

Legal Challenges of Women in Kenya; a Snapshot from the Backroom



Neda Monshat, an Australian Youth Ambassador for Development (AYAD), is an Australian qualified lawyer who has been working with the Federation of Women Lawyers-Kenya since August 2012. Before coming to the Nairobi office, Neda worked as a criminal lawyer in Melbourne whilst completing her Masters in Public and International Law. She has previous experience working with asylum seekers and refugees in Australia and South Africa, and marginalised people in Australia. She is also a founding member of the Melbourne Feminist Collective Inc., which advocates for the rights of women in her home state.

FIDA Kenya has provided me with a fantastic learning opportunity relating to applying international law in practice and monitoring the responsiveness of new laws to Kenya's recent Constitution. At FIDA, I was both a mentor, and mentee! As a mentor, through the team approach to work, I shared my research and legal drafting skills – competencies that are now institutionalised and will continue to positively influence FIDA's work, both in and out of court. I have been a mentee through the steep learning curve that I've been on over the last few months. This has exposed me to many aspects of how international human rights law can be utilised to effect change on the ground in the Kenyan context and how it interacts with domestic law. This is an especially exciting endeavour given Kenya's new Constitutional framework that imports all international instruments to which Kenya is a party, automatically into the domestic law. From a women's rights perspective, there are many exciting legal opportunities now open to Kenyan women and gains within the new Constitution that at FIDA we have been working toward securing.

I have been very lucky to work with all of FIDA's teams in my time here – the Transformative Justice, Access to Justice and Strategic teams – and be involved in highly engaging and important work. The significance of advocating for gender responsive interpretations of new law responding to the new Constitution within the courts is very tangible given the fact that these new judicial statements will form the law of Kenya for many years to come.

One of the main benefits of my assignment at FIDA has been developing an understanding of how women's rights advocates can use the many international and domestic legal mechanisms available to them to lobby governments. This will be knowledge that is directly transferable to my context in Australia, which still has a long way to go in achieving gender equality. I was in the team that drafted FIDA's submissions in a number of strategic impact litigation matters – namely with regard to police accountability relating to rape and defilement cases in Meru where girls as young as 3 have been raped with no consequences for the perpetrators, and in relation to the right to freedom from discrimination in private organisations. Most recently I assisted with submissions that sought to ensure that quotas for representation of women in the National Assembly, Senate and County Assembly following the March 2013 general elections were upheld. The impact of this case could lead to great gains for Kenyan women, both immediately and in the long term. The Supreme Court in its judgment, which quoted the submissions made by FIDA, found that the Independent Electoral and Boundaries Commission had failed to meet its obligations to conduct and supervise the conduct of the election for special seats (including seats reserved for women) with regard to County Assemblies and ordered them, amongst other things, to publish the lists of candidates that political parties had submitted to them and set up a dispute mechanism to deal with any disputes arising from the published lists. Furthermore, and significantly for long term gains, the Commission was ordered to develop a program, in conjunction with constitutional and statutory commissions and political parties, to develop policies and measures geared towards increasing the participation of women, youth, persons with disabilities, marginalized groups and other vulnerable persons to effectively participate in political processes. FIDA will monitor the development of this program and ensure the Commission's accountability with regard to increasing women's participation in future Kenyan political processes.

FIDA is also continuously engaged in civic education, and training of law enforcement officials and health care providers in order to ensure that women's rights are upheld in all spheres of life. I recently had the opportunity to meet with Kenya's first ever Inspector General of Police to discuss future collaborations and the provision of gender mainstreaming training at the national police training institute in Kenya. It was highly encouraging to receive the Inspector General's support and

agree on mechanisms for moving forward. Such partnerships will ensure that all new police recruits discharge their duties in a gender responsive way, benefiting Kenyan women in the long term.



FIDA Kenya Courtesy Call on Inspector General of Police (L to R): Ms Josephine Wambua-Mong'are, council member, Ms Beatrice Chelangat, Senior Legal Counsel, Inspector General of Police Mr David Kimaiyo, Neda Monshat, Ms Ruth Aura, Chairperson

Other highlights have included participating in field trips with the Transformative Justice team, contributing to FIDA's submission to the Judicial Commission of Inquiry into the Ethnic Violence in Tana River, Tana North and Tana Delta Districts where women and children rights were disproportionately and adversely affected, to our comment on the UN draft general comment on harmful cultural practices, a publication on strategic impact litigation disseminated to other civil society organisations and engaging in analysis of the Family Bills with my colleagues in the Strategic Team. These activities have allowed me to gain insight into the political, historical and cultural context of Kenya and how to utilise international legal norms to advocate for sustainable solutions for women within this context. The ability to apply international norms to different cultural and historical contexts will be highly beneficial in my future career as I continue to advocate for women's rights in Australia and globally.



Transformative Justice Field Trip to Migori to Train Law Enforcement Officers and Health Care Providers on Sexual and Reproductive Health Rights (L to R): Alice Maranga, Program Officer FIDA Kenya, Neda Monshat

I am very grateful to all the genuine support I have received from my colleagues at FIDA and look forward to the rest of my time here. I hope that FIDA are able to continue providing these fantastic opportunities to volunteer lawyers from Australia and globally and I am confident that FIDA will continue its great work in Kenya!