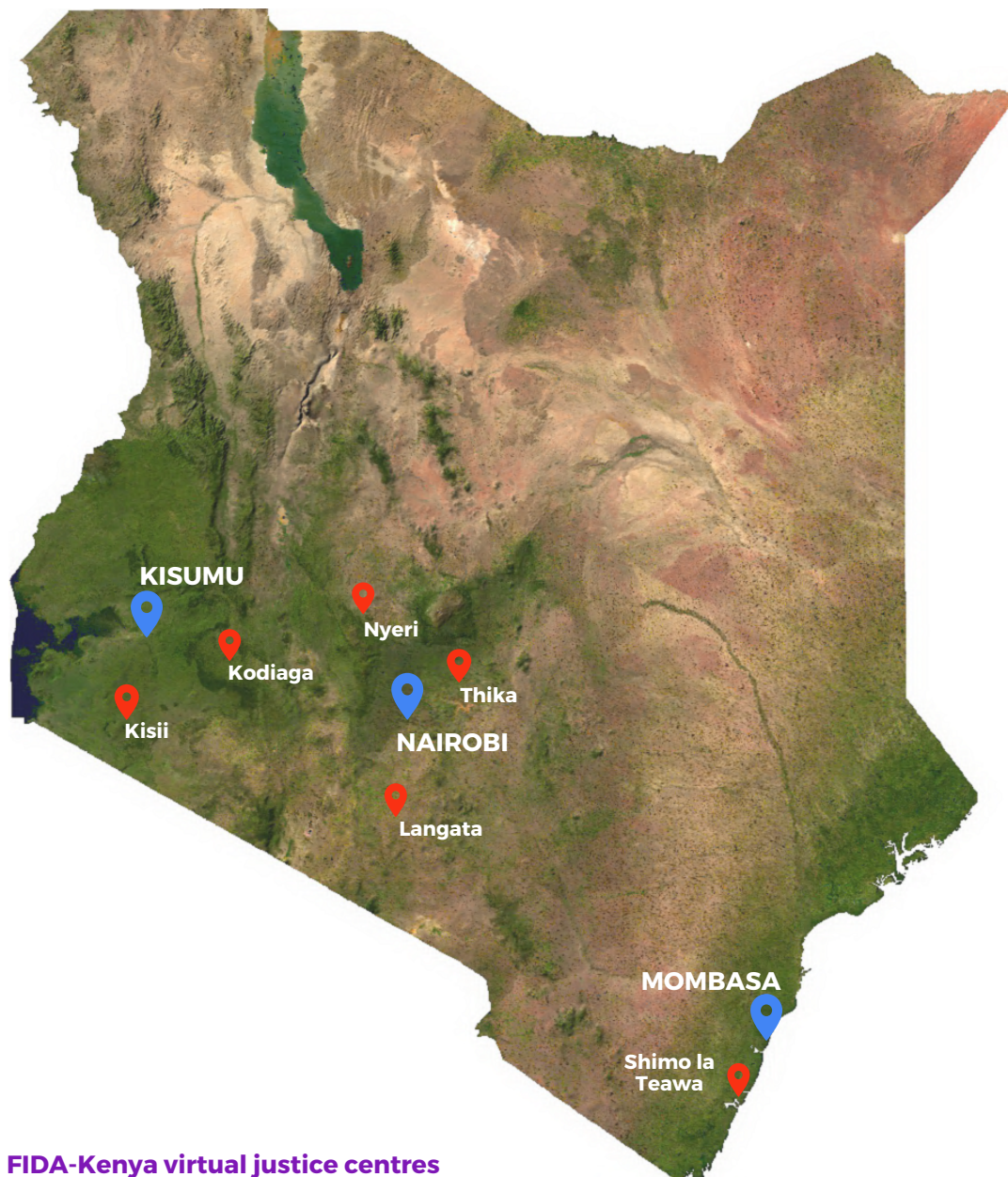


INTRODUCTION

FIDA-Kenya's main objective is Enhancement and Protection of Women's rights through the provision of legal aid, advice, education, advocacy, representation in court and referral.. Our Access to Justice Programme provides legal aid services to women in Kenya towards the realization of their social, economic, political and cultural rights

The organization has for over 36 years offered free legal aid to over 3,000,000 women and their children through its program





- FIDA-Kenya Offices
- FIDA-Kenya Prisons Virtual Justice Centres

FIDA-Kenya virtual justice centres

Enhancing Women's Access to Justice in the COVID-19 Pandemic

THE COVID-19 CRISIS led to various disruptions to access to justice including closure of courts, putting trials on hold and delaying justice. This came at a time when police violence and systemic inequities led to increased human rights abuses. Cases of gender-based violence were also on the rise.

Women bear a disproportionate brunt of health crises, environmental disasters and gender-based violence. Unfortunately, the COVID-19 global pandemic followed this pattern-having devastating implications for women's access to justice.

During this period, FIDA-Kenya also scaled down its operations and closed its offices to members of the public and directed staff to work from home as from April till August 2020.

However, due to the nature of the critical services offered by the organization, it became imperative to resume operations with adaptations and innovations to enable us deliver services but also continue protect clients and staff members.

One adaptation was the rolling out of a GBV toll-free call line **0800720501 on 15th April 2020**, with the kind support of the **Danish Embassy (DANIDA)**, through which the organization continued providing legal aid assistance and psychosocial support to girls and women from across the country. While it was expected to be used mostly by women and girls reporting GBV cases and other violations of their rights, it was also used by boys and men reporting violations including sexual violence, police brutality and those seeking psychosocial support as a result of the anxiety created by the pandemic and the accompanying challenges including job loss.

Through the toll-free line FIDA-Kenya was also able to offer grief counselling to families that had lost their loved ones to the virus and offer support to patients in isolation as they receive treatment caused emotional distress.

During the height of the pandemic FIDA-Kenya's strong partnerships with pro-bono advocates, community-based organizations, paralegals, mediators, elders, the police, Court users Committees, the Judiciary, health providers among other partners enabled continued provision of essential access to justice services to girls and women across the country.

The generous support by development partners including UNFPA, USAID through Search for Common ground have made the manning of the toll-free line by volunteer Advocates and Counsellors possible.

Gender Based Violence, The shadow pandemic

As at 30th September 2022 a total of 9150 calls had been received through the toll free line. The highest category of cases reported being child maintenance and custody cases followed by GBV cases. Since the establishment of the toll-free line a worrying trend was noted of higher numbers of intimate partner violence and defilement. In addition to offering legal aid and psychosocial support in these cases, FIDA-Kenya also used the data to conduct advocacy including running a sustained media campaign on both social media and mainstream media and also issuing periodic press statements and open letters to duty bearers to inform response and prevention actions.

FIDA-Kenya's clarion call to duty bearers to take urgent action to address GBV including making a passionate request to His Excellency the President to declare femicide and GBV a national disaster was grounded on data from the toll-free line and reports from various media sources



Tuk Tuk rider mounting FIDA-Kenya's poster about the toll free information in Mombasa



FIDA calls on gov't to declare femicide & gender-based violence in Kenya a national disaster; appeals for protection of girls and women.



Press statement by FIDA-Kenya



PRESS RELEASE

NAIROBI, 14 OCTOBER 2021

BRUTAL MURDER OF AGNES JEBET TIROP

FIDA-Kenya is deeply saddened by the brutal murder of olympian Ms. Agnes Jebet Tirop and would like to express our most sincere condolences to the families, friends and all those who knew one of Kenya's promising athlete, a world championship medalist and an olympian. We condemn the heinous act in the strongest terms possible and appeal to the police to conduct speedy and thorough investigations into the murder.

Agnes was found dead at her home in Iten, Elgeyo Marakwet County on 13 October 2021; she had multiple stab wounds in her neck and abdomen. Her husband is currently missing and, therefore, considered a suspect in her death. Her death comes at a time when her career had flourished. The young champion was a fast-rising star!

Many a times, we have expressed horror at the rising rate of femicide in the country. The numbers are worrying and FIDA-Kenya is concerned over safety and security of women and girls of this nation and appeals to the government to uphold its constitutional mandate in protecting girls and women from these wanton killings.

Further, FIDA-Kenya notes with sadness that cases of intimate partner violence are on the rise. Kenyans continue to wake up daily to news of women killed by their spouses/partners. Women rights are human rights and no woman deserves to be killed no matter the circumstances.

In view of this and other cases of femicide and gender-based violence in Kenya, we call upon:

- The National Police Service and the Director of Criminal Investigations to expedite investigations into the cause of Ms. Tirop's death, and other femicide and GBV victims; and ensure that perpetrators are brought to justice;
- The President of the Republic of Kenya Hon. Uhuru Muigai Kenyatta to declare femicide and gender-based violence in Kenya a national disaster and therefore make commitments to action;
- The DCI to inform the public on what measures it is undertaking to investigate the root causes of the increasing incidents of violence and femicide witnessed in various parts of Kenya;

- the Kenyan mainstream media to avoid reporting the news of these deaths from an overly sensational and patriarchal point of view which is normally aimed at disparaging the reputations of victims;
- The general public to desist from insensitively discussing victims especially on social media by laying blame on the victims and ask all Kenyans to adopt a culture that seeks to identify, report and testify against perpetrators.

Further, FIDA-Kenya ***demands that the police proactively seek ways to stem the rising cases of insecurity in the country.***

We will not tire to stand up and speak out against femicide and any form of violence as we remind our communities that in our silence, we are actually complicit in creating a world full of inequality, hate and the violation of the basic human rights of our sisters, friends, aunties, daughters, cousins and mothers.

FIDA-Kenya is following this matter keenly in order to ensure fair execution of justice.

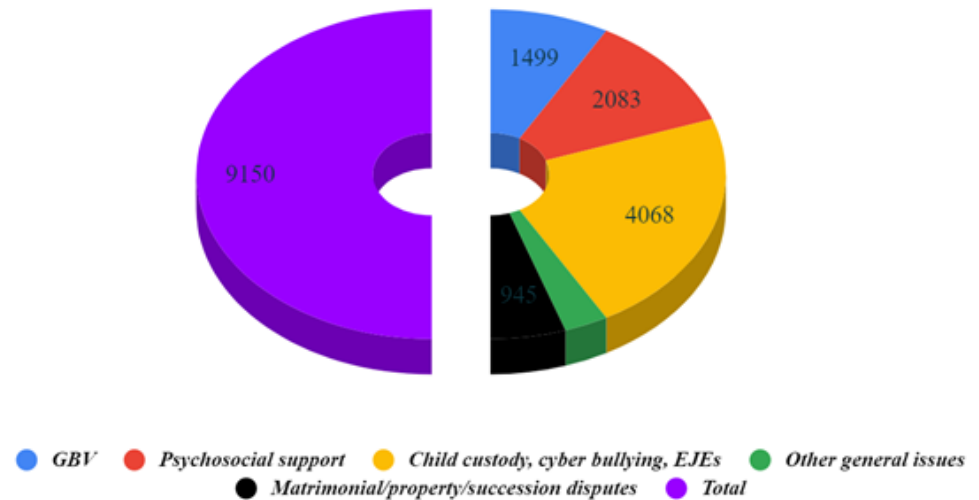
Nancy K. Ikinu

Chairperson

For further inquiries, kindly reach out to the PR/Communications Lead, Moses Okinyi on mokinyi@fidakenya.org, or call 0726989713.

Statistics from 5 th April 2020-30 th September 2021			
Category	Case	Number of reported cases	Totals
GBV	Attempted Rape	16	
	Child marriage	14	
	Defilement	188	
	Divorce	29	
	Forced Marriage	5	
	FGM	21	
	Incest	6	
	Physical, Emotional, Economic, Mental, Sexual Intimate Partner Violence	673	
	Rape	100	
	Physical abuse by relatives: in-laws	115	
	Sexual harassment by others	53	
	Sodomy	7	
	Widow eviction	107	
	Wife Eviction	165	
	Sub-Total		1499
	Cyber Bullying	2	
	Child Custody and maintenance	3317	
	Child neglect and abuse	354	
	Threats and/or Physical abuse from other sources e.g., police, other law enforcement officers	205	
	Extra Judicial Executions	10	
	Violations at the workplace	180	
	Sub-Total		4068
Property Disputes	Division and Matrimonial Property Disputes	403	
	Rent Dispute	21	
	Other property Disputes	521	
	Sub-Total		945
	Commercial Claim	1	
	Succession	388	
	Family Dispute	154	
	Spousal Maintenance	48	
	COVID-19 related requests for psychological support by patients, family members who have lost loved one to the virus	16	
	Requests for counselling	187	
	Medical negligence	10	
	Theft	9	
	Forceful entry and destruction of property	1	
	Reporting misconduct of an advocate	37	
	Inquiries by partners, the media, stakeholders	252	
	Inquiries by FIDA-Kenya's existing clients	941	
	Repeat calls / duplication on same case/ wrong numbers	39	
	Sub-Total		2083
	Other general Issues	555	
	TOTAL	9150	

Reported cases as per September 30th 2021



Enhancing Access to Justice through Virtual Justice Centres

Judiciary's adoption of technology

The Kenyan court system is anchored in common law, which is characterized by paper-based procedures and physical court appearances. The disruptions caused by the COVID-19 pandemic have shaken the very foundation of the system, forcing the Judiciary to come up with measures to mitigate the effects and assure litigants of their right to a fair trial and access to courts

Some of the measures taken by the Kenyan judiciary included adopting a virtual court and a paperless court case management system. The adoption of the system was accelerated by the Covid-19 pandemic.

The system is still in its infancy and has attracted both praise and criticism in equal measure from court users.



Emily (name changed), from Uthiru, Kiambu County, would have died had her friend not called the FIDA-Kenya hotline, rescuing her from her abusive husband. What she remembers is her husband beating her badly in mid-July last year. At the time, she was eight months pregnant with his child. The neighbours intervened when they heard her cry for help, chasing away the husband. A friend would later call the hotline and through it, she got a place in a rescue centre.

Legislative framework governing the electronic case management system in Kenya

Before the launch of the system, the Chief Justice gazetted the Civil Procedure (Amendment) Rules 2020 and the Practice Directions on Electronic Case Management.

The Amendment to the Civil Procedure Rules mandates parties to provide their postal address, telephone number, email, and physical address when filing their pleadings in court. Further, should any changes be proposed to these details, the court must be notified. This provision aims to facilitate the proper function of the electronic case management system to avoid instances of parties citing service to the wrong contacts.

The Practice Directions on Electronic Case Management published through Gazette Notice No. 2357 of 2020 provide a comprehensive framework for the functioning of the judiciary e-filing system.

Through Gazette Notice No. 2357 of 2020, the Chief Justice indicated that the main objective of the system is to integrate information communication technology (ICT) into judicial proceedings. The emphasis, according to the Chief Justice, is on efficient electronic filing and service of documents.

KEY FEATURES

The electronic court case management system supports electronic filing of documents, electronic service, electronic search of cases, electronic payment and receipting and electronic request for extraction of orders.

The system has two interfaces: the user interface which is accessible to litigants, and the court interface accessible to judicial officers.

The portal allows for registration of law firms, organizations, self-represented parties, and the state. Once registered, all entities are able to file and serve documents via the portal. The system allows for registration and filing of documents on both existing and new matters.

Once these documents are fed to the system, the user is then prompted to input details of the case. A payment prompt appears once documents are uploaded which a party will be required to pay via a mobile money platform.

Upon effective filing of documents, parties have a choice to either serve their documents through the portal, or choose to effect service via email. Service via email is now allowed in Kenyan courts subject to the Civil Procedure (Amendment) Rules, 2020



FIDAKENYA
Promoting Gender Equality



FIDA-Kenya Virtual Justice Centre n Nairobi

FIDA-Kenya Virtual Justice Centers

FIDA-Kenya officially adopted paperless case management system on June 2020 this was incorporated into FIDA-Kenya's Enterprise Resource Planning (ERP) system that was established through the kind support of FORD foundation.

The adoption of virtual court sessions by the Judiciary was critical in keeping the wheels of justice moving while also protecting judiciary staff, Advocates, litigants and other court users at the height of the pandemic. There was however a new barrier created for Kenyans especially those who were self-representing and had no or limited access to technologically enabled devices such as laptops and smartphones that could enable them log into the virtual Court sessions. This was felt strongly by FIDA-Kenya's clientele who are mostly women from poor backgrounds to whom the cost of internet bundles was also inhibiting.

With the kind support of the **Embassy of Denmark**, FIDA-Kenya established Virtual Justice Centers in its three offices to address the challenges that had been observed in the access of virtual courts.

A pilot virtual justice centre with a capacity to hold six virtual sessions was established on 17th August 2020 by the Chief Registrar of the Judiciary, Hon. Anne Amadi in the Nairobi office.

It was equipped with 5 computers, one laptop, a TV screen, and necessary audio-visual devices. Every workstation is equipped with protective glass shields to prevent the spread of COVID-19. The necessary sanitization facilities and protective gears both for FIDA-staff and self-rep clients have also been put in place.

The same was scaled up to our Kisumu and Mombasa Regional Offices in September and December 2020 respectively. FIDA-Kenya walked with the Judiciary from the start of the Journey of setting up the VJCs and this continues to date



A virtual court session live from FIDA-Kenya Nairobi Office.



Lady Justice Kamau and Lady Justice Baari during the launch of the VJC Kodiaga women's prison

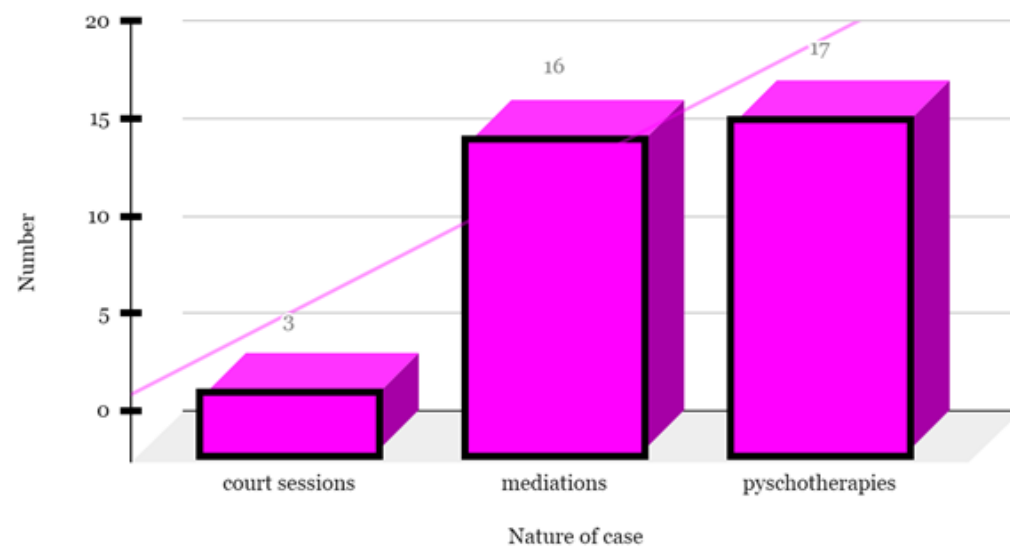


Judge Fred Ochieng testing the VJC equipment during the launch at Kodiaga Women's prison in Kisumu



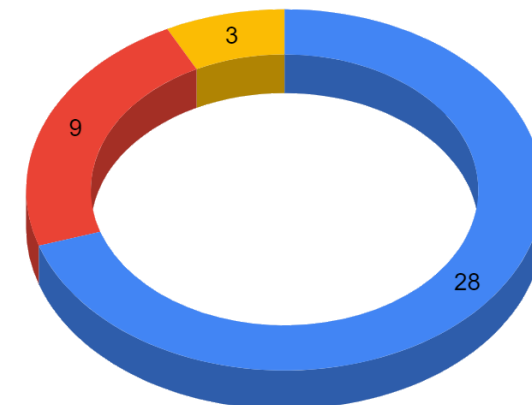
Hon. Amadi launching of the VJC Nairobi Office

Kisumu VJC performance as per 30th August 2021

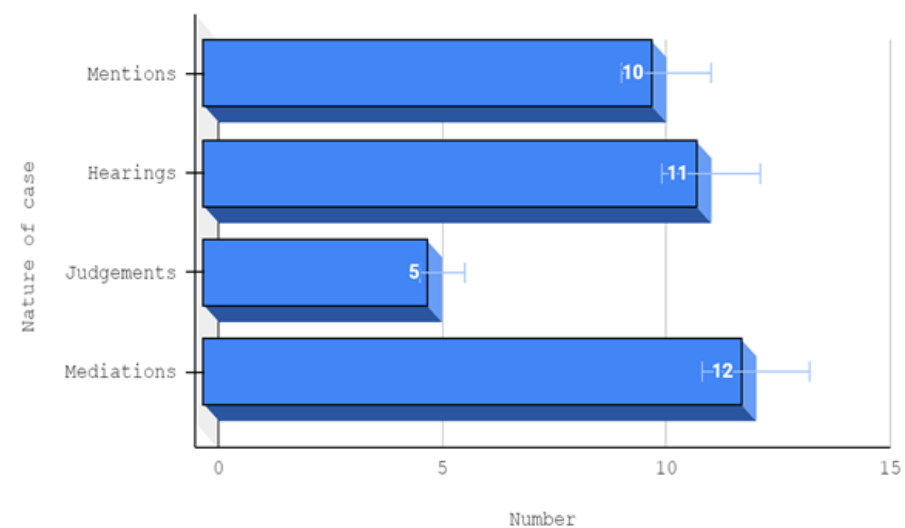


Nairobi VJC performance as at 31st August 2021

- Hearings
- Mentions
- Notice for show cause



Mombasa VJC performance as per 30th August 2021



Establishment of Virtual Justice Centres in female prisons

Women in detention have been greatly affected by the measures placed to contain the COVID-19 pandemic, as a result of World Health Organization COVID-19 protocols [1] The ban against prison [2] visits and the closure of the Courts [3] severely affected the women's self-representation initiatives. FIDA-Kenya having addressed the access challenges that were being faced by its self-representing clients then embarked on duplicating the innovation to various female prisons where the inmates were facing similar challenges.

The issue of lack of ICT gadget to enable inmates access virtual courts had been reported in several CUC meetings, similar concerns had also been raised by various Officers in Charge of female prisons that FIDA-Kenya works with.

Since the establishment of the first FIDA-Kenya virtual justice center of Nyeru Women's prison on 28th September 2020 through the kind support of **Embassy of Sweden and Diakonia**.

FIDA-Kenya has been supporting the establishment of similar virtual justice centres in other female prisons that is in Kisii, Thika, Langata, Kodiaga and Shimo la Tewa Women's prisons This has been made possible by the support of the Danish Embassy(DANIDA) through URAIA, UNDP and the embassy of Sweden and Diakonia.

Though our technical assistance for key criminal justice institutions, we aim to make justice and fair trial accessible to women including those in prisons of computer equipment, flat screen television sets and continuous self-representation trainings to enable wide participation in virtual court proceedings. We also offer virtual counselling and group therapy sessions for clients at our offices and female inmates and have their cases heard fast and in a cost-effective manner.

[1]<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

[2]<https://www.nation.co.ke/kenya/news/coronavirus-kenya-prisons-suspends-visits-280384>

[3]<https://www.judiciary.go.ke/press-statement-administrative-and-contingency-management-plan-to-mitigate-covid-19-in-kenyas-justice-sector/>



Cosmas Mureti- FIDA-Kenya's officer taking inmates through the process at the VJC launch at Shimo la Tewa prison



Launch of the VJC at Kisumu Kodiaga Women prison

Globally, 10 million people are imprisoned, three million of whom are held awaiting trial. As prisons typically operate at between 200% and 300% capacity, the prisoners endure living in congested cells, at high exposure to communicable diseases. In the face of a global pandemic, these inmates are at high risk of contracting and spreading COVID-19.

Beyond affordability, there is only one lawyer for every 5,686 people in Kenya. It is not unusual for inmates to wait up to a decade for a trial. Prisoners are often left to navigate the justice system alone. Without basic knowledge of their rights and legal options, they are prone to suffering unfair and prolonged incarceration without appeal.

Performance Of FIDA-Kenya VJCs in Women's Prisons

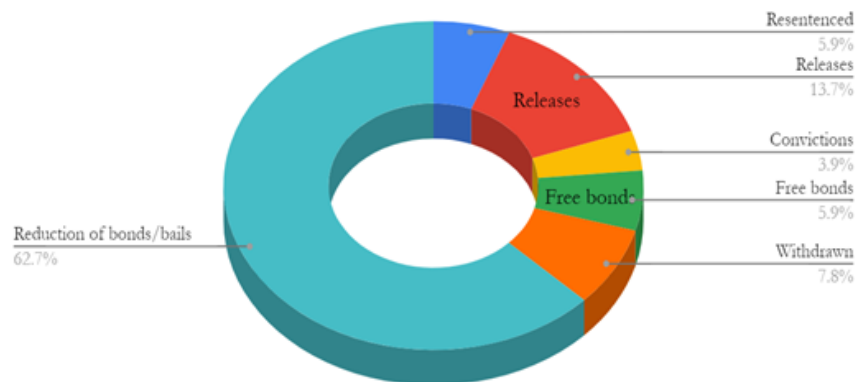
As at **15th October 2021** the Nyeri Women's Prison VJC had served **266** inmates.

On 21st January, 2021; FIDA-Kenya supplied Thika Women Prison with VJC equipment and as at **30th September 2021** the VJC had served **199** inmates.

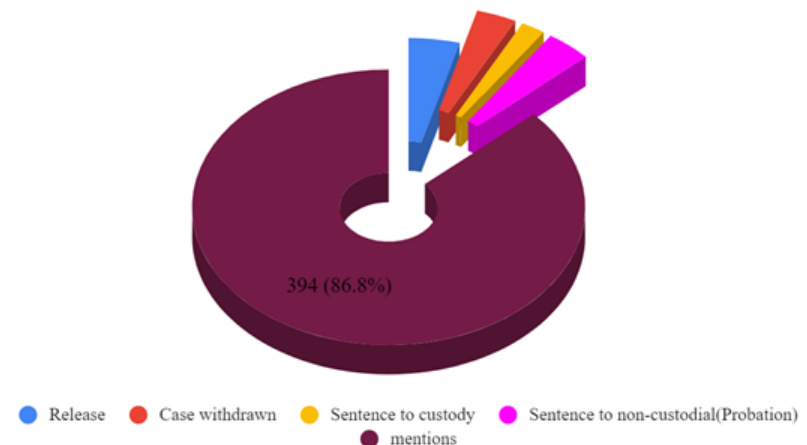
The same was replicated in Langata Women's Prison on 22nd January, 2021 where they were supplied with 2 laptops and a printer. Due to an increase in demand of the Virtual Justice Center equipment at Langata Women's prison, FIDA-Kenya made delivery of additional 2 laptops in the facility on 7th May, 2021. As at **30th September 2021, 1350** inmates had used the VJC.

Shimo la Tewa and Kodiaga women's prison launched their centres on the **13th** and **21st of September 2021** respectively.

Performance of VJC at Nyeri Women's prison as per 17th August 2021



Performance of VJC Kisumu Women's prison as per 31st July 2021



Enhancing Access to Justice through Virtual Legal Aid

FIDA-Kenya also continues to use the Virtual Justice Centers to offer virtual legal aid and conduct virtual group therapy counselling sessions.

Virtual Legal Aid for Langata and Thika Women Prisons was held on **5th February, 2021** where the women inmates were taken through the **UN Standard Minimum Rules for the Treatment of Prisoners**.

On 26th February, 2021, inmates from the two prisons were taken through **Plea Bargaining and Diversion Guidelines**. The virtual sessions were conducted by pro bono lawyers who took up a total of 12 matters filed in Makadara, Kibera, Milimani, Kiambu and Thika Law Courts.

As at **30th September 2021, 600 women in Langata Women's prison and 140 from Thika Women Prison and 66 from Nyeri Women's Prison** had received Virtual Self Representation Training.



Virtual Self-Representation Trainings at Langata and Thika Women's Prison

Through the UNDP rapid response program, Nairobi office conducted **7** virtual psychosocial support sessions between February and March 2021 with women in Langata and Thika prisons reaching 25 participants. This novel approach proved successful and enabled staff to develop new ways of meeting programmatic demands through virtual techniques. This has been used to conduct similar psychosocial support sessions through the VJCs in the various prisons regularly this year.

Group therapy sessions for survivors of Gender Based violence were held between 14th May and 25th June 2021 with 10 participants actively in attendance.



Virtual Group therapy sessions in progress



Virtual Court Session at Langata Women's Prison



Evaluating performance of the Kisii Prison's Virtual Justice Centre



Taking inmates and warders through the system of Kisii Women's Prison

Challenges

Despite the benefits of the electronic system, we have experienced challenges. These are not related to the system itself; they are mainly infrastructural or technical in nature. They arise from the lack of access to proper computers, inadequate training, and poor internet connectivity. Fast internet is unevenly distributed in Kenya. This poses a challenge for users in accessing the electronic system. The large number of users sometimes creates a lot of traffic on the portal. The portal also sometimes does not work and filing of some pleadings are then delayed.

The basis for usage of any digital platform is the availability of effective infrastructure – both hardware and software. Effective use of the electronic case management system is also dependent on users' access to compatible computers. Most Clients are not computer literate and they have to have someone sitting with them until the court session is over, thus losing a lot of time in the process.

The unstable electric supply is another hindrance for the effective functioning of the system. Unfortunately, in most towns, consistent power supply is a major challenge. This is either on account of some areas not being connected to the grid or simply on account of frequent power cuts. The lack of a stable internet connection also means that the parties cannot correctly file their documents, resulting in late filing and service of documents.

There is a shortage of staff at prisons to assist clients in the VJCs especially when there are more than four hearings going on in different courts.

At the FIDA-Kenya office VJCs lack of ICT knowledge by clients also require a staff to be available to offer technical support which can be challenging when there are three more matters ongoing simultaneously. To address this FIDA-Kenya has incorporated basic ICT sensitization for clients during self-representation trainings.

Lastly, the implementation of the system is proving difficult in criminal litigation. Accused persons on remand pending the outcome of their decisions have no access to computers and other facilities for virtual hearings. Even if the parties had access to computers, virtual hearings for criminal matters would be difficult as courts need to analyze and examine the character of the accused person, which may not be possible on the online platform (Gilbert Juma, Associate DLA Piper Kenya-"Embracing electronic court case management systems: lessons from the Kenyan experience during COVID-19")

SUCCESS STORY

MOMBASA MCDC 72/2020

M.K was sued for divorce by her ex-husband in September 2020. When she came to our offices with the Divorce papers she was completely devastated and heartbroken. So, upon us talking to her and undergoing some therapies she became strong and we put her in our self-representation in court Programme. Her main fear was that the Petitioner, who is a senior judicial officer, was intimidating her as he had engaged the services of a prominent lawyer in town to act for him.

After taking Mary through the preliminaries of her case and pre-trying her, she was ready for her case. The Advocate for the Petitioner led him in the case and our client was able to defend her case without fear. Judgement was subsequently delivered after a week and decree nisi and absolute were issued forthwith on 21st June 2021. She was grateful for our assistance. The clients' self-confidence enhanced by watching other cases in progress virtually, and they are able to address the court in a proper manner

Conclusion

As we have already begun to adjust to a world of virtual meetings with colleagues, teachers, doctors, friends, and family, so must our legal system modernize in order to better serve. Many jurisdictions have long used technology to implement innovative solutions to intractable challenges, and courts and criminal legal agencies should take advantage of this unanticipated opportunity to explore technologies with the potential to increase efficiency, access, and equity.

For some crime survivors and witnesses the ability to offer testimony remotely might encourage cooperation by allaying the fears and practical burdens of appearing physically to testify. For people charged with crimes, virtual options could mean the difference between languishing in jail and exercising the right to their day in court.

Prosecutors and courts should begin by surveying their communities to understand the limitations on access and participation under the old model, then leverage the solutions that have emerged during the pandemic to better suit the needs of crime survivors, witnesses, and people charged with crimes. Zoom witness interviews, remote court appearances, and electronic sharing of evidence may prove fruitful places to start.



Kisii Women's Prison Mary Naeku-CPL

Sensitive matters attracting cultural stigma e.g FGM are being handled well in the e-platform as opposed to physical hearings. We pray that the judicial system fully embraces VJCs.



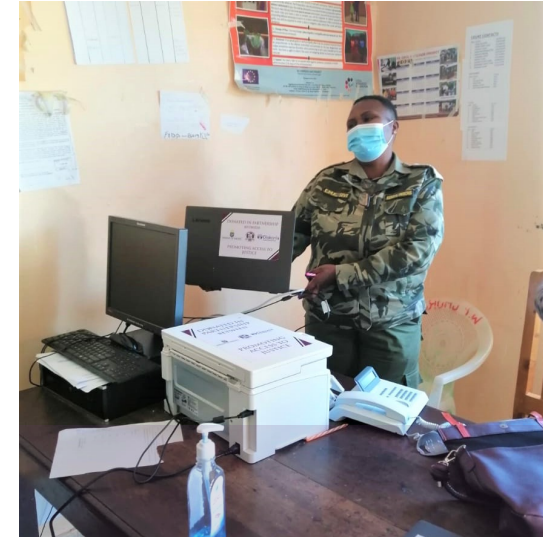
Kisumu- 'I have been able to conclude my case uninterrupted, I started it in Mombasa and just concluded it here in Kisumu. I am so happy to experience this venture.

Beneficiary Kisumu Women's Prison



Nyeri- 'I prefer VJCs since it ensures privacy. Previously people used to stare at me during hearings especially in my case as people keep on staring at my baby and giving sensitive comments during physical hearings. VJCs also conveniences my baby and me as we usually need a lot of considerations before stepping out. Let alone limiting exposure to COVID-19 contraction.'

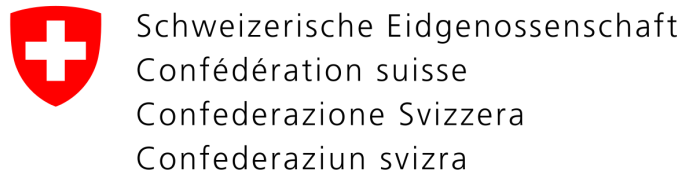
Beneficiary Nyeri Women's Prisons



Nyeri prison Elizabeth Sivi- Officer in charge

'Physical hearing is expensive, the logistical implications can't match the convenience the JVC is offering. Through this system, FIDA-Kenya has helped ease access to court processes for our prisoners- No delays in court hearing and ruling saves time used going to court while ensuring safety and protection from COVID-19. Thank you, FIDA-Kenya.

IN PARTNERSHIP WITH



FIDA-Kenya

Federation of Women Lawyers In Kenya

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