

## Enhancing access to justice for Gender-Based Violence survivors with intellectual challenges through integrated legal and psychosocial support service provision

→ Implemented by the Coalition On Violence Against Women (COVAW), Nairobi and Kiambu counties, Kenya

### Background

The Coalition On Violence Against Women (COVAW) is a mainstream women's rights organization. They specialized in women with disabilities' issues after receiving testimony from women and girls with intellectual and psychosocial disabilities who have experienced sexual abuse, mostly in the counties of Nairobi and Kiambu. Given their expertise in navigating the justice system, COVAW partnered with the Kenya Association of the Intellectually Handicapped (KAIH) to firstly conduct a baseline survey, and subsequently implement the project.

According to the 2011 WHO world report on disability, 15% of the Kenyan population has a disability<sup>i</sup> and the data show that 39% of Kenyan women experience intimate partner violence at least once in their lifetime.<sup>ii</sup> In response to these appalling statistics, the Kenyan Government has developed a set of laws and policies to end Gender-Based Violence (GBV) such as the Sexual Offences Act (2006), and the Protection against Domestic Violence Act (2015). However, access to justice and social services for survivors is still difficult

despite this legislation. In collaboration with KAIH, COVAW developed a two-year plan on how to improve access to justice for girls and women with intellectual disabilities, who face higher risks and additional barriers.

### What happened?

In June 2013, COVAW conducted a baseline survey to analyze the prevalence of GBV among women and girls with intellectual disabilities in the counties of Nairobi and Kiambu.<sup>iii</sup> 57% of the women and girls reported having been sexually abused, with rape being the most prevalent form of abuse, representing 15% of the total cases. The study also documented the general feeling of a lack of support for girls and women with intellectual disabilities. These findings led COVAW and its partners to customize their actions in order to respond to these specific issues experienced in the field.

KAIH's role in this project was to mobilize the communities and identify girls and women with intellectual disabilities who were victims of violence. This was done by providing legal aid, and engaging with the community and local leaders. COVAW was responsible for providing survivors with legal and psychosocial support and counseling. They partnered with the GBV Recovery Centre at the Kenyatta National Hospital and a network of pro bono lawyers. They also partnered with psychologists and psychiatrists who helped survivors process the violence they had been through.

COVAW also found that the women and girls with intellectual disabilities who come forward as survivors of rape or other abuse require protection. In one case of GBV, COVAW had to apply to the Urgent

Action Fund Africa and was able to relocate a survivor of violence to another community in order to protect her.

COVAW has also worked at national level, building the justice system's capacities by training lawyers, prosecutors, and police officers. Family members and social workers identified by KAIH were also trained by a partner association with the participation of COVAW to become intermediaries; their role being to assist survivors or witnesses of violence with intellectual disabilities with giving evidence to the authorities. COVAW also took part in the review of judicial procedural obligations in Kenya. The two organizations submitted proposals regarding reasonable accommodations for persons with intellectual disabilities in the bench book for criminal proceedings, drafted by the Judicial Committee. COVAW notably focused on the necessity of providing sign language interpreters, physical guide assistance, and intermediaries if required. The proposals were incorporated into the draft bench book which has since been validated. The final draft is out and awaiting official launch.

At international level, their advocacy efforts reached the Convention on the Elimination of all forms of Discriminations Against Women (CEDAW) Committee, as the organization made a submission for the alternative report to the implementation of the Convention in Kenya about the challenges women and girls with disabilities face in accessing justice. The 2017 concluding observations of the CEDAW Committee reflected COVAW's report by highlighting acts of violence against women and girls with disabilities as areas of concern, calling on the Kenyan government to "Protect women and girls with disabilities from all

forms of violence and ensure that the perpetrators are prosecuted and adequately punished."<sup>iv</sup>



"This project makes us believe that even if you are poor there is justice for you".

Alice, COVAW beneficiary

### What changed?

COVAW's work has led to the successful prosecution of two sexual violence cases involving girls with intellectual disabilities aged 13 and 14 years old. After they reported their situations to COVAW, the organization provided support, which resulted in the perpetrators in both cases being sentenced to 20 years in prison. The organization is currently engaged in a civil litigation to hold the school and government to account for failing to protect the girl in one of these two cases. Other legal actions are still in progress, including one case of sexual abuse in an institution. In addition to the support given to the survivors, the judicial work was the key to removing the perpetrators' feeling of impunity. These successful cases set precedents for any future cases brought to court.

Thanks to awareness-raising activities, leaders and members of the communities have become more supportive to survivors and are now referring new cases to COVAW and its partners.

The justice system itself has shown a genuine change in attitude. Although generally conservative, judicial officials, police officers, magistrates, and prosecutors are now more aware of the need to provide support and reasonable accommodations to women and girls with

intellectual disabilities who are victims of crime; this being translated into practice with the revision of the bench book for criminal proceedings.

### What worked?

COVAW adopted a holistic approach by working at community level with survivors, family members, and their communities, engaging with the police and justice on a case-by-case basis, and contributing to systemic change in the criminal justice system. The different level of interventions and broad range of actions undertaken make their practice both unique and successful.

The cases brought to court have established legal precedents, for the very first time, which can now be cited in proceedings seeking to protect women and girls with disabilities. In order to further improve the justice system, COVAW have also contributed to changing practices and procedures for prosecuting GBV cases.

The successes enjoyed by COVAW have been made possible thanks to various strategic partnerships, especially with KAIH. This is a crucial example showing that sustainable positive change can be achieved when women's organizations and DPOs work together.

**For more information**, please visit:

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[http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf)

ii Proportion of ever-married women between 15 and 49 years old having experienced intimate partner physical or sexual violence. Kenya National Bureau of Statistics and ICF - Kenya Demographic and Health Survey (2014), page 291

<https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>

iii COVAW. Baseline Survey - The knowledge, awareness, practice & prevalence rate of gender-based violence (GBV) especially among women and girls with intellectual disabilities (May-June 2013)

<http://covaw.or.ke/wp-content/uploads/2014/01/Covaw-report-new-final-interactive.pdf>

iv Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of Kenya, para 47b (2017) CEDAW/C/KEN/CO/8

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<sup>i</sup> WHO World Health Organization World report on disability (2011)