



ANNUAL REPORT 2022-2023

INITIATIVE FOR
STRATEGIC LITIGATION
IN AFRICA (ISLA)



Feminist Lawyering to Shape the Africa We Want.



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FOREWORD BY ISLA BOARD CHAIRPERSON

Stepping out to advance our vision

After more than two years of COVID-19 restrictions, in mid-2022 we finally emerged from the pandemic and began to reorient ourselves to our post-pandemic world. As we relished the end of a difficult season, we were also cautious not to discard the valuable lessons of resilience, solidarity and adaptability that we learned when we were physically separated, and our lives were upended on many fronts.

We soldiered on with our strategic plan (2020 – 2025) with a resolute focus on using strategic litigation for social change in Africa by protecting women from discrimination and violations of their fundamental rights and challenges, practices, laws and policies that are unjust and unequal. Each case we are involved in, spanning violence against women, women’s socio-economic rights and sexual rights, has a profound impact on the promotion and safeguarding of human rights not only for the individuals involved, but for society as a whole.

It was also a time to explore dormant and new opportunities that had been halted in the preceding years. Significantly, we convened stakeholders and donors in New York and Washington DC in early 2023 to reconnect with existing partners who have been pillars of support and introduce our work and vision to potential partners as our work expands.

Our stakeholder convening focused on creating, strengthening and revitalising partnerships that would enable us to collaborate extensively on ways to reinforce regional mechanisms on the continent, and to share our experience, knowledge and areas of synergy and collaboration that would move women’s and sexual rights forward. The donor convening in partnership with the Foundation for a Just Society and the Robert F Kennedy Foundation was an encouraging demonstration of the continued commitment to advancing women’s rights that exists despite persistent pushback on women’s rights and sexual rights globally.

We are pleased to share some of the breakthroughs, challenges, and successes captured in this report. Each output brings us closer to realising our vision of an Africa where human rights are fully realised for those marginalised on the basis of gender and sexualities.

On behalf of the ISLA Board, I extend our appreciation to all staff members, donors and partners who have been instrumental in our work over the past year. Our success and strength to continue this journey depends on your support. We value your partnership and look forward to another year of impact to advance women’s human rights and sexual rights.

Nonhlanla Mokwena
ISLA Board Chairperson



EXECUTIVE DIRECTOR'S LETTER

Reset, rethink and reshape



Reflecting on 2022/23, it is clear that whether as organisations or individuals, the pandemic left an indelible imprint on our way of being - compelling us to reset, rethink and reshape ourselves. This introspection profoundly influenced our work over the past year as we witnessed both successes and challenges.

Positive judgements such as the Kenyan Supreme Court agreeing that families are formed differently and asking Parliament to enact laws to govern rights in cohabitation relationships have helped to move the needle forward. However, we also witnessed judgments that rollback the hard-won gains made by women's rights movements such as the opposition to the mandatory minimum sentence for sexual offenders, acquittals and leniency for acquaintance rape cases, and lack of protection from retaliatory cases when sexual violence is reported, which trivialises violence against women.

We continue to litigate for social change by highlighting the need for the state to demonstrate due diligence in investigating, prosecuting and punishing violence against women. As part of expanding our work on Women's Socio-Economic Rights, we presented alternative legal positions via amicus briefs that could lead to policy and legal outcomes that promote and advance women's rights in marriage, cohabitation, sexual and reproductive health, the workplace, other places of economic activity, and educational environments.

Our networks and collaborations were further established as lawyers within the Feminist Litigation Network delved into the protection of women who are trafficked and the protection of women's rights in the extractives industry at our litigation institutes. We also successfully published our Sexual Rights Litigation Network curriculum online, which is open to organisations and activists seeking to form a chapter in their country. So far, chapters are operational in Ghana, Liberia, Malawi, Tanzania and Uganda. Additionally, we launched the Let Us Collaborate online platform where activists, lawyers, and academics in the social justice sector can come together virtually and work together.

On an operational level, we ensured that our structure remained aligned with our programmatic needs as the scope and depth of our work expanded. As we continue to navigate changes in our operating environment, both challenging and supportive, we remain committed to advancing feminist litigation on the continent. Our impact over the last year would not have been possible without the partnerships and support of staff, donors, and stakeholders across the continent and globally. We will continue to rely on this support in the year ahead.

Sibongile Ndashe

Executive Director, ISLA

OVERVIEW OF ISLA



Who we are

Founded in 2014, the Initiative for Strategic Litigation in Africa (ISLA), is a feminist, Pan-African, non-profit organisation dedicated to the strategic litigation of women's human rights and sexual rights at national levels and within the African human rights system. We use the rule of law within African domestic and regional courts and international human rights bodies to advance women's human rights and sexual rights. We highlight positive developments and promote cross-learning from various countries on the continent. Our work is based on the belief that strategic litigation is an immensely powerful tool for social change because it helps to reframe the understanding of entitlements before the law and challenges the legal discourse, holds States accountable for violations of human rights, especially those grounded in gender and sexualities and helps to develop new norms. ISLA seeks to gain ground by creating domestic and regional jurisprudence in women's human rights and sexual rights; strengthening the capacity of litigators and NGOs on the continent; and conducting rigorous research to support these efforts.



Our Vision

ISLA envisions an Africa where human rights are fully realised for those marginalised on the basis of gender and sexualities.



Our Mission

To protect sexual and women's human rights through strategic litigation and capacity strengthening initiatives.



Our Goals

We work to develop jurisprudence through the courts to hold state and non-state actors accountable for violations of rights based on gender and sexualities.

We aim to create an enabling environment for strategic litigation to happen with a focus on strengthening lawyers, social movements, and institutions that work on strategic litigation.

We seek to strengthen civil society to respond to threats and attacks that weaken civic space and human rights broadly and to organise to maximise the potential embedded in sudden political or social opportunities.



Priority Areas

ISLA has prioritised four areas of work through which we can proactively design initiatives, implement projects, and evaluate our impact. The parameters of our priority areas are bound by our thematic areas.

- **Litigating for Social Change (LSC)** – We conduct strategic litigation through focused work as amicus curiae (friend of the court), and advisor to counsel. We also provide legal representation before regional and international mechanisms.
- **Strengthening Capacity to Litigate Strategically (SCLS)** – We design and drive initiatives that strengthen our capacity and that of our partners to litigate strategically with the ultimate aim of developing a pool of feminist strategic litigators and movement lawyers within our networks and on the continent. We also support social movements to embrace strategic litigation as a tool for social change.
- **Building Partnerships for Social Justice (BPSJ)** - We collaborate with institutions and individuals that help to enhance our work and vice versa and strengthen civil society in general and women's movements in particular.
- **Producing Knowledge for Social Change (PKSC)** - We develop materials to serve as resources for those who want to deepen their understanding of feminist strategic litigation and want to improve their ways of doing feminist strategic litigation in Africa.

LITIGATING FOR SOCIAL CHANGE

OVERVIEW

Litigating for Social Change (LSC) is the core work of ISLA. We carry out strategic litigation through focused work as amicus curiae (friend of the court), advisor to counsel, and legal representation before regional and international mechanisms. Within the LSC programme, we focus on three broad pillars namely, violence against women (VAW); sexual rights (SXR); and women's socio-economic rights (WSER).



Violence Against Women (VAW)

Our VAW programme seeks to enhance the protection of women from violence in its many forms by articulating progressive standards and contributing to the development of legal precedents that elaborate on state obligations to protect women from violence. ISLA works to achieve this primarily through strategic litigation before domestic courts and regional human rights systems.

Our goals for the programme are, therefore, to litigate and support well-framed and well-argued cases to foster the growth of a body of positive jurisprudence on violence against women; to strengthen the capacity of lawyers to conduct strategic litigation and expand the pool of competent lawyers able to do this work; and to develop resources that will provide information on conducting strategic litigation.

Focus areas for cases include the State's due diligence to investigate, prosecute, punish and prevent violence against women; definitions and parameters of consent in rape cases; and defamation cases brought against women who speak out against perpetrators.



Case Highlights

State's due diligence obligations for violence against women

ISLA has steadily developed a portfolio of cases seeking to hold states accountable in their due diligence obligations to prevent, protect, investigate, prosecute and punish violence against women and provide victims with effective remedies.

In *Irene Wanjiru & another v Attorney General and others*, the Petitioner, a university student, was raped by her employer, an ex-policeman. When she reported the matter to the police, the investigating officer forced her to get into an out-of-court settlement with the perpetrator instead of forwarding the matter for prosecution before a criminal court. The Petition argued that by coercing the petitioner to enter into an out-of-court agreement in a rape case, the State failed in its due diligence obligation to conduct a proper investigation into cases of violence against women.

This case was filed, and submissions were highlighted on 5th July 2022. The court was to issue judgment on 17th November 2022, but the presiding judge was transferred. Judgment will be issued upon notice from the court. ISLA also conducted advocacy around this case by engaging students in the form of an inter-universities conference in February 2022. This was informed by the observation that most of the clients who were willing to work with ISLA on state due diligence obligation cases were university students.





In *MC & another v Attorney General & others*, the Petitioner, a university student was raped by an acquaintance and when she reported the incident to the police, they accused her of giving the perpetrator “implied” sexual consent since they were friends. The police failed to arrest the alleged perpetrator and insisted she consented. She had to report to the police headquarters for the perpetrator to be arrested and |even then, the investigations were bungled and the| matter withdrawn without her consent, indicating a failure to conduct effective investigations.

The Petitioner also faced opposition from her parents who threatened to stop paying her school fees and up-keep at the university if she continued showing interest in prosecuting the case. This case was filed at the Constitutional Division of the High Court and this prompted the police to forward the matter for prosecution at the criminal court. We highlighted our submissions on 11 October 2022. Judgment will be issued on 22 February 2023.

It is important to note that the criminal court issued a ruling in favour of the perpetrator and this decision heavily relied on rape myths and stereotypes. It surfaced the challenge faced by litigants in acquaintance rape cases where judicial officers trivialize acquaintance rape as opposed to other forms of rape.

There was a similar challenge in the case of *State v Loyiso Coko*, where the High Court, Eastern Cape Local Division acquitted a man of acquaintance rape in October 2021. According to the complainant, a 23-year-old woman accepted oral sex but did not consent to penetrative sex. The matter was on appeal from the Grahamstown Regional Court where the accused had been convicted of one count of rape and sentenced to seven years imprisonment. The decision by the National Prosecuting Authority to appeal this High Court judgement in the Supreme Court of Appeal is important because the High Court judgment upholds a misleading narrative that consenting to one sexual act may imply consent to other sexual acts. Additionally, ‘consent’ from the complainant that is believed by the perpetrator to have been communicated through ‘body language’ is a valid defence.

State v Loyiso Coko spurred public dialogue on consent and what constitutes rape. In response, ISLA in partnership with civil society organisations, academia and research institutions established the Coalition for Consent to undertake legal mobilisation work on the case. ISLA has been admitted in the matter as amicus curiae and our intervention approach will be based on using comparative and international law to highlight the state due diligence obligation to protect victims of violence against women by prosecuting and punishing perpetrators.



LITIGATING FOR SOCIAL CHANGE



Case Highlights

The case of *Wairimu Muthoni Wachirah & another v the Attorney General & others* seeks to protect women's mobility rights in Kenya by ensuring that the State enacts laws and policies that safeguard the right of women to exercise their freedom of movement devoid of violence from actors in the public transport system. The client was assaulted and robbed in a public transport bus by the driver of the said bus. The cooperative to which the bus belonged and the owner refused to compensate her. The police also frustrated the criminal justice process by conducting shoddy investigations and arraigning the wrong person before court. She pointed this out to the court and the magistrate had no option but to release him although the court ordered those fresh investigations be conducted into the matter. The client followed her case up with the authorities including the Ministry of Transport and Ministry of Interior, seeking fresh investigations and prosecutions, but she was not assisted. CREAM filed this case on 9 December 2022 and it will come up for mention on 7 February 2023. Several media houses have since published her plight and the issues raised in our petition.



ISLA has also endeavoured to address the state due diligence obligation to protect women with mental disabilities in the case of *COVAW (Coalition on Violence against Women) & others v the Attorney General & another* which seeks to address gaps in legal protection for women with disabilities. It addresses S. 146 of the Penal Code which is discriminatory against women with mental disabilities, is unconstitutional and should be repealed or reclassified. ISLA applied to be admitted as amicus curiae in the matter to set out international, regional, and comparative laws, standards, and jurisprudence that would guide the court on global standards. The Attorney General sought time to engage the Cabinet to have Section 146 of the Penal Code amended to remove its discriminatory effect; subsequently, a gazette notice was published in December 2022. The matter has been scheduled for mention on 6 December 2023 to determine negotiating positions before ruling on ISLA's amicus application.

In recent developments, the Kenyan courts have received numerous applications by prisoners convicted of sexual offences on the constitutionality of mandatory minimum sentences for sexual offences as prescribed by the Sexual Offences Act. The Machakos High Court, the Mombasa High Court and the Court of Appeal in Nyeri delivered judgments declaring that the mandatory minimum sentences provided by the Sexual Offences Act for sexual offences are unconstitutional and that they limit the discretion of the court to determine the appropriate sentence to impose. These precedents claw back on the gains made by women's rights movements over the years to ensure that sexual violence against women is treated with the urgency and weight it deserves. Where sexual offences are trivialised through inappropriate and lenient sentencing, victims are denied their right to an effective remedy while they continue living with the aftermath of the violations.

The collective engaged the Director of Public Prosecutions on the need to appeal the court decisions. To generate public interest and support, ISLA's partner organization, the Centre for Rights Education and Awareness (CREAW) coordinated legal mobilization activities with the support of ISLA including writing an opinion piece in a local newspaper and organizing a Twitter Space conversation in October 2022. CREAM also conducted a processional walk to the Office of the Chief Justice on 9 December 2022 to protest the recent negative judgments by the courts and to demand that



the Judiciary uphold its due diligence obligation to protect victims of sexual violence by punishing perpetrators of sexual violence and ensuring that they obtain their right to an effective remedy.

The case arising from the Court of Appeal in **Nyeri, Republic v Joshua Gichuki Mwangi**, has now been appealed by the Director of Public Prosecutions and is before the Supreme Court. ISLA has been admitted as amicus curiae jointly with the Kenya Legal & Ethical Issues Network on HIV and Aids (KELIN), the Federation of Women Lawyers (FIDA-Kenya) and Women's Link Worldwide (WLW). Our amicus brief has addressed violence against women as discrimination, the state due diligence obligation to punish perpetrators of violence against women, the necessity of mandatory minimum sentences for sexual offences, the deficiencies of court decisions where they were not guided by or where they deviated from mandatory minimum sentences and comparative studies on other jurisdictions. The matter is coming up for mention on 27 November 2023.

ISLA is also seeking to bring before the High Court of Kenya the case of **FW & others v Wamae & Allen Advocates & others**. This is a human rights petition concerning the due diligence obligation of the state to prevent violence against women and protect women from retaliatory acts by perpetrators of sexual and gender-based violence by enacting anti-strategic litigation against public participation (SLAPP) legislation.

The client was sexually harassed at the workplace by her employer. When she gave her notice of resignation, the Human Resources Manager at the law firm asked her to sign a discharge voucher relinquishing all potential claims she may have against the law firm and its agents. She refused to sign it and indicated that she wished to reserve her right to institute a sexual harassment claim against the managing partner of the law firm.

In retaliation, the partners at the law firm immediately instituted formal complaints against her at the Office of the Data Protection Commissioner (ODPC), the Directorate of Criminal Investigations (DCI) and the Law Society of Kenya (LSK) Disciplinary Tribunal for infringement of data rights pertaining to their law firm. Further they instituted a defamation suit against the client's lawyer. These formal complaints were aimed at frustrating and intimidating the victim and to deflect attention from the sexual harassment claim.

We argue that these suits amount to SLAPP suits and that the state ought to protect the freedom of expression of women who became victims of violence and who wanted to name their abusers through protected acts.



Judgements declaring that mandatory minimum sentences provided by the Sexual Offences Act for sexual offences are unconstitutional claw back on the gains made by women's rights movements over the years to ensure that sexual violence against women is treated with the urgency and weight it deserves.

LITIGATING FOR SOCIAL CHANGE



Case Highlights

State's due diligence obligations for violence against women in Francophone West Africa

In Burkina Faso, ISLA is continuing its work with Voix des Femmes to identify cases for strategic litigation. The cases currently under development involve the sexual assault of a minor, where the state refused to investigate based on the time that had lapsed between the complaint and the rape; a sexual assault which was not duly investigated or prosecuted as the perpetrator was acquitted based on his testimony (denial of the

facts); and a sexual assault by multiple perpetrators that went to court but there were no sanctions at trial.

These cases examine the responsibility of states under the principle of due diligence regarding violence against women - the obligation to protect, prevent, investigate, prosecute and punish acts of violence against women and the obligation to provide reparation or remedy to the victims. The cases under development will contribute to compelling the State to train and educate its agents to investigate, prosecute and punish immediately upon reporting any case of violence against women. The cases could also help to put an end to the trivialisation of violence against women. ISLA will act as an advisor to counsel and assist Voix des Femmes in developing these cases for filing, including creating financial and advocacy plans, developing and conducting research for research briefs, and finalising an advocacy strategy.

Defamation cases against women who speak

ISLA has applied to be admitted as amicus curiae in several violence against women cases, including cases of defamation against women who speak out against perpetrators using social media. In *Ian Njagi Njeru v Nyaguthii Kioi (Kenya)*, ISLA applied to be admitted as amicus curiae to highlight the need to expand the defences in defamation to cover women who speak and name their perpetrators using online platforms. The High Court referred the case to the subordinate court which dismissed the application on the basis that ISLA had shown expertise in human rights issues yet the case before it was an instant suit of defamation. The court failed to appreciate our argument that in defamation cases against women who speak, the court should not only balance the right to freedom of expression and the right to reputation but also the right to be free from all forms of violence.

In another Kenyan defamation case, *Prof Wambui Mwangi v Tony Mochama*, the High Court, sitting as an appellate court, admitted ISLA as amicus curiae. However, in its judgment, the court refused to consider ISLA's submissions because it was not a party in the proceedings before the trial court. While the judgment acknowledged the need for the right of women to be free from violence to be considered by courts in cases of defamation against women who speak, it surfaced the hesitation of some judicial officers to admit parties as amicus curiae. ISLA has applied for a review of the judgment since if left unturned will set a negative precedent for the admission of parties as amicus curiae.





Women's Socio-Economic Rights (WSER)

Women's socio-economic rights may be embedded in questions of women's legal rights to material resources, such as land, housing, or property as well as questions of family, religious and customary law and practice. Women's access to and ownership of land and property are also unduly affected by so called "land grabs" and other forms of property and resource alienation. Women's access to fair and non-discriminatory working conditions, and to recognition of their human and sexual rights within diverse zones of labour (wage based, informal sector, casualised, and reproductive).

Other questions relate to women's access to healthcare and education, women's access to critical debates on food security, on the impact of climate change for their agricultural practices, and women's access to empowerment as landowners and land-users.

ISLA litigates WSER cognizant of how other forms of privilege based on, for example, class, race or social origin, intersect with gender to affect the different ways women experience and/or perpetuate discrimination. This is a familiar challenge with cases involving domestic labour, but may also arise in litigating issues around property inheritance or access to education and/or other opportunities in the contemporary climate. ISLA's work on WSER focuses on using the law to achieve policy and legal outcomes that advance women's socio-economic rights.

Women's socio-economic rights may be embedded in questions of women's legal rights to material resources, such as land, housing, or property as well as questions of family, religious and customary law and practice.



LITIGATING FOR SOCIAL CHANGE



Amicus Briefs



Amicus briefs have benefited the promotion of women's human rights and sexual rights by allowing activist groups to illuminate to the court a broader set of perspectives that essentially expand rights.

Amicus briefs have benefited the promotion of women's human rights and sexual rights by allowing activist groups to illuminate to the court a broader set of perspectives that essentially expand rights. Yet, amicus intervention cases that advance women's rights discourse and jurisprudence are few and far between. ISLA uses amicus briefs as a tool to present courts with alternative legal positions, perspectives and factual information and consequently build up jurisprudence to enhance strategic litigation.

Customary law in violation of right to equality and discrimination

FEO v JAO Rongo Civil Case No. E013 2012 challenged the customary law on the right of a husband to bury an ex-wife. The applicant in this case was the deceased husband having been married under the Luo customs following the deceased's divorce from her ex-husband whom she had married under the civil law as well as under the customary law. The deceased had obtained a divorce regarding the civil marriage. Upon the deceased's death, her divorced husband sought to exercise his right to bury her because she had never divorced him customarily as is required by Luo customs. The applicant applied to the magistrate court to stop the ex-husband from burying his wife.

ISLA, represented by FIDA-K, chose to file an amicus application in the matter. The amicus brief sought to establish the law and procedure on the participation of amicus curiae in the Magistrates' court as well as highlight the gendered discrimination in customary laws establish the law and procedure on the participation of amicus curiae in the Magistrates' court as well as highlight the gendered discrimination in customary laws relating to marriage and how the customs violated the right to divorce read together with the right to found a family and the right to dignity.

The challenge in this case was that despite having raised a public law issue, the case was settled by the parties outside the court. They settled on the deceased burial place and agreed the father exercise the right to bury her at a neutral place - on land the deceased had bought which was to be inherited by her children. Accordingly, the court could not proceed with the substantive hearing of the issues raised in the case.



No-fault based divorce

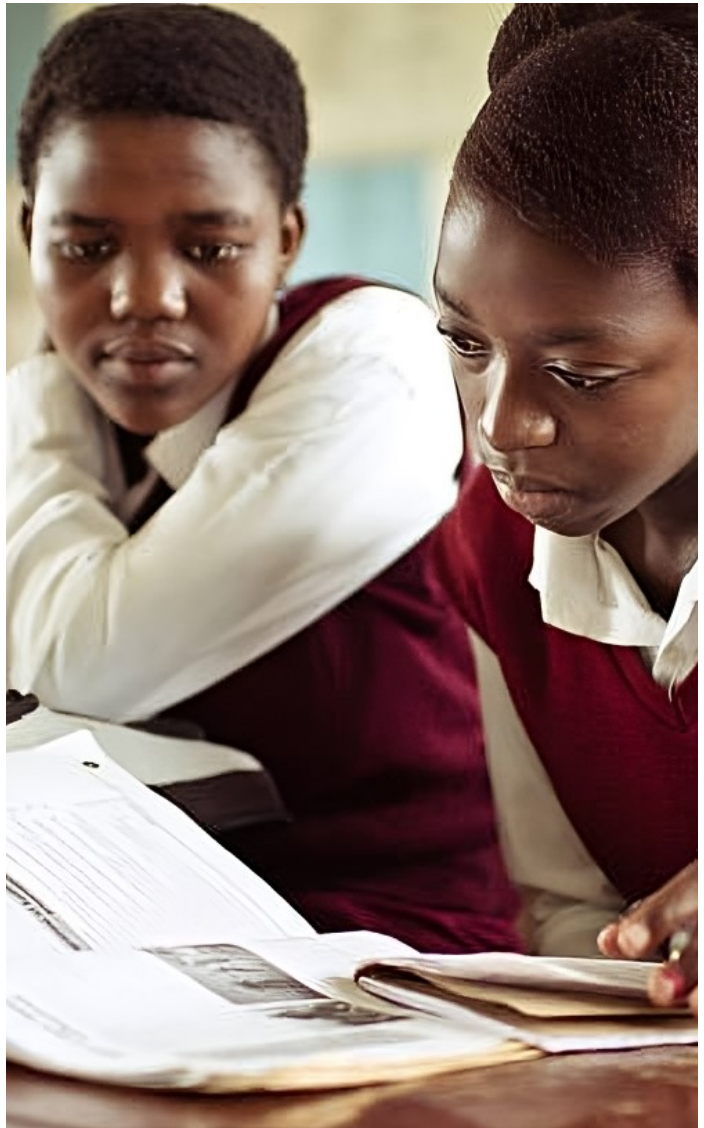
Coppler Attorneys vs The Attorney General & the Speaker of the National Assembly argues for the right to exit a marriage without having to establish fault on either of the party. It impugns the Marriage Act 2014 on the requirement for married persons to prove fault to be granted divorce. ISLA is Amicus curiae in this matter. ISLA filed the amicus brief in June 2022, guiding the court on the need to develop Kenyan law and jurisprudence towards a no-fault divorce system and the need to expand the right to marry to include the right to divorce. The next hearing of the case is scheduled to take place on 6 March 2024.

Expulsion of pregnant girls from school

In *Tike Mwapile and another v Republic of Tanzania*, the applicants challenged the policy passed by the Tanzanian government on expulsion of pregnant girls from school at the African Court for violating several rights and freedoms of girls. These violations include the right to education, the right to equality and non-discrimination, the right to privacy and dignity and the right to the highest attainable standard of health care including sexual and reproductive health care.

ISLA jointly with Human Rights Watch and Women Link Worldwide were admitted as joint amici in the matter. The amicus brief before the court demonstrated the state's obligation in the implementation and application of the right to education and the right to remedy the continuing violation and the violation already occurred.

The court found the case inadmissible since during the pendency of the proceedings, the case was adjudicated by another African Union body, the African Committee of Experts on the Rights of the Child, which handed down a judgment on a similar issue.



The amicus brief before the court demonstrated the state's obligation in the implementation and application of the right to education



LITIGATING FOR SOCIAL CHANGE

Need to recognise and protect cohabitation as a family forming union

In *POM v MNK*, the Kenyan Supreme Court was called upon to determine whether parties to a family forming union arising out of cohabitation and/or unrecognised marriage can by law file proceedings for distribution of property acquired during the subsistence of such a union. ISLA, represented by KELIN, filed an amicus brief outlining the need for the recognition and protection of cohabitation relationships as family forming unions and the need to extend the application of Article 45 on the right to equality in family life to such relationships especially when dealing with the distribution of matrimonial property. In its judgment, the Court agreed with ISLA that families are formed differently and there was need to protect all family forming relationships including cohabitation unions. The court also agreed with ISLA on the existence of a lacuna in law by failing to recognize cohabitation unions and asked Parliament to enact a law on the rights and obligations of parties in cohabitation relationships.

Protection of property acquired by women during judicial separation

In *Innocent Ngobi Ndoki v Attorney General of the Republic of Uganda*, the petition challenged the provisions of the law that seek to protect women from sharing the property they acquired during judicial separation from their husbands, as discriminatory, hence unconstitutional. ISLA together with FIDA-U applied to be admitted as joint amici in the constitutional court. They sought to bring information to the court that would guide the historical context of the impugned provision that protects the property of women acquired during separation. The history highlighted the reason the law was initially enacted – to remedy inequality. The amici brief sought to demonstrate to the court that the law, though seeking to protect women, amounts to positive discrimination and is therefore unconstitutional. The state must develop special measures and remedies to protect historical oppression. The brief brings to the fore the utility of suspension of invalidity as a remedy in constitutional litigation. Unfortunately, ISLA and FIDA-Uganda were not admitted as joint amici. The court found that FIDA-U was not an impartial and neutral party in the proceedings as it had an interest in the outcome of the matter for having previously challenged a similar provision of the law in the Divorce Act.

Obligation to mitigate and adapt to climate change

Kituo Cha Sheria v Attorney General of the Republic of Kenya; the Petitioners have filed the petition against various state organs and departments in Kenya challenging the state failure to identify Rift Valley basin as an area that was likely to be affected by climate change and its failure to take measures to mitigate the effects of climate change. The petitioners are seeking for various orders including compensation for loss suffered as a result of Respondents' acts of omission and commission, resettlement, rehabilitation of the damaged infrastructure and a nation-wide assessment of climate change on human life, health and habitants.

ISLA seeks to intervene as an amicus in the proceedings to provide to the court a gendered perspective on climate change demonstrating the link between women socio-economic rights and climate change, the gendered impact of climate change and its disproportionate effect on women. Women, who often have limited access to land and agency, are more exposed to climate related disasters and therefore are more vulnerable to loss, particularly in relation to violence and loss of livelihoods. They are also less able to adapt to changes that result from climate change.

The effect of ouster clause on the right to equality, equal protection of the law and access to court and remedy

ANARDE v Attorney General of the Republic of Uganda, the petition before the court challenges the constitutionality of provisions of the Mining Act and Petroleum (Exploration, Development and Production) Act which contains provisions ousting court's jurisdiction to determine matters arising out of the process of compulsory acquisition of land and any grievances relating to compensation. ISLA together with FIDA-U filed a joint amici brief in the case. The joint amici brief seeks to provide information to the court on how the ouster clauses violate the right to access court and right to effective remedy as well as how they discriminate against women. It also provides for comparative jurisprudence on other ouster clauses in other constitutional democracies.



Effects of extractives on women

Kono Community v Ocea Mining Company (Koidu Holdings Ltd), the plaintiffs seek to hold Ocea Mining company, the Mining company accountable for the adverse effects of the mining activity which took place in the Kono community over a specified period. The mining activities has resulted in degradation or destruction of land; damage to or destruction of homes, other structures, and other property; loss of livelihoods and sources of income; invasion of noxious fumes and dust, as well as noise pollution, causing health problems and emotional distress; and loss of cultural and religious sites.

The plaintiffs are seeking for a relief of damages suffered by the Plaintiffs as a result of the Defendants' harmful mining activities within the residents of Kono community including; environmental degradation, forced displacement and violation of the community cultural life and livelihoods.

ISLA has made an application to be admitted as an amicus-curiae in the proceedings. ISLA's submissions before the court seek to highlight the nature and extent of deprivation of women's social economic rights in the context of extractive industries, the importance of remedying gendered inequalities in the impact of extractive industries and how court ought to remedy the impact of the extractives on women socio-economic rights.

By making this intervention, ISLA hopes to provide information that shall assist the court in determining the basis of state obligations and the legal protection which states should accord to women affected by extractives activities. Such an analysis will guide the court to consider remedying the inequalities faced by the women when extractive activities are carried out in their community.

Holding state accountable for human trafficking for labour exploitation

Kituo Cha Sheria and Others v Cabinet Secretary for Labour and Social Protection of the Republic of Kenya; the Petition in this case has been filed inter alia by women who were immigrant domestic workers in Saudi Arabia. They are seeking to hold the Kenyan government accountable for the human rights violations they experienced while working in Saudi Arabia as domestic workers including physical, psychological and sexual abuse; labour exploitation that included forced labour, contract substitution and other acts of slavery

including passport confiscation, working long hours, food and sleep deprivation. They claim that the state is responsible for these violations as it failed to protect and respond to the act of trafficking.

ISLA and CREAM have filed a joint application seeking to be admitted in the case as joint amici to provide information on state's obligation to prevent, protect and respond to trafficking of women for labour exploitation; develop human trafficking for purposes of labour exploitation as a form of discrimination against women and provide information on the right to access an effective remedy.



Our interventions provide information to assist the court in determining the basis of state obligations and the legal protection which states should accord to women affected by extractives activities.

LITIGATING FOR SOCIAL CHANGE



Advisor to Counsel

Need to recognise and protect cohabitation as a family forming union

Annet Naisonzi v Attorney General and others, ISLA acting as advisor to FIDA-Uganda has filed a petition challenging the failure to recognize de facto monogamous cohabitation as a form of a family forming union and the existence of the lacuna in law to provide for property rights for parties in de facto monogamous cohabitation in Uganda.

The lead Petitioner, Nassozi Annette, had been in a cohabitation relationship for over 27 years with William Kasenge. When the relationship broke down, he expected her to leave without a share of the property acquired during the relationship. The case seeks to secure an order of structural interdict, where the Court will order the State of Uganda to enact a law, through Parliament, that enunciates and protects property rights of people in cohabitation relationships. The case challenges the failure of parliament to establish a legal framework through which property rights of women in domestic partnerships can be protected, as being in contravention of the right to freedom from discrimination and equal protection of the law, and the right to family guaranteed by the 1995 Constitution of the Republic of Uganda.

Holding employer accountable for sexual harassment outside the workplace

DK and others v Riley Security and others; ISLA acting as advisor to CREAM has filed a petition seeking redress for the violation of the Petitioner's rights by her employer, for the failure to protect and uphold her fundamental rights and freedoms, particularly, the right to equality and freedom from discrimination, right to human dignity, right to fair labour practices, and the right to fair administrative action upon lodging a sexual harassment complaint against a senior manager. The petition demonstrates how these fundamental rights are linked to sexual harassment. The petition also seeks to expand the scope and applicability of sexual harassment law to employees not based within the office such as security guards and establishes the extent of the obligations of the employer in that regard.

Sexual and Reproductive Health Rights

KELIN and others v County Government of Kilifi; ISLA acting as advisor to KELIN has filed a petition in Kenya challenging the constitutionality of the Kilifi Maternal New Born and Child Health Act 2016 (the Act) for unjustifiably limiting the right to access safe abortion as guaranteed in Articles 26(4), 31, 43(1)(a) and (2) of the constitution of Kenya. It also challenges the Act for undermining Children's Act as provided for in Article 53 of the Constitution of Kenya for introducing mandatory testing of children for HIV. In addition, the Act is being challenged as it was enacted without the necessary and adequate public participation.

This case seeks to set standards that county governments cannot legislate reproductive health matters without the involvement of women, and the constitutional and human rights standards on reproductive health cannot be limited in county legislation.





Sexual Rights (SXR)

ISLA prioritises responding to human rights violations based on sexuality, broadly, and sexual orientation and gender identity and expression (SOGIE), specifically. Through this work, we support litigation efforts to develop jurisprudence and hold states and non-state actors accountable for SOGIE-based human rights violations.

ISLA places great importance on the incremental approach to strategic litigation. In order to bring about broader social change, our strategy focuses on responding to everyday SOGIE-based violations. The objective is to eliminate SOGIE-based violations by protecting the human rights of LGBTQI people through the use of courts. The focus of the work is on identifying and naming human rights concerns that are amenable to strategic litigation in different contexts and responding to the challenges as identified by the local actors.



Case Highlights

Arbitrary arrests in Uganda

In *Taala Foundation v Henry & Others*, the Taala Foundation, a community-led organisation that promotes mental health and the right to health and life with dignity for marginalised communities, filed a case in 2020 (*Taala Foundation v Henry & Others Misc*) following the arbitrary arrest of 20 young men from a shared shelter run by Children of the Sun Foundation. The men allegedly violated presidential directives on COVID-19 and were paraded before local media, and their immediate communities, and subsequently beaten to coerce confessions of same-sex relations. Taala Foundation argued that state-sponsored violence adversely impacts the right to health and life with dignity and demanded protections for key populations that are disproportionately targeted by this violence.



LITIGATING FOR SOCIAL CHANGE

Arbitrary arrests, detention and subsequent deportation in Tanzania

The case of *Ndashe v Min Home Affairs* focuses on the events surrounding a pivotal consultative meeting organised by ISLA and its Tanzanian partner organisation in 2017. This gathering aimed to strategize and challenge the Tanzanian Ministry of Health's decisions to close vital health centres and prohibit the distribution of lubricants in public health institutions, actions that adversely affected marginalised communities. However, shortly after the meeting commenced, it was disrupted by a police raid, resulting in the arbitrary detention of several individuals, including nine Tanzanian activists, two South African lawyers, and one Ugandan lawyer. Despite no existing law criminalising the 'promotion of homosexuality' in Tanzania, this was cited as the reason for their detention, a situation that led to subsequent deportation without formal charges.

The period following these events witnessed a distressing surge in state-backed attacks targeting marginalised groups, activists, journalists, and opposition members. These actions undermined fundamental human rights such as freedom of expression, association, and liberty, shrinking civic space and impeding individuals' access to justice and government accountability. In response to this regressive trend, ISLA deemed it crucial to pursue legal action against the Tanzanian government, seeking to challenge the arbitrary arrests, unlawful deportations, and the erosion of rule of law and civil liberties.

The litigation initiated by ISLA aims to safeguard individual liberties, challenging illegal and unjustifiable deprivation of freedom while also striving to protect and expand LGBT+ civic space for association and assembly within Tanzania. The case demonstrates the erosion of civil liberties and state-sponsored targeting of marginalised communities and activists. ISLA's response to challenge these unlawful actions aligns with the strategic goal of protecting civic space and individual liberties. By advocating for those affected and seeking redress against arbitrary detention and deportation, ISLA aims to reinforce the rule of law and human rights within Tanzania.

Transphobic violence in Malawi

Limbani Sibande v Bright Mwale & Attorney General of Malawi is a case that followed the events of January 2020, where the claimant, a transgender woman, concluded a rental car arrangement with the first defendant. Upon learning of Ms. Sibande's perceived sexual orientation and gender identity, the first defendant made several violent threats to the claimant telephonically and demanded immediate payment and termination of the agreement. Shortly thereafter, the first defendant, in full military attire, along with two additional Malawian soldiers accosted the claimant in Zomba and forcefully transported the claimant to the Zomba army barracks. The case has progressed through a mandatory mediation process, which saw the 1st defendant admit liability but also requesting an out-of-court settlement – which we do not advise in this case as it defeats the goal of strengthening jurisprudence on transphobic violence. We have applied to the court to have the mandatory mediation terminated. However, the court has continuously adjourned hearings and no date has been set for the hearing. We are still putting pressure on the court through the local lawyer in hopes to get a date in this quarter to terminate the mediation and proceed to trial.

ISLA recognizes the extreme forms of violence experienced by African LGBT+ communities and the failure of states to protect individuals from such acts. This case follows our thematic strategy involving litigation to hold states accountable for private acts of SOGIE-based violence and to develop the due diligence principle. By leveraging legal measures and advocacy, ISLA aims to shift state actions, prevent violence, and ensure that SOGIE-based violence is not committed with impunity.





Lesbian organisation registration case in Nigeria

Pamela Adie v Corporate Affairs Commission concerns an administrative decision taken under the Companies and Allied Matters Act of Nigeria (CAMA). The applicant, Pamela Adie, challenged the Corporate Affairs Commission (CAC) of Nigeria's refusal to reserve the name "Lesbian Equality and Empowerment Initiative" and consequently the refusal to register the organisation. The name was rejected on the basis that "the name is misleading, offensive and contrary to public policy" without any reasons advanced to substantiate the decision. After taking the registrar to court, a judgment was delivered on 19 November 2018

dismissing the case and finding that the rights to freedom of expression and association were not unconstitutionally violated because the organisation's name is contrary to the Same-Sex Marriage (Prohibition) Act (SSMPA), which prohibits registration of same-sex associations. We have now filed an appeal and a brief in this respect.

As part of ISLA's strategy, this case exemplifies challenging administrative decisions that restrict the rights to freedom of expression and association. The rejection of the organisation's registration based on Nigeria's Same-Sex Marriage (Prohibition) Act falls under ISLA's broader thematic area of legal challenges against discriminatory laws and commitment to using strategic litigation to address systemic issues.





LITIGATING FOR SOCIAL CHANGE



Cases under development

Matrimonial property rights

Property distribution of cohabiting partners often results in inequity and losses as their union may not be recognised by the law. In *Immaculate Musyoka v Micheal Mwangi*, the cohabiting couple had two children together and also amassed significant wealth. The cohabitation ceased in 2019 when the man moved out of the home they had built together. In 2020, he forcibly removed the woman and the children from their home. He then leased out their home to a tenant who has lived there to date. Since then, the client and the children have been rendered destitute. The client approached the court to recognize the family forming union that she was in with the man and accord her similar rights as it does parties in marriages as per Article 45 of the Constitution. She also seeks an equitable share of the properties that they acquired together during their cohabitation. She is not able to immediately petition the court for the distribution of property as she was in a union not recognised or protected by the law. She therefore seeks that the court recognises her union and subsequently dissolves it. Thereafter she will be seeking for the equitable distribution of the joint property.

In *ENK vs MNNN*, the Court of Appeal issued judgment to the effect that ownership of the two properties that were jointly owned by the parties who were recently divorced be reverted to the husband as the sole owner. The court also ruled that the third property, which was a townhouse, be divided in the ratio 90:10 in favour of the husband although this is matrimonial property which ought to be distributed equally between the two spouses as both had contributed to the acquiring of the property. The appeal is yet to start as the aggrieved party has not initiated the process. ISLA is preparing its amicus brief in anticipation of the appeal at the Supreme Court.

In Burkina Faso, two cases are under development concerning the recognition of customary and religious marriages and the property rights of women in marriage. In the first case, a Muslim woman who was evicted from her matrimonial property seeks the recognition of matrimonial property rights as she was

married under religious law. Her intention is to be restored to the property. In the second case, the client was threatened with eviction once her husband attempted to sell the property which they inhabit to a neighbour. The sale could not proceed as the deed's office refused to register the transfer without the written consent of the wife. The husband then approached the court to permit the transfer to go through. The client appeared in court and stated that she opposes the sale and does not consent to it. The case was struck off the roll.

These cases aim to provide the Burkinabe with the right to choose the form in which they wish to celebrate their marriage with the consequent protection of property rights acquired during the marriage. This case aims to build on the unconstitutionality of legislative provisions that do not recognise other forms of marriage and to withdraw them from the legislative framework. The cases are currently under development. ISLA will act as an advisor to counsel and assist Voix des Femmes in developing the cases for filing and will support advocacy on the recognition of customary and religious marriages and property rights of women in marriage.





In *Nassozi Annette and another v Kasenge William and another*, the lead Petitioner Nassozi Annette, had been in a cohabitation relationship for over 27 years with William Kasenge. When the relationship broke down, he expected her to leave without a share of the property acquired during the relationship. The case seeks to secure an order of structural interdict, where the Court will order the State of Uganda to enact a law, through Parliament, that enunciates and protects property rights of people in cohabitation relationships. The case challenges the failure of parliament to establish a legal framework through which property rights of women in domestic partnerships can be protected, as being in contravention of the right to freedom from discrimination and equal protection of the law, and the right to family guaranteed by the 1995 Constitution of the Republic of Uganda.

Violation of Sexual Reproductive Health Rights (Ayirwoth Aisha, Uganda)

When Aisha went to Masindi General Hospital for an operation to have her fibroids removed, her uterus and ovaries were removed as well without her permission or consent. Aisha is seeking redress for the violation of her sexual and reproductive health rights. FIDA-Uganda, with support from ISLA, seeks to assist Aisha in instituting a suit against the District Local Government where the hospital is situated and the State, through the Attorney General, for failing to put in place an effective legal and regulatory framework that could protect her from forced sterilisation.

The case seeks to establish an elaborate legal/regulatory/policy framework that protects women from being subjected to forced sterilisation, especially those at high risk. These include women who are likely to have high-risk pregnancies due to health difficulties, such as uterine fibroids, and Women Living with HIV (WLHIV). FIDA-Uganda also hopes to partner with the International Community of Women Living with HIV in East Africa (ICWEA), who already have research on the forced sterilisation of WLHIV.



States must put in place effective legal and regulatory frameworks that protect women from being subjected to forced sterilisation.

BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE

OVERVIEW

ISLA uses multiple strategies and tactics within and across movements, all targeting the social challenges that prevent us from enjoying our rights and shaping feminist futures. Our overall approach is to collaborate with others to achieve our objectives that advance social justice. As such, we build effective partnerships through networking and collaborations. Our primary method of working is through our two knowledge-sharing networks, the Feminist Litigation Network and the Sexual Rights Litigation Network. Through these networks, we provide partners with litigation support, by strengthening their capacity to litigate strategically, as well as institutional strengthening support.



Feminist Litigation Network

Overview of the FLN

The purpose of the Feminist Litigation Network (FLN) is to build a pool of effective African feminist litigators within civil society organisations who are embedded in movements and the communities whose rights they seek to defend and who have a sophisticated understanding of the issues that they litigate on. The FLN provides long-term, quality, in-depth support and capacity building to partner individuals and organisations working on strategic litigation within our thematic areas. We do this by investing in partner organisations that seek to hold state and non-state actors accountable for women's rights violations through multiple activities, mechanisms and processes, to establish a new or strengthen an existing Strategic Litigation Unit or function. The Network's desired impact is to see strong movements working on gender and sexuality empowered in and actively using strategic litigation as a viable tool for social change.





Key results

Violence Against Women Litigation Institute, 9 - 20 May, Diani, Kenya; theme: "Protection of women who are trafficked"

Between 9 – 20 May 2022, the Violence Against Women Litigation Institute was convened in Diani, Kenya. This was the third litigation institute of Phase Two of the FLN which focused on the protection of women who are trafficked. The first week covered an Introduction to VAW and Human Trafficking of Women; International Human Rights Framework for Protecting Women from Trafficking; Litigating cases of Trafficked Persons; Victim-Centred Approaches to Litigating Human Trafficking; Trauma-Informed Lawyering; Creating an enabling environment for strategic litigation; ISLA's Let's Collaborate; and a webinar to launch the Amicus Publication. The second week focused on Drafting Amicus Briefs; learning and development and the moot court.

The moot was an opportunity for participants to develop practical interest and skills in the subjects covered within the two weeks. Mooting plays an essential role in legal education and persuasive advocacy by targeting improved legal research, logical organisation and legal reasoning in writing and preparation of documents and oral presentation skills. The moot court competition simulated a court hearing of the African Commission on Human and People's Rights, where participants demonstrated their understanding of the Rules of Procedure for African regional systems. The participants were required to show their process of legal research, analysis and problem-solving skills for the issue at hand by writing clear statements of facts and arguments effectively, accurately, and concisely. The participants were evaluated by three judges.

Women's Socio-economic Rights Litigation (WSER) Institute, 7-18 Nov, Johannesburg, South Africa; theme: "Protection of Women's Rights in the Extractives Industry."

The WSER Litigation Institute brought together 13 Lawyers from FLN partner organisations in Kenya, Malawi, Uganda, Kenya, Burkina Faso and South Africa

as well as multiple experts as faculty who shared their knowledge and experience. The theme of this WSER institute was "Protection of Women's Rights in the Extractives Industry."

The first week covered substantive teaching and discussion sessions including an introduction and contextual analysis of women's socio-economic rights in extractives, political contestations, and legal and human rights frameworks. Other modules included extractives and the corporate sector/business, protection of women's rights in the extractive industries and access to remedy for women's human rights violations in extractive industries. The second week of the litigation institute focused on the practice and procedure of strategic litigation, including developing sustainable collaborations and partnerships, drafting effective amicus interventions, and gendered remedies. In addition, participants completed written and oral assessments. The week culminated in a moot court competition for the participants and a litigation institute closing ceremony.



BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE



Sexual Rights Litigation Network (SXLN)

Overview of the SXLN

The Sexual Rights Litigation Network aims to build a body of actors who can hold states accountable for violations against people based on their gender and/or sexuality. The network creates partnerships between organisations who want to draw on strategic litigation and lawyers willing and able to defend LGBT+ rights. We employ an anchor hub model through which we coordinate activities, develop relationships, share knowledge, strengthen lawyers' skills and capacities, and provide support to organisations. The network also creates an environment required to support strategic litigation, beyond the courtroom.

The Network collaborates with organisations or individuals on sexual rights broadly and on SOGIE human rights issues in particular. It is LGBT+-led and the work is located in the sexual rights social movements. We identify partners that have a clear focus on human rights broadly, and sexual rights specifically, and who view strategic litigation as a clear priority in line with a social movement-led approach to legal mobilisation.



Key results

Network development

The SXLN Model is open for partners and activists who want to form an SXLN country chapter and implement the model.

● **AfED Ghana** functions as the network coordinating partner in Ghana. They are identifying cases for possible collaboration and exploring relationships with like-minded organisations such as Queer Education Fund Ghana. This collaborative approach could help to build a broader base of support for sexual rights work in the country.

● **LEGAL Liberia** is the coordinating partner for the network in Liberia. The organisation is focused on fundraising and resource mobilisation as funding limits the ability to pursue and develop cases substantively.

● The **Ivy Foundation in Malawi** leads the network chapter. They have recruited more members to the network and are using strategic moments for advocacy and to provide more context on strategic litigation for organisations and activists in the sexual rights movement. They are currently exploring fundraising to ensure that network members have an initial meeting to discuss the next steps.

● The **SXLN Chapter in Tanzania** was part of the pilot phase of the country chapters. Lawyers and social movements who were part of the initial phase have been encouraged to join the new cohort, with several activists joining. Membership is based on an MOU, which outlines the parties' roles and expectations. The members are also considering fundraising for the network and considering developing cases as well.

● In **Uganda**, there is increased interest in the SXLN Chapter, coordinated by the **Taala Foundation**. Still, more activists than lawyers are expressing interest. Finding lawyers who are willing and available to work on sexual rights remains a challenge.

● The **SXLN Chapter in Nigeria** closed due to multiple operational challenges. A close-out webinar provided the opportunity for a recap of the activities ISLA had undertaken in Nigeria and the lawyers and social movements who had been part of the work. Additionally, the members committed to continue engaging each other even without the capacity strengthening offered by ISLA. As TIERs have been the Sexual Rights Litigation Network's Local coordinating partner in Nigeria over the years, they suggested the creation of an online drive where reading packs are uploaded so that participants in the network can engage with the materials even after the chapter is closed.



Transitioning of the SXLN Model online

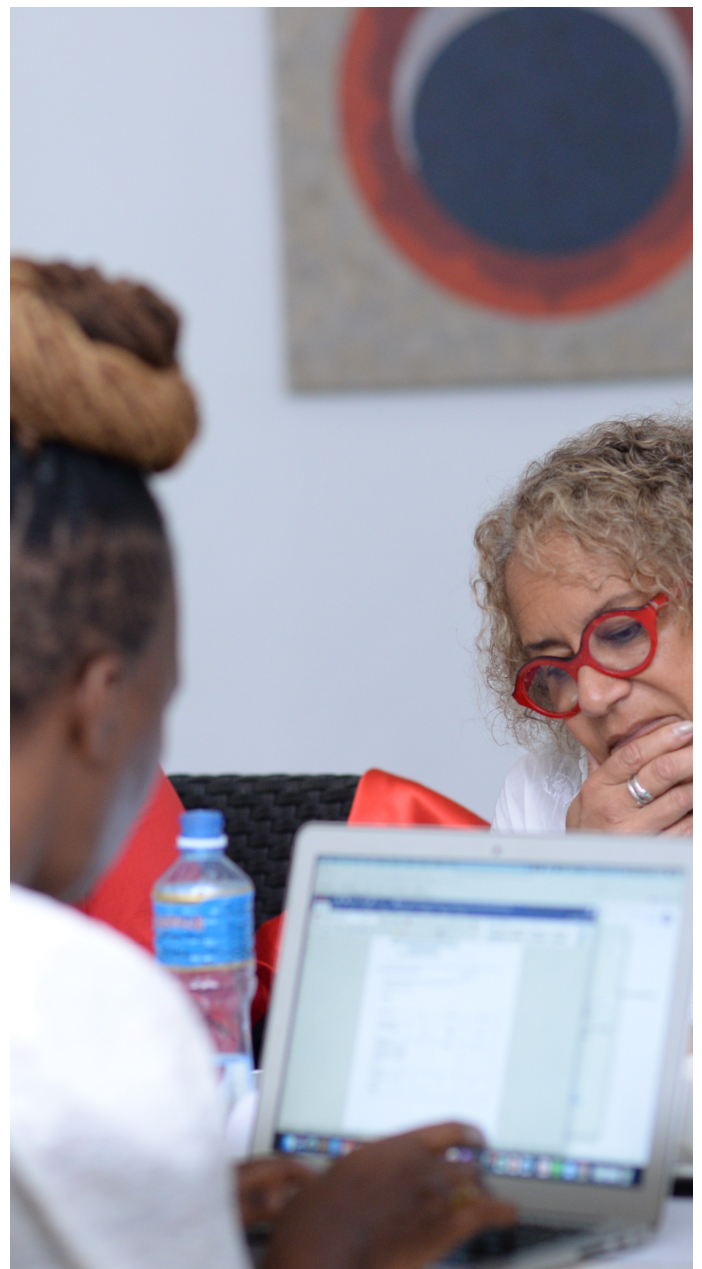
To better support movement activists and lawyers, the SXLN Model was published on the ISLA website. The curriculum is open for partners and activists, lawyers and funders who want to form and develop SXLN country chapters and implement the model.

ISLA acts as a technical resource for people who want to set up an SXLN country chapter by providing guidance, resources, and training on the various aspects of building and strengthening local networks. This includes identifying and researching significant actors in the various country contexts, selecting local coordinating partners, and providing capacity strengthening and institutional strengthening to local movements.

The content on the website enables movements to glean basic information about the SXLN Model, carry out a contextual analysis, and then recruit members to be part of the network. Having done that, they could then approach donors to fund the activities accordingly and then invite ISLA to guide the development of the network, support the development of cases, and provide capacity strengthening and institutional strengthening over three years. After three years, the network should be able to operate independently of ISLA and to fundraise, make decisions, and litigate.

For more go to: <https://www.the-isla.org/sexual-rights-litigation-network/about-the-sxln/>

Or scan here:



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BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE



Collaborations

Overview of Collaborations

ISLA engages in collaborations to ensure that thematic and priority areas are supported. Research support also enables ISLA to document and make visible the intellectual and scholarly contributions of feminist African thinkers, writers, and practitioners towards understanding the power of strategic litigation. To support its litigation, knowledge production and capacity-strengthening work, ISLA collaborates through case-sourcing partnerships enabling us to work with first responders, service providers, research organisations or legal practitioners to source new cases. Case collaborations are another avenue, particularly in countries where we do not have network partners. We seek partnerships with practitioners who can provide legal services, including legal representation. Additionally, we work with a range of actors within the African human rights system who together can influence and strengthen regional human rights mechanisms.



Key results

Strategic collaborations

Let Us Collaborate (online platform) and African Feminist Judgment Project Webinar

ISLA launched the Let Us Collaborate (LuC) online platform, which is designed to support collaborations, coalitions, networks and collectives that actively engage in women's, gender and sexuality rights in Africa; by providing a secure online platform for activists, academics, lawyers and others in the social justice sector to work together.

The launch took place in collaboration with the African Feminist Judgement (AFJ) project, which we initiated with Warwick Law School and Cardiff Law School. The AFJ Project focused on drafting and disseminating alternative judgments for landmark cases in Africa on a range of legal issues from feminist perspectives.

The overarching objectives of the webinar were to introduce and popularise the AFJ Project to different stakeholders and potential authors, and subsequently facilitate diverse perspectives including from Francophone Africa; and to reignite the conversation on rewriting judgments from African feminists

The webinar, held in English with French and Portuguese interpretation, reached 147 participants from 27 countries. Watch the Introduction to the LuC platform here: <https://www.youtube.com/watch?v=8rcjggP2KzA>

Or scan here:





Strengthening ISLA's Independent Panel of Experts (IPE)

One of our organisation's strategic collaborations is the ISLA Panel of Experts (IPE). Through IPE we seek to support the contributions of feminist Africans in the human rights and social justice sphere. We work with academics, lawyers or researchers who support all priority areas of ISLA's work. Through IPE we are intentional in ensuring that there is visibility for feminist Africans who are making intellectual and scholarly contributions using the law as a tool for social change.

In the year, we revised the IPE online form and the Service Level Agreement (SLA) to accommodate expertise which was not clearly defined. The revised SLA emphasises the collaborative partnership between ISLA and the expert, where both stand to gain. Following the call for experts to join the IPE, we received over 150 applications. A vetting and selection process will follow with new members set to join.



BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE



Feature: IPE member: Dr Satang Nabaneh



"I firmly believe in the necessity of centring gender and intersectionality in all our efforts, and the IPE has proven to be an invaluable platform that empowers both scholars and practitioners to prioritise and promote these essential principles. It is a place where individuals like me can collaborate and work collectively towards these vital goals."

When did you become a member of the IPE and why did you want to join?

I was one of the inaugural members of the IPE when it was established in 2019. What drew me to the IPE was ISLA's unwavering commitment to promoting feminist perspectives and advancing women's and sexual rights throughout the African continent. My work as a feminist legal scholar and researcher is centred around challenging gender and other intersecting inequalities through activism, action-oriented research, and equitable knowledge production on diverse issues. In engaging in feminist praxis, I firmly believe in the necessity of centring gender and intersectionality in all our efforts, and the IPE has proven to be an invaluable platform that empowers both scholars and practitioners to prioritise and promote these essential principles. It is a place where individuals like me can collaborate and work collectively towards these vital goals. I am grateful for the opportunity to be a part of this community and to contribute to ISLA's important work.

As a socio-legal scholar and researcher, what in your experience are the main barriers to the visibility of African women feminists and the recognition of their contributions?

African women feminists encounter several common barriers in academic and legal circles, hindering the recognition and success of their work. These barriers include:

Gender Bias: Persistent gender bias remains a significant challenge, as it often prevails within these circles. African women feminists face the uphill battle of gaining acknowledgement for their work, which is more likely to be scrutinised and criticised.

Lack of access to resources: Access to crucial resources such as funding, mentorship, and networking opportunities is often limited for African women feminists. This lack of resources makes it challenging for them to publish their work, participate in conferences, and establish their reputations.

Discrimination/Racism: Discrimination and racism are additional obstacles faced by African women feminists in academic and legal environments. These challenges can manifest in various forms, ranging from subtle micro-aggressions to overt discrimination and exclusion from valuable opportunities.

Prioritisation of Western knowledge: The challenge of elevating African feminist knowledge above Western paradigms is deeply entrenched in historical legacies.



This issue stems from the enduring dominance of Western academic institutions and carries multiple adverse consequences. It includes the marginalisation of African feminist voices and perspectives, as well as the production of knowledge that frequently fails to address the unique needs and experiences of African women and girls.

What shifts have you seen in the visibility and recognition of feminist lawyers in recent years?

One of the most significant shifts in recent years has been the rise of feminist legal networks and organisations such as ISLA. These communities provide a platform for feminist lawyers to share their work, collaborate on projects, build capacity, and advocate for change. They also contribute to raising the visibility of feminist lawyers and their work to the public.

The significance of feminist lawyers in the legal profession is now more acknowledged. Feminist lawyers are now more likely to be appointed to judgeships and other positions of power, which has helped legitimise their work and make them more influential in the legal profession. However, there is still much progress to be made.

As a member of the IPE, what projects have you worked on? Can you list a few highlights?

- Development of a Collaborations and Litigation Database Development, 2021
- Supported the redrafting of an article (2021). Published: "Undermining the African Commission: A Focus on Egypt"
- Review of the African Commission (2021). Published: "2020 in Review: focus on the African Commission on Human & People's Rights" (April 21, 2021)
- Developed a commentary for publication on the differences between the 2010 and 2020 RoPs with a specific focus relating to amicus curiae procedure and confidentiality; and red flags in the 2020 RoP that hinder litigation and advocacy before the ACHPR.
- Developed a commentary for publication on whether the newly adopted 2020 Rules of Procedures (ROPs) of the African Commission further undermines or strengthens the independence of the Commission. "Maintaining The Independence Of The African Commission On

Human And Peoples' Rights: A Commentary On The Rules Of Procedure, 2020" (August 24, 2020)

- Developed a final legal submission document on the draft rules of procedure of the African Commission (2019)

How do you see feminist strategic litigation developing on the continent? Are there some examples you can point to? Perhaps any leanings from your research and advocacy work?

It is becoming increasingly important to recognize intersectionality in feminist strategic litigation, as more cases take into account the various layers of discrimination and marginalization that women face. These factors can include race, ethnicity, class, sexual orientation, and disability. Organizations such as ISLA and KELIN have been instrumental in leading landmark feminist litigation cases that have set significant legal precedents. Despite facing challenges, there is a growing need to bring women's rights cases before the African Commission, African Court, and other sub-regional bodies. This is due to the lack of cases for strategic litigation on women's rights and sexual rights at the national and regional levels.

There is also a need to gather evidence on the extent to which judgments from the courts or bodies in the African regional system have been successfully implemented and enforced, with a focus on cases and decisions that impact women and girls.

To support strategic litigation, it is essential to centre African feminist legal theory and analysis in articulating and being attentive to the lived experiences of women. This will help illustrate the dominant structures of oppression, including patriarchy, capitalism, colonialism, neo-colonialism, and imperialism.

One of the most significant shifts in recent years has been the rise of feminist legal networks and organisations such as ISLA. These communities provide a platform for feminist lawyers to share their work, collaborate on projects, build capacity, and advocate for change.

BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE



Strengthening Regional Mechanisms

The African Commission on Human and Peoples' Rights (ACHPR) Civil Society Organisations' Side Events (ACSE)

ISLA participated in the ACHPR Conveners' Meeting on Coordinating Civil Society Space in Banjul, Gambia on 18 October 2022. It was decided that the ACSE conveners would develop a strategy framework to document and implement the objectives and guide the space over the next five years. The process will take place in the following stages: a two-day meeting of the conveners to discuss and draft a strategy and decide on timeframes; finalisation of the strategy; popularisation of the ACSE through communications and publicity; and fundraising. Following from this, the ACSE Strategic Development Meeting was held from 16- 18 February 2023 with collaborating partners from Synergia-Initiatives for Human Rights, Pan-African ILGA, Centre for Human Rights (University of Pretoria), Outright International, MOLI, and Amnesty International. The meeting resulted in the first draft of the ACSE strategy documenting the background and context towards the formation of ACSE, as well as the ACSE theory of change and objectives.

Collaboration on an inter-mechanisms dialogue between the African Commission and Inter-American Commission

ISLA met with the RFK Human Rights to discuss the conceptualisation of a dialogue between the Inter-American Commission and the African Commission. They have a good methodology and approach that centres on mutual benefit between the regions and meaningful CSO engagement. We had an in-depth discussion with them proposing critical subjects that may benefit from the inter-mechanisms consultation. These include: Transparency and access to information - especially pending communications before the ACHPR; Delays in communications being heard – average of six or seven years; Consistency in jurisprudence, developed in line with international standards; Fostering meaningful CSO engagement and

advocacy to strengthen accountability and support the mechanisms; Strengthening the ACHPR protective mandate- accountability for human rights of minority groups-specifically protection of LGBT+ rights.

These consultations took place ahead of planned in-person meetings with CSOs and both Commissions' members in April 2023. The meeting will have three levels of engagement. Level one: the two Commissions will speak with each other and discuss the implementation of decisions; referral of cases to the court and how to frame remedies and reparations. Level two: CSOs speak back to the Commissions. Level three: CSOs from both regions engage with each other.

ISLA stakeholder convenings

ISLA held stakeholder convenings in New York and Washington DC with NGOs, academics, experts, law schools and law firms – both current and potential partners. The purpose of the stakeholder convenings was to identify opportunities for collaboration with partners interested in strengthening regional human rights mechanisms in Africa. We showcased our various coalitions and networks that stakeholders can join and identified opportunities of mutual benefit for ISLA and other organisations. The connections created or strengthened will be bolstered by continued engagement and that will lead to implementable actions in areas of joint expertise.



Strengthening Civil Society Organisations

Planning Committee and Representing the Call-to-Action Collective

ISLA's Executive Director was nominated to represent the Call to Action Collective (CTA Collective) and civil society as Co-chair of the Presidential Summit Planning Committee (PSPC). The PSPC, a multi-sectoral committee, was established to oversee and provide strategic guidance on all affairs relating to the planning and hosting of the second iteration of the Presidential Summit on Gender-Based Violence and Femicide which took place on November 2-3 2022. The Executive Director also chaired the main plenary session of the summit. Over 1,500 delegates from across the country attended the summit.

Civil society and media engagements

Globally, there is growing evidence of the power of social movements and non-traditional accountability spaces to bring about social change. In preparation for the Presidential Summit on Gender-Based Violence and Femicide, the CTA Collective hosted a series of civil society engagements aimed at improving civil society's understanding of the NSP and at gathering a collective civil society voice ahead of the summit. As part of that process, we hosted weekly Twitter spaces, webinars, and published opinion pieces on the NSP that were organised according to the six pillars of the NSP GBVF (Accountability, coordination and leadership; Prevention and Rebuilding the Social Cohesion; Justice, Safety and Protection; Response, Care, Support and Healing; Economic Power; and Research and Information Management).

[Click here to read the op-ed](#)

Or scan here:



Support for Retreat and Wellness Centre & Transitioning Leadership

ISLA provided a start-up grant for the development of the project to create a retreat and wellness centre for frontline activists particularly those in the LGBT+ and women's rights movement in South Africa and regionally. The space will lend itself to rest and retreat and will focus on programming tailored to burnout management, self-care and collective care. The project is a start-up by former Iranti founding director, Jabulani Chen Pereira who has worked at creating human rights frameworks nationally, regionally and globally. In addition to the retreat and wellness centre, he will also continue to facilitate and create movement collaborations where trans feminism is required, work with trans and cis leaders to improve their integration of trans human rights work in their programming; and support others to found organisations based on his experience starting and leading Iranti.

CSO coalition responding to floods in Kwa-Zulu Natal, South Africa

ISLA formed part of a CSO coalition that responded to floods in Kwa-Zulu Natal (KZN), South Africa. ISLA acted as fiscal host and received funds from The Other Foundation and Oxfam, which were used primarily for transport and other logistical costs to send emergency goods to partners on the ground in KZN. The remaining funds were sent to Abahlali Basemjondolo, a partner organisation in KZN that focuses on campaigning for land, housing and dignity.

STRENGTHENING CAPACITY TO LITIGATE STRATEGICALLY

OVERVIEW

Despite its potential, strategic litigation has been underutilised as an instrument for social change. A core part of our model thus involves promoting the use of strategic litigation by investing in local institutions and individuals through capacity strengthening activities.

Through our networks, we work with the same organisations and litigators over a period of three years, to develop a pool of African feminist and movement litigators who can effectively undertake strategic litigation on sexual and women's human rights. We use several approaches to facilitate core learning and we benefit from insights from experts and our partners about the intersection between the law and the required social change.

Our capacity strengthening activities include litigation institutes, in-depth seminars, strategy consultations, country visits, expert advisory meetings, thematic workshops and institutional strengthening workshops.



WSER In-depth seminar on Cohabitation

From 4 – 6 May 2022, an in-depth seminar was convened in Diani, Kenya on the Protection of Various Forms of Families and Distribution of Property upon Dissolution of Cohabitation Relationships, De Facto Unions and Customary or Religious Marriages.

With the family having historically been a stronghold for patriarchy for many years, the dissolution of non-traditional forms of family is often the site for the impoverishment of many women. In most countries, laws which fail to recognise and protect women in cohabitation relationships, leave women unable to claim a share of property acquired during the relationship. This failure renders women in these relationships invisible to the law.

The work on protecting various forms of families including extending the rights that are often accorded to married persons based on their marital status, builds on ISLA's work on advancing the equality framework in family law using strategic litigation as a tool for social change.

In litigating cohabitation cases, and cases on unregistered marriages, each case challenges Courts to develop jurisprudence which would give meaning to the right to equality in families or intimate relationships, and the right to form a family, for unions which are not marriage unions, recognised by national legislation.

The ISLA seminar aimed at advancing litigation strategies that would protect various family forms in cohabitation relationships to advance the standard for protecting these families. The issue arises in jurisdictions where the courts either have not addressed family forms from the perspective provided by the case and have not applied a feminist approach to the law or when there is no settled position on the issue, if the court has dealt with it. Further, through the in-depth seminar ISLA wanted to build on the work on the advancement of the principle of equitable sharing of property acquired in the subsistence of various relationships. The in-depth seminar endeavoured to develop remedies that would be presented to the Courts in various cases: when a court has decided on the issue of whether as a matter of fact, the relationship between the parties was indeed family forming; where the Court has determined that the relationship resulted in the formation of a family, to determine how property will be divided in such cases where the parties have not thought about matrimonial regime.

In the last 12 months, network lawyers have sourced cases under the women's socio-economic and cultural rights thematic area, these cases were workshopped to determine how they can present an opportunity for the advancement of the standard of protecting various forms of families, founded in the right to family life and the right to start a family.



Strategy Consultation on Strategic Litigation to Advance Women's Rights in Zimbabwe

At the Legal Resources Foundation (LRF Zimbabwe) annual lawyer's workshop, ISLA in partnership with the East-West Management Institute (EWMI), conducted a capacity-strengthening exercise on strategic litigation and skills development with a specific focus on public interest or test case litigation on women's rights.

The training strengthened the LRF's capacity to engage in strategic litigation using feminist methods. It was helpful that the participants, particularly the LRF lawyers, brought their experiences into the training sessions and cases which relate to violence against women; women's socioeconomic rights and women's land and property rights. The lawyers indicated that identifying the strategic opportunities for these cases has been challenging and the training was beneficial in determining public interest and the broader impact for the country and region.

The capacity strengthening dealt with human rights violations affecting women disproportionately and identifying opportunities to develop feminist jurisprudence in the domestic courts. It was clear that while there are varied operating conditions in each LRF country office, they could adapt the information provided and use it well as they have potentially good cases for strategic litigation. There are ample opportunities for case sourcing as many legal issues they deal with relate to inheritance rights, access to water, gender-based violence against girls, sexual exploitation and abuse, and recognition of marriages. These cases could potentially provide opportunities to change laws, and policies and effect social change using the law. analysis of women's socio-economic rights in extractives, political contestations, and legal and human rights frameworks. Other modules included extractives and the corporate sector/business, protection of women's rights in the extractive industries and access to remedy for women's human rights violations in extractive industries. The second week of the litigation institute focused on the practice and procedure of strategic litigation, including developing sustainable collaborations and partnerships, drafting effective amicus interventions, and gendered remedies. In addition, participants completed written and oral assessments. The week culminated in a moot court competition for the participants and a litigation institute closing ceremony.



PRODUCING KNOWLEDGE FOR SOCIAL CHANGE

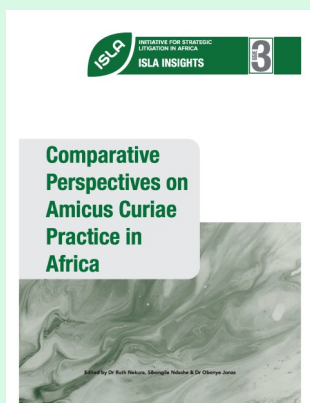
OVERVIEW

We prioritise producing knowledge and creating materials that are useful for ourselves, our partners, and other organisations so that we better understand strategic litigation in Africa and develop more effective strategies. We seek to surface undocumented knowledge held by feminist litigators, and we produce feminist alternative accounts to the gendered knowledge and legal interpretations that strategic litigators can currently access. Our materials also contribute to awareness about litigating women's sexual and human rights. We value the knowledge produced by social movements based on their lived experiences and believe it should reinforce strategic litigation. Our knowledge production is in the form of publications, public engagements (including seminars, lectures, and dialogues) and webinar series with invited or curated audiences and participants who can also contribute to the discussions.



Publications 2022/2023

Comparative perspectives on amicus curiae practices in Africa



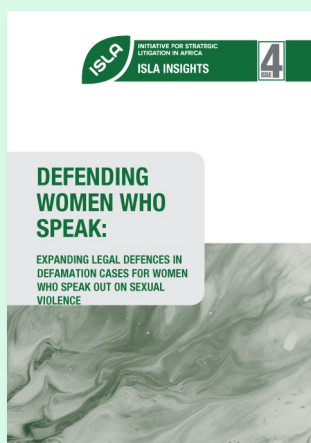
This publication provides comparative perspectives on amicus curiae practices in seven African countries. It maps best practices at the domestic level and contributes to ongoing conversations about the need to clarify rules and standardise best practices at various levels, including sub-regional and regional human rights mechanisms.

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Defending Women Who Speak: Expanding legal defences in defamation cases for women who speak out on sexual violence



Defending Women Who Speak examines defamation claims as a manifestation of violence against women which lacks adequate victim protections. The insights documented include an overview of defamation laws in selected domestic contexts and in the international plane, an interrogation of existing deficiencies therein; comparative judicial responses to defamation cases against the backdrop of the #MeToo Movement, including an in-depth analysis of notable cases; and sharing and documenting identified solutions on how to protect women survivors who speak up from legal blowbacks initiated by their alleged perpetrators. The publication is based on a literature review, analysis of human rights instruments and reflections from an ISLA violence against women in-depth seminar from 13 to 15 December 2021 in Mombasa, Kenya. It is intended for legal practitioners who assist women survivors, seeking legal redress against their alleged perpetrators. It may also serve as a guide for donors on how to increase funding structures to help women survivors overcome financial impediments in their quest to access justice.

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Legal empowerment to litigate SOGIE cases: Documenting the Experiment (2016 – 2022)



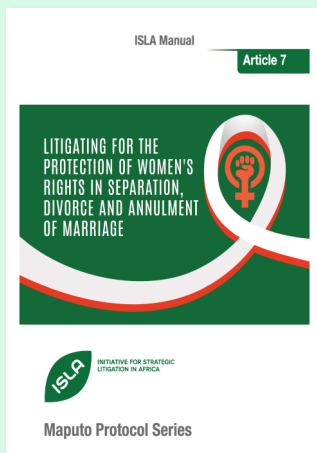
In 2016, ISLA began developing the sexual rights litigation network (SXLN) to strengthen movements in African countries by empowering them to litigate on sexual orientation, gender identity and expression (SOGIE) cases. The project aimed to build a body of actors that can hold states accountable for violations against persons based on their gender and/or sexuality by nurturing partnerships between movements and lawyers working together on social change through strategic litigation at national, regional and international levels. This document is a review and analysis of the implementation of the pilot phase to guide future implementation and also to document the experiment highlighting the parts of the project conceptualisation that worked and did not work out in reality; why these did not work as we had initially expected; and what can be learned from the challenges encountered during the pilot phase.

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Litigating for the protection of women's rights in separation, divorce and annulment of marriage (Maputo Protocol Series)



This manual provides a practical guide to litigators and social movement actors in Africa and around the world who are interested in propelling the realisation of women's rights upon separation, divorce or annulment of marriage as protected under Article 7 of the Maputo Protocol. It equips the user with the necessary information on relevant human rights standards on women's rights upon separation, divorce or annulment of marriage; the application of the human rights standards within the national legal systems; the scope of these rights, manifestation of the violations; and potential areas for litigation or advocacy.

This manual seeks to encourage litigators to authoritatively apply international and regional human rights law to challenge existing discriminatory laws, policies and practices through strategic litigation. This manual will also aid social movement actors in evaluating the extent to which normative and institutional structures in African countries guarantee the protection, promotion and respect for women's rights upon dissolution of marriage.

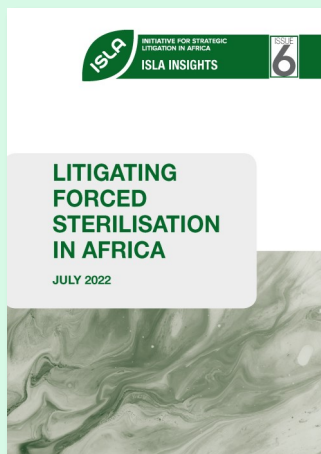
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PRODUCING KNOWLEDGE FOR SOCIAL CHANGE

Barriers and Opportunities in Strategically Litigating Forced Sterilisation in Africa



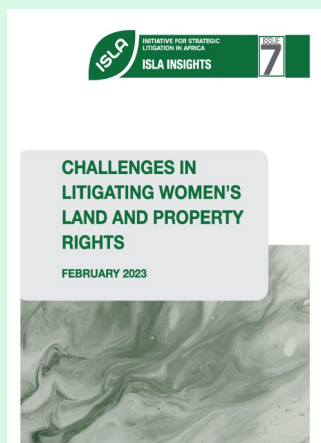
Drawing inspiration from experiences detailed in ISLA-convened meetings on forced sterilisation, coupled with desktop analysis, the publication seeks to, first, explore legal and policy frameworks on forced sterilisation in Africa and comparative jurisdictions. Secondly, it identifies existing barriers and opportunities in feminist strategic litigation (FSL) for forced sterilisation, and in that way, makes credible contributions to the existing body of knowledge on this subject. It is intended to provide substantive and procedural understandings for legal practitioners who intend to commence or are in the midst of litigation on defending women who have undergone forced sterilisation. Further to this, this publication is also intended to serve as an important guide to other stakeholders, including judicial actors on existing barriers and possible opportunities to reimagine the existing order.

[Click here to read](#)

Or scan here →



Challenges in Litigating Women's Land and Property Rights (WLPR)



This INSIGHTS publication on WLPR aims to highlight legal, political and social obstructions to achieving gender equality in access to and use of land, and develop strategic and gender-sensitive approaches to enhance the protection and realisation of WLPR in Africa. In addition, the publication seeks to provide a deeper analysis of the hurdles that are present in litigation. It examines the feminist legal theory accompanying case selection and the purported theory of change. It also assesses the laws being challenged, the justice system within which some of the cases exist and the processes involved in sourcing these cases to develop ways in which litigating WLPR can be improved. The content is intended for legal practitioners who assist women seeking judicial relief or remedy in actualising their land and property rights. It is also targeted at donors to guide how to increase funding structures to help women overcome varied impediments in their quest to access justice, including financial hurdles, barriers to access to justice, and patriarchal socio-cultural norms. It will therefore be useful for donors to understand the challenges that surround strategic litigation on WLPR to better inform their assessment of proposals for grants in a more contextual manner.

[Click here to read](#)

Or scan here →





Publishing the SXLN Capacity Strengthening Model

ISLA successfully published the SXLN capacity strengthening model online, making it open access to partners, civil society organisations, activists, and lawyers in Africa who may want to use the curriculum and tools to strengthen their work. The online platform includes training modules, webinars, toolkits, and other resources that are designed to support the development of the skills and knowledge needed for strategic litigation and legal advocacy. This publication has several benefits, including increasing the reach and impact of the SXLN's capacity-strengthening activities, empowering more groups and individuals to use strategic litigation and legal advocacy, and creating a community of practice that will help strengthen the movement as a whole. We believe that this publication is a valuable resource for those working on SOGIE rights, and we are committed to continuing to support the advancement of sexual rights through our work with the SXLN.

[Click here for more on the SXLN Model](#)

Or scan here



Shifting Narratives – Our public engagements in 2022/23



Funders Initiative for Civil Society to introduce the Narratives Network Initiative

The SXLN Manager attended a meeting organised by the Funders Initiative for Civil Society to introduce the Narratives Network Initiative. The Initiative is primarily a network created to support progressive movements with skills and knowledge related to communication and narrative strategies. Participants shared strategies they use to counter harmful narratives. A common suggestion was advancing our narratives, rather than responding to the ones advanced by anti-rights actors.



Symposium on 'Gender Justice and Human Rights': Holistic Approaches to Gender Violence

The ISLA Executive Director attended the symposium hosted by the University of Miami in Coral Gables, Florida, USA from 21-22 April 2022. It was organized by the Human Rights Programme at the University of Miami, School of Law; the Global Women's Institute at George Washington University; and UN Women in collaboration with the University of Miami International and Comparative Law Review and the University of Miami Inter-American Law Review. The symposium focused on holistic responses to gender-based violence and aimed to connect local, national, regional, and global perspectives, drawing on innovative work from around the world. It examined four dimensions critical for addressing gender-based violence, including prevention, systemic accountability, restorative justice, and protection of survivors, as well as examining lessons and opportunities for practical implementation. The Executive Director participated in a panel on "Systemic Accountability for Gender-Based Violence" where she shared experiences, practices and recommendations.



PRODUCING KNOWLEDGE FOR SOCIAL CHANGE



Validation Workshop – Francophone Publication on Strategic Litigation in Francophone West Africa: Lessons learnt & prospective forward-looking strategy

As part of its objective, ISLA sought to expand its operations to Francophone West Africa. This is the second instalment of documentation of ISLA's experience in implementing this strategy. The strategy document also analyses ISLA's experience of working in Burkina Faso and Côte d'Ivoire over the past few years.

Although Francophone West Africa is an important avenue for feminist strategic litigation, navigating this realm presents both legal and practical challenges, particularly for Anglophone African – based NGOs, such as, ISLA. Legal boundaries can arise due to the differences in legal systems and jurisprudence between Anglophone and Francophone nations, impacting the interpretation and application of feminist legal principles. Additionally, the complexity of Francophone legal systems and varying degrees of adherence to international conventions can pose hurdles for cross-border litigation efforts.

ISLA hosted a validation workshop with partners and experts from Francophone West Africa who reviewed the report and strategy to guide the implementation of ISLA's work in Francophone West Africa. Following the workshop, the reviewers submitted the revised final draft of the publication taking into consideration recommendations from the validation workshop.



Protecting Human Rights Defenders webinar, 14 June 2022

The San and Khoi Centre at the University of Cape Town supports the A!Xarra Restorative Justice Forum which held a webinar on Protecting Human Rights Defenders. The purpose of the discussion was to help organisations better understand how to keep our staff alive in the context of ongoing threats and violence against human rights defenders. The webinar provided an opportunity to understand more about the social context and hoped to inspire academics to engage in research work on the topics discussed. ISLA's Executive Director spoke about the experiences with the Spectacle of Arrests of sexual rights activists and human rights defenders who face a range of threats including police harassment, unlawful arrests and murder. She also introduced ISLA's work on this theme including citing cases from across the continent.



Intergenerational Feminist Dialogue Series (Panel: Feminist Legal Gains and Set-Backs: From the Zuma Rape Trial to the Coko Judgement)

The San and Khoi Centre at the University of Cape Town supports the A!Xarra Restorative Justice Forum which held a webinar on Protecting Human Rights Defenders. The purpose of the discussion was to help organisations better understand how to keep our staff alive in the context of ongoing threats and violence against human rights defenders. The webinar provided an opportunity to understand more about the social context and hoped to inspire academics to engage in research work on the topics discussed. ISLA's Executive Director spoke about the experiences with the Spectacle of Arrests of sexual rights activists and human rights defenders who face a range of threats including police harassment, unlawful arrests and murder. She also introduced ISLA's work on this theme including citing cases from across the continent.



Our Voices, Our Future: LGBTIQ Activists' Resistance to Closing of Civic Space

The Executive Director participated in a webinar entitled "Our Voices, Our Future: LGBTIQ Activists' Resistance to Closing of Civic Space", in a moderator capacity. The webinar highlighted the different realities of LGBT+ activists from Southern Africa in defending civic space, and the various strategies used both online and offline to challenge the status quo in recognising the rights of LGBT+ activists in the region. It was hosted by Southern Defenders, a Southern Africa Human Rights Defenders Network.

[View the webinar here](#) or at <https://www.youtube.com/watch?v=TwizQLZwLDQ>.

Reimagining Pan-African and Feminist Philanthropy in Shaping Africa's Future Convening

At the Reimagining Pan-African and Feminist Philanthropy in Shaping Africa's Future Convening jointly hosted by Trust Africa and Urgent Action Fund, scholars, activists, thought leaders and practitioners reflected on critical issues within African and global philanthropy, and how to advance the pan-African and feminist agenda within it.

An initial convening of 50 representatives from African philanthropies and civil society, held in Naivasha in July 2022, explored and developed collective positions and an initial agenda of work. Three working groups emerged from this meeting. A second convening in February 2023, the Indaba, brought together over 65 civil society, African philanthropy, and global philanthropy allies to deepen that collective positioning, build broader solidarity, and concretize an action agenda to take the working groups forward. These working groups are supported by significant commitments of time, skills, social capital, and resources, including an initial financial commitment – made in both personal and institutional capacities on the day.

[Reflections on the Indaba conversations and the way forward can be found here](#) or <https://www.alliancemagazine.org/blog/reimagining-pan-african-and-feminist-philanthropies-envisioning-abundance/>

Colloquium on Eradicating Female Genital Mutilation (FGM) and fulfilling sexual and reproductive rights: reflecting on the efficacy of criminalisation

On 25 and 26 July 2022, the Executive Director attended the Colloquium Eradicating FGM and fulfilling sexual and reproductive rights: reflecting on the efficacy of criminalisation hosted by the Centre of Human Rights at the University of Pretoria. Her role was to review two out of 12 papers broadly on strategic litigation of FGM cases submitted for presentation by authors. The review had two stages comprising oral comments following the presentation; and written comments.

Strategic Litigation and Advocacy Workshop for LGBT+ Human Rights Defenders in Africa

The Executive Director attended a capacity-strengthening event convened by the Sexual Orientation Gender Identity, Expression and Sex Characteristics (SOGIESC) Unit of the Centre for Human Rights at the University of Pretoria Faculty of Law, from 22 – 26 August 2022. It is an annual capacity-building event aimed at empowering LGBT+ human rights defenders in Africa to conduct strategic advocacy and litigation. The workshop is designed to assist activists in Africa to effectively promote and protect LGBT+ rights through domestic, regional, and international level advocacy and litigation. The sessions are tailored for experienced activists who want to build their capacity further. It seeks to strengthen and develop the skill sets of individuals and civil society organisations so that they can better pursue legal challenges and advocate on behalf of LGBT+ individuals at risk of suffering serious violations of their human rights.



PRODUCING KNOWLEDGE FOR SOCIAL CHANGE

ILAW (International Lawyers Assisting Workers) Network Conference, Brussels Belgium

The Executive Director participated in the ILAW network conference. This conference was a unique opportunity for members from around the world to meet, discuss and strategise on a wide range of issues that are critical to workers and their organisations today. The goals of the conference included facilitating the exchange of information within the context of evolving legal landscapes worldwide; highlighting successful strategies to empower workers and unions; and exploring new areas of cooperation with stakeholders from the feminist movement, environmental movement, and human rights community.

African Court Coalition virtual training on the Rights of Women and Engagement with the African Court 28 – 29 November 2022

The Legal Director participated in the African Court Coalition virtual training on the Rights of Women and Engagement with the African Court in a trainer capacity. The main objective of the training was to encourage more engagement with the African Court specifically on the rights of women to influence law and policy reforms that uphold women's rights in Africa, and to enhance the African Court's jurisprudence on the rights of women in Africa. The director's presentation facilitated a discussion on Accountability and how to strengthen CSO's engagement with the African Court and Strategic Litigation using Feminist Methodology and Key Principles of promotion of women's rights in Africa.



RESOURCE MOBILISATION

OVERVIEW

Ensuring sustained and aligned funding is integral to continuing our strategic litigation work on the continent. In 2022, we developed a resource mobilisation strategy that aimed to diversify our funding sources and to attract more multi-year, large-scale grants in keeping with our expanding work in Africa. By continuing to engage with our existing donors, making new connections, explaining our models and showcasing our results, we were able to maintain our funding and add new donors. We also saw renewed, multi-year funding commitments from long-term partners that will provide the core support to keep the organisation running. This support is crucial as we reshape, expand and create programmes to meet our goals. Additionally, we mobilised resources on behalf of or alongside collectives and movements, and acted as fiscal hosts when needed, to enable them to capitalize on unexpected opportunities to escalate change.



Key results

Donor Convening 2023

ISLA held a Donor Convening in February 2023 in partnership with the Foundation for a Just Society (FJS). The convening brought together ISLA's current donors who support the Feminist Litigation Network (FLN) and Sexual Rights Litigation Network (SXLN) and prospective donors.

The aim of the donor convening was resource mobilisation to support the scaling up of ISLA's FLN model and to strengthen or re-establish the donor collaborative funding that enabled the development of the model. Progress and challenges in the implementation of the SXLN model were also shared as well as a re-imagined model.

The Convening provided an opportunity to highlight the impact of the ISLA journey from the year 2014 and to discuss innovative ways of collaborating and building partnerships. The presentation highlighted the impact of the ecosystem by developing a pool of feminist lawyers to service cross-sector needs and intervention in key women's rights cases as advisors to counsel, amicus curiae or co-representatives with FLN partners before national and regional courts and the human rights system.

Strengthening Resource Mobilisation

To strengthen our resource mobilisation efforts, we compiled an in-depth donor database to support our donor prospecting. We also developed three models of proposal narrative templates and funding application models which were reviewed and approved by the resource mobilisation committee. The Big Book of ISLA which aims to standardise how ISLA communicates its work (what we do and how we do it) is also in the review process and focuses on frequently asked questions from grant applications.

Sustaining and Building Funding Partnerships

ISLA continued its partnerships with the Arcus Foundation, Ford Foundation and Dreilinden who have renewed their funding for the next five years for core support. The Clooney Foundation is supporting our Curriculum Development, Communications and work on Violence against Women. Funding from Open Society Foundation Africa will support the FLN and Litigation for Social Change. Thousand Currents will support the FLN Litigation Institute on Women's Economic Justice; the Expert Advisory on Strategic Litigation for Women's Economic Justice, contribute to research, partnerships and the strategic litigation fund among others.

FINANCE AND OPERATIONS

OVERVIEW

ISLA's Operations Unit provides a strong and evolving base and infrastructure to offer high-quality, sustained support to the programming unit whilst setting and ensuring compliance with standards of good governance for accountability, transparency and participation. As a learning organisation, our operations team supports the programming unit to explore and undertake opportunities, anticipate and mitigate threats and risks and undertake reflections so that decisions are sound and the work and approach can evolve and develop.



Key results

Organisational, system and process strengthening

The following newly developed Procedural Guidelines were operationalised: Litigation Support Fund Guideline; Income Recognition and Deferred Income Accounting Treatment Guideline; Policy Deviation Guideline and revised Delegation of Authority Policy.

The following templates were created and/or updated to align with the policy and user requirements: including procurement plans, budget reallocation forms, budget templates, and reporting templates for operations finances.

We explored the option of migrating the organisation's Excel-based Fixed Assets Register (FAR) to an Evolution-based register. This will allow for a FAR that is integrated with the general ledger. The migration is planned for the first quarter of the next financial year.

Human Resources

In the year under review, we realigned our staff structure to continue to reflect our programmatic needs and to limit capacity gaps. Recruiting highly skilled people who have managerial skills and subject matter expertise, women's rights expertise, feminist politics and a sophisticated understanding of international human rights law remained paramount.

Financial resources and budgeting

ISLA had significant success in securing a comprehensive budget for operational, indirect and governance work and costs. These resources have enabled significant institutional strengthening and have allowed us to achieve a level of stability, efficiency and effectiveness which exceeds the expectations of a relatively young organisation. A priority for our institutional development was to deepen our financial analysis and planning so that our fundraising work is better informed. Well-structured resource planning allows us to fully cover all functions of the organisation in ways that enable quality, impact, results and the outputs sought.

The external audit for 2021/22 commenced in August and was finalised in October and the audited financials presented approval at the Q2 2022 board meeting. This was an improvement from the previous audit. The process was expedited because the finance team addressed most of the issues raised by the auditors in the prior year's management report. As a result of these diligent processes and systems improvements, the current management report only had two unresolved findings compared to 26 findings last year. The audit was concluded with an unqualified opinion from the auditors.



Independent Auditor's Report

To the Directors of Initiative For Strategic Litigation in Africa NPC

Opinion

We have audited the annual financial statements of Initiative For Strategic Litigation in Africa NPC set out on pages 8 to 20, which comprise the statement of financial position as at 28 February 2023, statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and the notes to the annual financial statements, including a summary of significant accounting policies.

In our opinion, the annual financial statements present fairly, in all material respects, the financial position of Initiative For Strategic Litigation in Africa NPC as at 28 February 2023, and its financial performance and cash flows for the year then ended in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities and the requirements of the Non-profit Organisations Act 71 of 1997 of South Africa of South Africa.

Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Annual Financial Statements section of our report. We are independent of the company in accordance with the Independent Regulatory Board for Auditors' Code of Professional Conduct for Registered Auditors (IRBA Code) and other independence requirements applicable to performing audits of annual financial statements in South Africa. We have fulfilled our other ethical responsibilities in accordance with the IRBA Code and in accordance with other ethical requirements applicable to performing audits in South Africa. The IRBA Code is consistent with the corresponding sections of the International Ethics Standards Board for Accountants' International Code of Ethics for Professional Accountants (including International Independence Standards). We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other Information

The directors are responsible for the other information. The other information comprises the information included in the document titled "Initiative For Strategic Litigation in Africa NPC annual financial statements for the year ended 28 February 2023", which includes the Directors' Report as required by the Non-profit Organisations Act 71 of 1997 of South Africa and the supplementary information as set out on pages 21 to 22. The other information does not include the annual financial statements and our auditor's report thereon.

Our opinion on the annual financial statements does not cover the other information and we do not express an audit opinion or any form of assurance conclusion thereon.

In connection with our audit of the annual financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the annual financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Responsibilities of the Directors for the Annual Financial Statements

The directors are responsible for the preparation and fair presentation of the annual financial statements in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities and the requirements of the Non-profit Organisations Act 71 of 1997 of South Africa, and for such internal control as the directors determine is necessary to enable the preparation of annual financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the annual financial statements, the directors are responsible for assessing the company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the company or to cease operations, or have no realistic alternative but to do so.

FINANCE AND OPERATIONS

INITIATIVE FOR STRATEGIC LITIGATION IN AFRICA NPC ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 28 FEBRUARY 2023

STATEMENT OF FINANCIAL POSITION AS AT 28 FEBRUARY 2023

<i>Figures in Rand</i>	2023	2022
Assets		
Non-Current Assets		
Property, plant and equipment	299 011	300 561
Current Assets		
Trade and other receivables	331 684	352 862
Prepayments	2000	373 670
Cash and cash equivalents	24 639 735	24 806 550
	24 973 419	25 533 082
Total Assets	25 272 430	25 833 643
Equity and Liabilities		
Equity		
Accumulated surplus	11 095 269	7 505 101
Liabilities		
Current liabilities		
Trade and other payables	1 083 830	2 334 334
Deferred income	13 093 331	15 994 208
	14 177 161	18 328 542
Total Equity and Liabilities	25 272 430	25 833 643



STATEMENT OF COMPREHENSIVE INCOME

<i>Figures in Rand</i>	2023	2022
Revenue	22 086 645	29 104 090
Other income	2 259 232	162 329
Operating expenses	(21 412 000)	(29 205 973)
Operating surplus (deficit)	2 933 877	60 446
Investment revenue	656 291	639 032
Surplus for the year	3 590 168	699 478
Other comprehensive income	-	-
Total comprehensive income for the year	3 590 168	699 478

STATEMENT OF CHANGES IN EQUITY

<i>Figures in Rand</i>	Accumulated	Total equity
Balance at 01 March 2021	6 805 623	6 805 623
Profit for the year	699 478	699 478
Other comprehensive income	-	-
Total comprehensive income for the year	699 478	699 478
Balance at 01 March 2022	7 505 101	7 505 101
Profit for the year	3 590 168	3 590 168
Other comprehensive income	-	-
Total comprehensive income for the year	3 590 168	3 590 168
Balance at 28 February 2023	11 095 269	11 095 269

FINANCE AND OPERATIONS

STATEMENT OF CASH FLOWS

<i>Figures in Rand</i>	2023	2022
Cash flows from operating activities		
Cash receipts from funders	19 271 166	24 913 748
Cash paid to suppliers and employees	(22 143 052)	(28 279 218)
Cash used in operations	(2 871 886)	(3 365 470)
Interest income	656 291	639 032
Net cash from operating activities	(2 215 595)	(2 726 438)
Cash flows from investing activities		
Purchase of property, plant and equipment	(151 203)	(129 114)
Sale of property, plant and equipment	9 000	13 203
Net cash from investing activities	(142 203)	(115 911)
Total cash movement for the year	(2 357 798)	(2 842 349)
Cash and cash equivalents at the beginning of the year	24 806 550	27 648 899
(Profit) or loss on foreign exchange on cash and cash equivalents	2 190 983	-
Total cash at the end of the year	24 639 735	24 806 550



Our Board of Directors

Our independent board of directors is made up of seasoned and committed leaders with expertise in law, social work, advocacy and human resources. They ensure that ISLA adopts and implements sound ethical, legal governance and financial management policies. We are grateful to each board member for their valuable input and advice on our decisions and strategies. Their timely guidance ensures that we remain focused on our long-term mission to promote and protect sexual rights and women's human rights through strategic litigation. Through their dedication and leadership, ISLA has continued to develop into a resilient, more agile, organisation that is making significant inroads and is a leading voice regionally for human rights-based strategic litigation and social justice.

Nonhlanhla Mokwena
Social Worker

Doo Aphane
Lawyer

Carole Ageng'o
Lawyer

Elizabeth Letebele
Human Resources

Salamata Sawadogo
Judge



Our Donors

The generous support and contributions from donors allowed us to grow our work over the past year. In addition to funding our work, your guidance and encouragement have helped us accelerate our efforts across the continent. We have worked together to innovate and adapt so that our organisation is stronger, more flexible and results-oriented while creating sustainable impact. As we use feminist litigation to shape a better Africa, we appreciate your support and partnership.

- Amplify Change
- Arcus Foundation
- Dreilinden
- Ford Foundation
- Foundation for a Just Society
- Hewlett Foundation
- Open Society Initiative for Southern Africa (Open Society Foundation)
- Thousand Currents

FINANCE AND OPERATIONS



Our Staff

ISLA's organisational efficiency and effectiveness are rooted in the outstanding support of our staff. While our team members come from a diverse array of professional and cultural backgrounds, they are all driven by a singular commitment to use their skills, talent and expertise to promote and protect women's human rights and sexual rights. We appreciate their ongoing commitment and support.

Amorlett Zitsenga - Programmes Coordinator

Carolene Kituku - Women's Socio-Economic Rights (WSER) Lawyer

Cynthia Kalenga - Francophone and Collaborations Coordinator

Emmah Wabuke - SCLS & KPSC Manager

Fundiswa Nteyi - Legal Programmes Coordinator

Joy Awich - Francophone Legal Officer

Nomsa Mbaza - Office Assistant

Santana Simiyu - Feminist Litigation Network (FLN) Manager

Sibongile Ndashe - Executive Director and Acting Litigation Director

Simonia Mashangoane - Partnerships Coordinator for Call to Action (coalition)

Sophie M Jessie - Director of Finance and Operations

Sophie Ndhlovu - Operations Manager

Thabisile Sithole - Finance Officer

Thiruna Naidoo - Litigation Coordinator

Victoria Nebie - Francophone West Africa Managing Lawyer

Winfred Odali - Junior Feminist Lawyer





Get in touch

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