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**Kenya Country Programme  
2016-2020**

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**Thematic Programme for  
Governance**

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**Development Engagement Doc-  
ument:**

**Support to Women's Rights  
and Empowerment**

**(Federation of Women Lawyers -  
Kenya)**

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| Dev. Engagement Gov.  | Outcome   | Outputs   |
|---|---|---|
| Support to Women's Rights and Empowerment   | Increased realization of women's and girls' constitutional rights in Kenya                              | - Successful advocacy for gender responsive laws, policies and institutional systems.<br>- Provision of legal aid services to survivors of women's rights violations. |
| <b>Budget</b>   | <b>DE partner</b>   | - Research and documentation of women's rights concerns to guide interventions by public and private institutions.  |
| The Danish Contribution is DKK 15 million. The total estimated FIDA budget 2016-2002 amounts to DKK 111 million.  | Federation of Women Lawyers – Kenya Chapter (FIDA Kenya) a non-governmental organization based in Kenya |   |
| <b>Management arrangements</b>  |   |   |
| Denmark will provide core funding for FIDA's Strategic Plan 2013-17 and its successor document. FIDA will undertake the day-to-day management of the project. FIDA will convene annual meetings to bring together their development partners. FIDA will use a joint reporting framework for donors to have a clear appreciation of impact, challenges and attribution.  |   |   |
| <b>Description</b>  |   |   |
| FIDA will continue with the work that DANIDA has been supporting, taking advantage of the new opportunities provided by the 2010 Constitution and Bill of Rights. FIDA will primarily focus on advocating for laws and policies that are gender sensitive and that empower women. They will do this by engaging with Parliament, the Executive and the Judiciary. FIDA will also build on its strong reputation as a provider of quality legal aid services to poor women who are unable to access justice. FIDA will document the gains and challenges that women face in realizing their rights and will use the findings of their studies to inform their advocacy and to share best practice. |   |   |

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## Abbreviations

|        |  |
|--------|--|
| Danida | Danish International Development Assistance    |
| DfID   | Department for International Development (UK)  |
| ERP    | Enterprise Results and Planning                |
| EWS    | Early Warning System                           |
| FIDA   | Federation of Women Lawyers, Kenya             |
| IJS    | Informal Justice System                        |
| KDHS   | Kenya Demographic Health Survey                |
| KES    | Kenya Shilling                                 |
| MDKK   | Million Danish Kroner                          |
| MTP II | Second Medium Term Plans (2013-2017)           |
| NALEAP | National Legal Aid and Awareness Programme     |
| NCAJ   | National Council for Administration of Justice |
| NGEC   | National Gender and Equality Commission        |
| MEL    | Monitoring, Evaluation and Learning            |
| PBO    | Public Benefits Organisations                  |
| PWC    | Price Waterhouse Coopers                       |
| UNFPA  | United Nations Population Fund                 |

## Development Engagement Document for Support to Women’s Rights and Empowerment

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### 1. Introduction

- 1.1 The present development engagement document details the objectives and management arrangements for the development cooperation concerning Support to Women’s Rights and Empowerment (2015-2020) as agreed between the parties specified below. The development engagement document is annexed to the *Bilateral Agreement with The Federation of Women Lawyers – Kenya (FIDA Kenya)* and constitutes an integrated part hereof together with the documentation specified below. The Danish support is part of the support provided with the Governance thematic programme under the Danish country programme for Kenya 2016-2020. The engagement document is also available to the External Grant Committee of Danida.
- 1.2 The development engagement entails Danish support in the form of core funding to *The Federation of Women Lawyers – Kenya (FIDA Kenya)* of DKK 15 million for the implementation of FIDA’s Strategic Plan (2013-2017) and its successor document. The support covers the period January 2016 to June 2020.

### 2. Parties

- 2.1 The Danish Embassy, Nairobi and The Federation of Women Lawyers – Kenya (FIDA Kenya)
- 2.2 Signatories will be the Danish Ambassador representing the Government of Denmark, and the Executive Director of FIDA Kenya.

### 3. Documentation

- 3.1 The documentation for this development engagement is FIDA’s strategic plan 2013-2017, FIDA Kenya Annual Budgets and Implementation Plans for the said strategic plan and its Successor document FIDA Kenya Strategic Plan 2018 – 2023.

### 4. Brief description of Federation of Women Lawyers - Kenya

The Federation of Women Lawyers – Kenya (FIDA Kenya), is a non-profit, membership organisation consisting of over 1,100 women lawyers committed to increasing women’s access to justice in both formal and informal justice systems in Kenya. FIDA Kenya was established in 1985 after the 3<sup>rd</sup> UN Conference on Women. The organisation’s vision is to have a society that respects and upholds women’s rights and the mission is to promote women’s individual and collective power to claim their rights in all sphere of life.

FIDA Kenya has three offices; headquarter in Nairobi and two regional offices in Kisumu and Mombasa. The secretariat consists of 33 permanent staff and hosts at least 8 Volunteers and 6 interns/students undertaking their pupillage (Pre – bar training). The Executive Director is the head of the secretariat, she reports to 9 Council Members who are elected by the membership every two years and are responsible for the overall governance of the organisation.

FIDA Kenya achieves its goals through two main programmes;

- i. *Access to Justice* which has diverse products modelled for women to access justice including; clients’ trained to represent themselves in court, Public interest litigation to set new jurisprudence, Pro bono lawyers scheme<sup>1</sup> and alternative dispute resolution mechanisms such as mediation and informal justice systems. This programme recognizes that progress is being made in the formal equality but not substantive equality hence need for legal aid services for women in Kenya towards achieving their economic, social, political and cultural rights.
- ii. *Women and Governance programme* - FIDA works to build the capacity of women, advocate and lobby for favourable laws and policies that are gender responsive and engage in strategic partnership at international, national, county and community levels. The programme aims at consolidating the gains of women in the Constitution and secure effective implementation through institutional development and systems strengthening which includes strengthening the legislative function of parliament, women participation in governance structures and enhancing formal and informal structures to expand the space of women to enjoy their economic, social, political and cultural rights.

The two programmes are complemented by the Knowledge Management and Institutional Strengthening programmes to enhance FIDA’s position as a premier organisation in research and documentation of women’s rights issues to guide public and private sector operations. The organisation has also adopted a robust monitoring and evaluation system to ensure effective implementation and monitoring of results – Enterprise and Resource Planning (ERP).

In drafting the new strategic plan, FIDA Kenya fashioned the aforementioned four programmes to actualise the new strategic plan. FIDA Kenya Access to Justice Programme<sup>2</sup>, Women and Governance<sup>3</sup>, Knowledge Management and Institutional Strengthening outline new strategic areas. FIDA Kenya acknowledged that women’s empowerment is fundamental to creating a culture of justice. FIDA Kenya shall continue to deepen its reflection in identifying the best entry points for women empowerment in advancing their rights, women’s core concerns likely to be dealt with in a meaningful manner, extent to which gender stereotypes are entrenched, types of vested interests that present themselves in time of reforms and how deep they crave to sustain the status quo. The organisation develops its implementation plans and budgets biannually, with the last monitoring meeting of the year generating annual plans and budgets. All plans are generated within programmes which respond to a specific strategic objective of the organisation strategic plan. Funding is advised by the programmatic objectives hence budgets.

## 5. Background and Theory of Change

### 5.1 Context

Kenya’s population stands at 44.35million with 49.88% being men and 50.11% being female (World Bank report, 2013)<sup>4</sup>. Unfortunately the participation of women in the development processes does not reflect this demographic reality. The principle of equality remains a challenge to be implemented. Women rights continue to be undermined in the different sectors of life in Kenya.

The Kenya Demographic Health Survey (KDHS), 2014 shows that women are more likely to experience violence<sup>5</sup> committed by their spouse/partner than men. The Gender Violence Recovery Centre,

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<sup>1</sup> FIDA Kenya works with over 400 pro bono lawyers to reach out to more women in other parts of the Country. These lawyers are managed within the access to justice programme

<sup>2</sup> Previously known as Legal Aid Programme FIDA Strategic Plan 2008 - 2012

<sup>3</sup> Previously known as Transformative Justice FIDA Strategic Plan 2008 - 2012

<sup>4</sup> World Bank report, 2013 data.worldbank.org/Country/Kenya

<sup>5</sup> KDHS, 2014 defines violence to include physical, sexual, economic and emotional violence.

Nairobi Women’s Hospital report of 2014 shows that 90% of the cases reported (Physical and Sexual violence) are by women; 40% being females of the age 15 – 49 the most productive years of women’s life. Further, women are still underrepresented in parliament; recent elections results show 22 women out of 210 members of parliament (10.4%) in 2007 and 65 women out of 349 members of parliament (18.6%) in 2013 general elections.

Kenya is a largely patriarchal society, which has contributed to women’s subjugation in both the private and public spheres. Women have historically taken a secondary position to men, and this tradition is manifested in the practices, policies, and laws of the country. Cultural attitudes and low levels of education also impede women’s participation and representation in decision-making as well as their lack of access to economic opportunities. Women and girls are also especially vulnerable to violence and exploitation.

The space for human rights interventions is increasingly getting constrained and impunity continues to undermine rights work; the complexity of trends and invisibility of factors and actors who influence and feed impunity.

## **5.2 Justification including lessons learnt**

Despite provisions in the new Constitution of Kenya (2010), there is a large gap between commitment (legislation/policy and reality) and operationalization regarding women’s rights in Kenya. This engagement is based on the premise that women’s rights and empowerment stand to be improved through the implementation of constitutional, legal and institutional reforms on gender equality and women’s rights. Its further advised by the fact that the Kenyan government singled out women, people living with disability and young people as deserving special interventions to enhance their status and reduce poverty levels. Undeniably, modest initiatives have been undertaken that point to the increasing political will to enhance the status of these minority groups and gender equality. The project is aimed at complementing these initiatives. It is thus strategic to support interventions focused at reducing the discrimination gaps and safeguarding the overall gains for women outlined in the Constitution.

The rationale for choosing FIDA as a partner for this engagement is based on the organisation’s long history of over 30 years of experience in promoting women’s human rights in Kenya. FIDA Kenya has remained fearless in addressing discrimination against women and has attained the recognition as a critical partner for both civil society organisations and the government and hence making it a channel for Danish support that that can make a real difference.

For instance FIDA Kenya is a member of the following Government led initiatives:

- Technical Working Group on 2/3rd Gender Principle convened jointly by the State Law Office (Office of the Attorney General) and the National Gender and Equality Commission. (NGEC)
- Technical Working Group of the National Gender and Equality Commission (NGEC) on Rules and Regulations
- Judicial Taskforce on Sentencing
- Judicial Taskforce on Alternative Dispute Resolution
- National Council for Administration of Justice (NCAJ)
- Technical Working Group reviewing the Adolescent Reproductive Health Policy
- Attorney General’s Advisory Consultative Committee on International Human Rights Treaties
- NGEC led National Gender Based Violence Sub-cluster
- Police Reform Working Group

FIDA Kenya’s key achievements include successful delivery of legal aid services to over 80,000 women, over 15 years intensified advocacy for a new Constitution that is gender responsive, continuous public debates and advocacy in defending women rights ( working with the media), direct impact in the passing of legislations such as the Sexual Offences Act, Prohibition of Female Genital Mutilation Act, Matrimonial Property Act, Marriage Act, Protection Against Domestic Violence Act and still pushing for more gender responsive enabling legislations, building capacity of women to take up elective and appointive positions – example in the 2013 General Elections, FIDA Kenya directly supported 250 women aspirants, 7 were elected and 15 nominated. FIDA Kenya similarly enjoys a cordial relationship with the Judiciary hence a key gain was the successful spearheading of the establishment of the family division of the High Court,

FIDA Kenya is a member of NCAJ that draws its mandate from Section 34 of the Judicial Service Act and brings together various stakeholders drawn from state and non-state actors in the justice sector to enhance access to justice for all citizens as envisaged in article 48 of the Constitution. Through this membership FIDA Kenya has continued participating and building capacity of selected court users committees (CUCs) on gender and women’s rights issues to improve their intervention.

FIDA Kenya was appointed to oversee the pilot project on the Family Division for the government led National Legal Aid and Awareness Programme (NALEAP) which was established to facilitate legal aid in Kenya. FIDA Kenya is also represented in the NALEAP National Steering Committee to oversee all the NALEAP projects.

FIDA Kenya has continued to engage with the Informal Justice System (IJS) as it appreciates that they wield power within the community. Women in their respective communities first seek redress from them whenever their rights have been violated. FIDA Kenya has successfully worked with over 10 group of the IJS from the following counties: Kikuyu (Othaya), Tharaka, Meru, Akamba, Luo, Kisii, Busia (Marachi), Taveta, Embu, Bungoma and Kalenjin.

FIDA has in the past 10 years received funding from Danida towards specific programmes on improved access to justice for women and advocating for women’s rights. During this period, FIDA Kenya has implemented two 5 years strategic plans, exhibited programmatic and financial prowess in managing various grants including sub granting to other organisations and community based organisations and has throughout had successful audits. The organisation has since been able to adapt very quickly to Kenya’s new devolved governance structure, and is currently operating in approximately twenty two of the forty-seven counties. FIDA aims to have its presence in all counties by end of 2016. The core funding modality will further strengthen FIDA Kenya’s ability to swiftly respond to emerging issues. The support also enables long term strategic focus and sustainable change.

FIDA Kenya has embraced the human rights based approach to development in the implementation of all activities both as a process and as an outcome of the organisations work. FIDA Kenya ensures participation of both men and women in governance by providing a platform where duty bearers and rights holders meet to promote transparency and accountability. The approach has also contributed significantly to the capacity building of national institutions and government partners as the duty bearers to mainstream gender perspectives into their work plans as well as supporting women as rights holders to claim their rights towards advancing the implementation of the gender equality provisions of the new constitution.

Some of the key lessons learnt include;

- That passing of a new Constitution was the “easier” role; the bulk of work is in actualising the gains made in the law. Disparities are not fully cured through legislation but also checking the

context and social structures within which women operate. Women rights organisations need to be vigilant and monitor drafting and enactment of enabling legislation for the implementation of the Constitution. FIDA Kenya maps critical legislations that need to be repealed, amended and/or enacted to advance the legal status of women in Kenya.

- In advocating for women representation, past experience has shown that some of the women leaders remain unaccountable to the women’s agenda once they are in office. There is need for new strategies to support women leaders in identifying specific agenda for women’s rights, resourcing them with information and data, continuous building of their capacities/ skills, convening them to consolidate “*one voice and message*” for Kenyan women
- In addition, Kenya is for the first time practising the devolved governance systems. This system has numerous advantages such as opportunities to connect with new devolved structures for sustained networking and modelling pilot women rights interventions. Devolution however also comes with numerous challenges. There are risks such as poor governance, corruption and weak judicial system being devolved at county level. There is need for proactive interventions to protect counties from adopting poor governance trends currently experienced at national level.
- There is also the need to invest in unique cases that are likely to create new jurisprudence and increased interaction with informal justice system to advance women rights both at national and county levels.
- Denmark has supported FIDA since 2005. In the current support, the management agency, Development Alternatives Inc. did a capacity assessment and ranked FIDA as low risk with regard to its internal financial and administrative systems.
- Continued support to FIDA will mean learning, course-correcting and building upon the gains made by the work described above as well as further harnessing FIDA’s expertise and extensive involvement in women’s rights and empowerment through access to justice initiatives.

### 5.3 Narrative for Theory of Change

Women's empowerment and the promotion of gender equality are key to achieving sustainable development. Greater gender equality can enhance economic efficiency and improve other development outcomes. The expected outcomes of the engagement are: *Increased realization of women’s and girls’ Constitutional gains/ rights in Kenya and Increased access to justice by women and girls in Kenya.* The outcomes are aligned with the Government of Denmark Strategic Framework for Gender Equality, Rights and Diversity, the gender equality provisions in the Constitution of Kenya 2010, the National Gender and Equality Policy, and gender mainstreaming priorities in the Kenya Vision 2030, Ministry of Devolution and Planning’s Medium Term Plan (MTP) II 2013 – 2017, and the Second Medium Term Plan (MTP II) 2013 – 2017. FIDA Kenya works through two main programmes; First, Access to Justice (diverse products are modelled for women to access justice including clients’ trained to represent themselves in court, Public interest litigation to set new jurisprudence and alternative dispute resolution mechanisms such as mediation and informal justice systems). The second programme Women and Governance promotes women’s equal citizenship and transformative justice. As concerns access to justice in Kenya, though the Constitution provides for equality of all Kenyans, the distance between the indigent woman and the law is still widening. Apart from getting intimidated by the law, affordability of the process continues to be a barrier. FIDA Kenya is committed to change the manner in which the supply and demand side of justice for women applies. This will be achieved through legal representation of clients in court, self-representation of the clients, working with the informal justice system, engaging pro bono lawyers to offer free services and public interest litigation

FIDA Kenya in collaboration with other civil society organizations will mobilize and build the capacity of the elders on alternative dispute resolution and women’s rights and how to assist women who seek their services. The strategies used will include Inception meetings followed by quarterly meetings to monitor progress and/or training sessions. FIDA Kenya will identify a clear referral system both from and to the IJS. FIDA Kenya will also conduct Bi annual review meeting with the earlier IJS (At least 3 IJS). FIDA Kenya will assist the elders to refer and file their resolutions to the relevant courts’ for adoption and thereafter enforcement.

To achieve the objectives of the programme, there is need to build the country’s commitment to eradicating any barriers that prevent women from having the same access as men to human resource endowments, rights, and economic opportunities. The status quo needs to be challenged to allow women’s full realisation of their rights; change in the operations of the executive, judiciary and legislative institutions - need to have gender responsive laws, policies and practise to advance women rights. In addition, there is need to influence - reshape the societal perception on women rights.

A key condition for the success of the project will be framing women’s demands in a language that is culturally appropriate/appropriate to the Kenyan context and persuasive. This is in acknowledging that women rights are best achieved when aligned to their social cultural structures. There is equally the need to have conducive (gender responsive) environment in the decision making organs such as national and county assembly.

By giving support to FIDA Kenya, the organisation will be able to make interventions targeted at emphasising the government’s obligation to the people of Kenya in its capacity as duty bearer; actualising the Constitution of the Country. FIDA Kenya will focus the its energies on transformative justice through effective documentation of women rights so as to influence redress/action from relevant stakeholder such as the Attorney General, Inspector general of the Police, Director of Public Prosecution, Chief Justice and relevant cabinet secretaries. FIDA Kenya will argue women cases in court so as to secure favourable judgments to set up jurisprudence for the benefit of women rights in Kenya, FIDA Kenya will participate in legislative reforms (technical support in drafting new laws and reviewing existing laws), Advocacy and technical support for institutional and systems strengthening for full realisation of women’s rights. The organisation will also investment in the women’s rights movement in Kenya to build the critical mass for change in the country (Women speaking in one voice) to positively influence societal attitude towards women rights.

In addition to the aforementioned government and non-governmental agencies, FIDA Kenya will work to deepen its partnership with ,amongst others, the National Women’s Steering Committee that comprises of 20 civil society organizations with a common goal on gender equality; the G10 coalition that comprises of likeminded civil society organizations that lobbied for the inclusion of women gains in the Constitution and garnered public support for Promulgation using the “sex boycott” among other innovative strategies; Groots Kenya , a network of women self-help groups and community organizations, formed as a response to inadequate visibility of grassroots women in development and decision-making forums that directly impact them and their communities; Maendeleo Ya Wanawake Organization , a national grassroots women’s organization formed in 1952 that has worked alongside state structures and produced many of the national women leaders in public service and in the legislature; the Kenya Private Sector Alliance and the Kenya Women Parliamentarians Association. The partnership will include joint strategies to advocate for women’s rights and empowerments, taking advantage of each partner’s comparative strength and sphere of influence

The overarching assumption is that Kenyans are willing to embrace gender equality and that the various government departments, private institutions and community at large will cooperate in discharging their responsibilities to enable women to fully enjoy their rights. Further there is the assumption that there

will be sustained political will to enact gender sensitive laws that will influence practise. FIDA Kenya is tasked with continuous demonstration of the indivisibility of human rights and how women can claim and exercise their rights meaningfully and contribute to national development.

## 6. Development Engagement Objectives

- 6.1** The overall vision for the partnership is to support the Government and people of Kenya in implementing their *Vision 2030* to create ‘*a globally competitive and prosperous country with a high quality of life by 2030*’.
- 6.2** The thematic Governance programme’s strategic objective is to *contribute to the implementation of the Constitution, consolidation of an accountable, inclusive and participatory democracy with increased stability*’.
- 6.3 Outcomes:** The expected outcome of this Development Engagement is: *Increased realization of women’s and girls’ Constitutional rights in Kenya.*

### 6.4 Outputs:

**Output 1:** Successful advocacy for gender responsive laws, policies and institutional systems

**Output 2:** Increased political participation of women and overall decision making

**Output 3:** Provision of legal aid services to women and girls exposed to rights violated

**Output 4:** Research and documentation of women rights concerns to guide interventions by public and private institutions

## 7. Results Framework

**7.1** FIDA Kenya is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system as detailed in Section 12 below. The parties have however agreed that the Danish Embassy will use the following results framework with a limited number of outcome and output indicators for the purpose of reporting back to the Danish constituency. Data to inform the reporting will be supplied by FIDA Kenya as part of the ordinary monitoring of the engagement.

**7.2** The parties have agreed to measure progress and performance by the following key outcome and output indicators. Within the first six month of implementation FIDA Kenya will establish annual targets, where relevant, for these indicators.

|                     |      |  |  |
|---------------------|------|--|--|
| <b>Outcome 1</b>    |      | <i>Increased realization of women’s and girls’ Constitutional gains/ rights in Kenya.</i>  |  |
| Outcome indicator 1 |      | Improved implementation of the Kenyan Constitution <sup>6</sup>                            |  |
| Baseline            | Year | 2015   | Gender legislation that does not respect the Constitution is passed (threshold example the Matrimonial Property Act 2014 <sup>7</sup> )  |
| Target              | Year | 2020   | <ul style="list-style-type: none"> <li>• Enactment of gender responsive laws, policies and practices includes 2/3<sup>rd</sup> gender principle legislation;</li> <li>• Repeal of unconstitutional laws and policies.</li> </ul> |
| <b>Output 1.1</b>   |      | <i>Successful advocacy for gender responsive laws, policies and institutional systems.</i> |  |
| Output indicator    |      | Increased awareness of women (and men) of their rights                                     |  |

<sup>6</sup> Source: FIDA reports.

<sup>7</sup> The Matrimonial Property Act passed by parliament in 2014 provides for proof of contribution by spouses to matrimonial property, contrary to the Constitution that provides for equal share of property during marriage and at dissolution of marriage. FIDA Kenya has moved the courts to declare this Act unconstitutional.

|                        |      |  |  |
|------------------------|------|--|--|
| 1.1.1                  |      |  |  |
| Baseline               | Year | 2015   | Poor ( 20%) public understanding and acknowledgement on concept of women rights - measured by opinion polls <sup>8</sup>   |
| Target                 | Year | 2020   | Improved understanding and acknowledgment by public on women rights (60%)– measured by opinion polls   |
| <b>Output 1.2</b>      |      | <i>Increased political participation of women and overall decision making</i>  |  |
| Output Indicator 1.2.1 |      | Increased number of women in public offices  |  |
| Baseline               | Year | 2015   | Kenyan Parliament and other public institution falls below the Constitutional commitment of 33% (the so called ‘2/3 Gender Principle’) <sup>9</sup>  |
| Target                 | Year | 2020   | <ul style="list-style-type: none"> <li>• At least 33% representation of women in parliament and other public institutions</li> <li>• Increased no. of elected women</li> </ul>   |
| <b>Outcome 2</b>       |      | <i>Increased access to justice by women and girls in Kenya</i>   |  |
| Outcome Indicator 2    |      | Non-discrimination in access to both formal and informal justice systems   |  |
| Baseline               | Year | 2016   | Underrepresentation of women both in formal and informal justice system <sup>10</sup>  |
| Target                 | Year | 2020   | Increased representation of women both in formal and informal justice system   |
| <b>Output 2.1</b>      |      | <i>Provision of legal aid services to women and girls exposed to women’s rights violations</i>   |  |
| Output indicator 2.1.1 |      | Number of cases successfully concluded (through legal representation, pro bono lawyers, self-representation, Informal justice systems and strategic impact litigation) |  |
| Baseline               | Year | 2015   | <ul style="list-style-type: none"> <li>• No Strategic impact cases<sup>11</sup></li> <li>• 350 individual concluded matters /per year</li> </ul>   |
| Target                 | Year | 2020   | <ul style="list-style-type: none"> <li>• 3 Strategic Impact cases concluded with progressive judgments (over the 5 years)</li> <li>• Less than 350 cases proceeding to court per year<sup>12</sup> - out of court settlement/per year</li> </ul> |

<sup>8</sup> FIDA Kenya works in partnership national research companies to carry our opinion polls on issues related to women’s rights in Kenya. One example of research company that FIDA Kenya works with is IPSOS Synovate Kenya.

<sup>9</sup> Kenyan Constitution Article 27(8) provides that the state shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Article 81(b) further provides that not more than two thirds of the members of the elective public bodies shall be of the same gender. In the 2013 General Elections, only 16 women of the 290 Members were elected to the National Assembly. No woman was elected in the positions of the 47 Governors and 47 senators. Of the 47 Deputy Governors, only 8 are women. Only 76 of the 1450 elected Members of County Assemblies (MCAs) are women. All the 18 women in the Senate were nominated on the account of affirmative action. Baselines: Senate - no woman elected out of 47 senators; Governors - no woman elected out of 47 Governors; Deputy Governors - 6 women elected out of 47 Deputy Governors; County Assembly Wards - 82 women out the total 1,450 County Assembly Ward Representatives; MPs - 16 women elected out of 290 constituency Members of National Assembly.

<sup>10</sup> Exact baselines are not available, but will be developed. As an example, in the formal sector such as the Supreme Court out of 7 judges only 2 are women. An example of informal setup is the Luo Council of Elders who have only allowed 3 women out of over twenty elders.

<sup>11</sup> A strategic litigation impact case is one whose results change the condition of communities of women as opposed to welfare litigation that targets single persons. This approach is aimed at making the legal system gender responsive, and in creating precedence or case law. The strategy also fills in gaps in law, to align domestic laws to international standards, and to increase the Gender sensitivity in the legal system

|                        |      |   |   |
|------------------------|------|---|---|
| <b>Output 2.2</b>      |      | <i>Research and Documentation of Women rights concerns to guide interventions by public and private Institutions<sup>13</sup></i> |   |
| Output indicator 2.2.1 |      | Increased provision of material feeding into evidence based programming   |   |
| Baseline               | Year | 2015  | <ul style="list-style-type: none"> <li>• Between 1 and 2 publications on different thematic issues on women’s rights were published yearly<sup>14</sup></li> <li>• Baseline for number of visits on the FIDA website (making reference to organisation publications) to be established</li> <li>• Baseline for number of downloads of publications on the FIDA website to be established</li> </ul> |
| Target                 | Year | 2020  | <ul style="list-style-type: none"> <li>• At least 2 publications on women rights issues/year</li> <li>• Increased number of visits on the FIDA website making reference to organisation publications</li> <li>• Increased number of downloads of publications on the FIDA website</li> </ul>  |

<sup>12</sup> FIDA Kenya success is measured by number of cases concluded outside court – amicable settlement, faster and cheaper for women and girls in Kenya

<sup>13</sup> FIDA Kenya relies both on internal and external research to collect findings of projects: lessons learn provide evidence and advise improved programming by the organization

<sup>14</sup> 26 publications on different thematic issues on women rights were published the years 2000-2015 (an average of 1.7 publications / year).

## 8. Risk Management

| Programmatic Risks   |            |  |        |  |  |                        |
|--|------------|--|--------|--|--|------------------------|
| Risk Factor  | Likelihood | Background to Assessment of Likelihood   | Impact | Background to Assessment of Potential Impact   | Risk Response  | Combined Residual Risk |
| Increased threat to human rights space in Kenya, including women’s rights and the rights of the girl child                                   | Unlikely   | Human rights organisations have moved the courts (Constitutional reference case) to stop government from implementing the PBO act amongst Unconstitutional practices | Major  | Implementation of PBO Act would destabilize operation of Human rights organisations  | Public Interest Litigation case to stop government impunity<br><br>Diversifying funding sources – including fundraising locally                              | Minor                  |
| Increased trends by members of parliament in mutilating the Constitution by enacting laws that remove the Constitutional gains made by women | Unlikely   | Increased mutilation of the Constitution puts parliament at risk of being disbarred  | Medium | Members action would weaken women’s gains in the Constitution  | Public Interest Litigation case to stop MPs impunity.<br><br>Increased advocacy and building critical mass to demand full implementation of the Constitution | Minor                  |
| Increased resistance to Women’s empowerment in principle by political actors   | Unlikely   | Constitutional requirement that all persons have the obligation to respect uphold and defend the Constitution. Constitution amendment would hardly be popular.       | Major  | Equality Principle was hardly a contentious issue during the referendum leading to the enactment of the Constitution. A lot of debates are propaganda by a section of political leaders and chauvinists hence would hardly get significant following | Continuous civic education and advocacy on women’s rights as human rights and importance of women for sustainable development                                | Insignificant          |
| A critical mass of financing of the FIDA Kenya program is not achieved   | Unlikely   | Experience suggest that FIDA will manage to mobilise sufficient resources  | Major  | Would the circumstance occur it would have negative effect on the effectiveness of Danida support and the expected results of the FIDA programme   | Mitigation/reduction: FIDA proactively works on mobilising resources   | Minor                  |
| Fiduciary risk: Fraud, misuse or misappropriation of funds within the FIDA program   | Rare       | To date there has been clean audits throughout a longstanding cooperation and there is nothing indicating particular fiduciary risk. On the                          | Major  | Would circumstances/events occur it would impact negatively on the efficiency of the programme as well as it may affect the effectiveness  | <u>Mitigation/ reduction:</u> Continued use of the audit instrument (accounting and auditing as per Danida Guidelines). In addi-                             | Minor                  |

|  |  |   |  |                                  |  |  |
|--|--|---|--|----------------------------------|--|--|
|  |  | contrary FIDA is in a recent (July 2015) PWC report, 'Management Control assessment', considered a 'low risk organisation'. |  | (through halting implementation) | tion will the use of the External Monitoring Team (contracted by the Embassy) constitute an Early Warning System (EWS) |  |
|--|--|---|--|----------------------------------|--|--|

**Institutional Risks**

| <b>Risk Factor</b>  | <b>Likelihood</b> | <b>Background to Assessment of Likelihood</b>   | <b>Impact</b> | <b>Background to Assessment of Potential Impact</b>   | <b>Risk Response</b>   | <b>Combined Residual Risk</b> |
|---|-------------------|---|---------------|---|--|-------------------------------|
| Fiduciary risk (as a 'risk of risk): Fraud, misuse or misappropriation of funds within the FIDA program | Rare              | To date there has been clean audits throughout a longstanding cooperation and there is nothing indicating particular fiduciary risk. On the contrary FIDA is in a recent (July 2015) PWC report, 'Management Control assessment', considered a 'low risk organisation'. | Significant   | This would entail high reputational risk levels for FIDA and Danida. For Danida it is a potential killing factor, in the long term, with regards to continued support | <u>Mitigation/reduction:</u> Continued use of the audit instrument (accounting and auditing as per Danida Guidelines). In addition will the use of the External Monitoring Team (contracted by the Embassy) constitute an EWS. | Minor                         |

## 9. Inputs

### 9.1 Indicative annual budget, broken down by FIDA programme

|  | 2016               | 2017               | 2018               | 2019               | 2020               | 5-year plan (2016-2020) |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|-------------------------|
| <b>PROGRAMME</b>                           | <b>Amount MDKK</b>      |
| <b>Women and Governance</b>                | 7.8                | 8.6                | 9.4                | 10.4               | 11.4               | 47.6                    |
| <b>Access to Justice</b>                   | 3.2                | 3.5                | 3.8                | 4.2                | 4.6                | 19.3                    |
| <b>Knowledge management</b>                | 2.4                | 2.6                | 2.9                | 3.2                | 3.5                | 14.6                    |
| <b>Running operational costs /overhead</b> | 4.9                | 5.4                | 5.9                | 6.5                | 7.1                | 29.8                    |
| <b>SUBTOTAL</b>                            | <b>18.2</b>        | <b>20.1</b>        | <b>22.1</b>        | <b>24.3</b>        | <b>26.7</b>        | <b>111.3</b>            |
| <b>Whereof Danida</b>                      | <b>3.75.</b>       | <b>3.75.</b>       | <b>3.75.</b>       | <b>3.75.</b>       |                    | <b>15</b>               |

FIDA Kenya is 95% Donor funded, 5% is members contribution<sup>15</sup> and Friends of FIDA<sup>16</sup> donations. FIDA Kenya has over the last years managed an average annual budget of more than 16 MDKK. Current FIDA Kenya donors include Sweden (1.8 MDKK, 2015-2018), UK/DFID (1.1 MDKK, 2015-2018), UNFPA (11.6 MDKK 2015-2018). For the Danida support cycle about 27 MDKK is committed funding and about 77 MDKK remains to be confirmed (including Danida funds). In addition to the funds from Development Partners another 5.5 MDKK is expected to be raised from members and Friends of FIDA.

## 10. Management arrangement

- 10.1 The overall principles for management of the present development engagement are described in the implementing Partner Agreement to which this Development Engagement Document is annexed.
- 10.2 The daily management of the present engagement is undertaken by FIDA Kenya.
- 10.3 As part of the implementation arrangements for the Danida Kenya Country Program all the Thematic Governance Program Partners will be invited annually for a stock-taking and information sharing workshop. It will i.e. treat achievements, challenges and lessons-learnt.
- 10.4 The Embassy will also be part of FIDA Kenya’s donor roundtable for strategic dialogues. FIDA Kenya will also invite the Embassy to bilateral quarterly meeting to review progress of the project and share lessons learnt. There will also include regular email/telephone consultations whenever needed for the successful implementation of the FIDA Kenya strategic plan.

<sup>15</sup> Members contribution consists of members joining fees, Annual subscriptions and donations to the organisation

<sup>16</sup> Individuals and companies that support the cause of FIDA Kenya. They make donations, hold fundraising events and buy Friends of FIDA Merchandise. Friends of FIDA also make annual subscriptions.

- 10.5 The Embassy will continue its strategic engagement on gender mainstreaming and women’s empowerment with the government through the Gender Sector Coordination Group and harmonize with other development partners through the Donor Gender Group.

## 11. Financial Management and Audit

- 11.1 Both parties will strive for full alignment of the Danish support to the implementing partner rules and procedures. Accounting and auditing of the Danish funds will include accounting and auditing of the whole organisation and will be undertaken by FIDA Kenya in accordance with “General Guidelines for Accounting and Auditing of Grants channelled through National NGOs ([http://amg.um.dk/en/technical-guidelines/financial-management/accounting\\_and\\_auditing/](http://amg.um.dk/en/technical-guidelines/financial-management/accounting_and_auditing/))”. FIDA Kenya will conduct audit at annual basis.
- 11.2 Accounting records shall be available for control by the Embassy of Denmark, by a representative appointed by the Embassy, or by the Danish Auditor General.
- 11.3 FIDA Kenya financial management policy and guidelines are outlined in the organization’s finance and procurement manuals.
- 11.4 Prequalification of suppliers is done through an open tendering process by the tender committee. A list of prequalified suppliers is generated and circulated to all the staff members. Procurement of goods and services is done on a competitive basis with at least three quotations being obtained for any purchase above Kenya Shilling 5,000.00. Direct procurement is used under limited circumstances and must be approval by the treasurer.
- 11.5 Requisitions for good and services have to be approved by the team leader and availability of funds confirmed by the finance department before final approval by the head of programs/Executive Director. Management accounts are shared with the board members every other month for their review and approval.

## 12. Monitoring and Evaluation

- 12.1 FIDA Kenya is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system. The monitoring and evaluation part of the FIDA Results Based Management system is structured as follows:
- a. **Goal level** – this tracks national progress on some key national indicators. These indicators are contributed to by the actions of many actors, including the Kenyan Government and the County Governments, as well as individuals, the private sector and NGOs, including the FIDA programmes. Therefore, at the goal level tracks progress in improving the development context of women.
  - b. **Programme Impact level** – The impact is clustered on change achieved at national level and changes achieved in the geographical focus areas of Nairobi, Coast and Western/Nyanza where the organization has physical presence.
  - c. **Project level** – FIDA programmes will be implemented through a number of projects. Each project typically has its own budget own objectives and indicators (and its own mini-MEL system).

- 12.2 FIDA plans to establish a functional internal ‘live’ electronic system to facilitate MEL. The electronic system will provide a visual ‘traffic light’ tracking system to ensure the monitoring timetable is being adhered to, it will have an indicator baseline tracking table that will provide a summary of the situation at the start of the programmes and an updated record of how the indicators are changing during the life of the programme, it will also have a file of definitions and tools relating to the programmes and project indicators for ease of reference.
- 12.3 FIDA has launched its Enterprise Resource and Planning (ERP) System to organize tasks and plan the work. The personnel have an M&E manual to guide them.
- 12.4 FIDA shall carry out continuous data collection, knowledge building and documentation. Reports are presented to each team on a quarterly basis and annual review meetings to review plans for the year and extract work plans for the next year. The Embassy will be part of FIDA Kenya’s donor roundtable for strategic dialogues and bilateral quarterly meeting to review progress of the project and share lessons learnt. There will also include regular email/telephone consultations whenever needed for the successful implementation of the project.
- 12.5 The Danish Embassy shall have the right to carry out any technical or financial mission that is considered necessary to monitor the implementation of the programme including a mid-term review.
- 12.6 The Danish Embassy will contract a strategic monitoring support for the entire country programme and all development engagement partners, including FIDA Kenya, will provide data needed to measure progress.
- 12.7 Danida Copenhagen will carry out Real Time Evaluation during the time of implementing the agreement and Danida will also after the termination of the programme support reserve the right to carry out evaluation in accordance with this article.

### 13. Signatures

On behalf of

FIDA - Kenya

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date

On behalf of

The Danish Embassy, Nairobi

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Ambassador

\_\_\_\_\_  
Date