



Initiative for Strategic Litigation in Africa

Annual Report 2023-2024



Feminist Lawyering to Shape the Africa We Want



ISLA Annual Report 2022 - 2023

Initiative for Strategic Litigation in Africa

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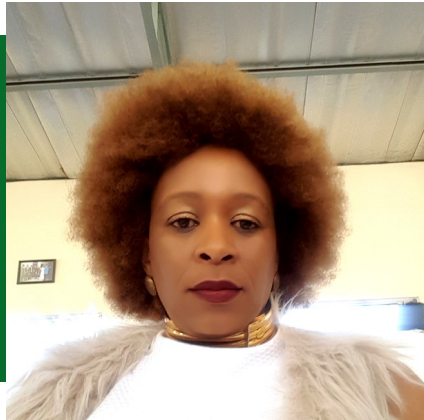
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The results presented in this report demonstrate the increasing depth of our work, which goes beyond the surface of legal cases and calls for system change.

Foreword by the ISLA Board Chairperson

At the heart of ISLA's work is the resounding conviction that feminist strategic litigation can change society because it helps challenge unjust laws and practices, ensuring that legal systems are held accountable to human rights standards. In 2023-24, this unwavering belief helped us steer the organisation as we expanded our footprint and continued to strive for our vision to expand Pan-African feminist jurisprudence.

Critical to our institutional development, now and in the future, is ensuring an enabling environment within African countries to carry out strategic litigation. Therefore, our work at the regional level in the past year focused on safeguarding the African Human Rights System. Through our collaborations with African Civil Society Engagement, involvement in the African Union Reforms process, and engagement with the African Commission on Human and Peoples' Rights, we contributed significantly to promoting human rights and advancing the protection of marginalised communities in Africa.

These efforts to ensure that individuals and communities in Africa can advocate for, and defend their rights, come amid growing financial support for anti-rights movements, which drive regressive policies and laws across the continent that undermine human rights and revert critical progress.

As our overarching goal is to expand Pan-African feminist jurisprudence and establish a progressive interpretation of women's human rights that will result in meaningful changes in women's lives, we took additional steps to strengthen our work in Francophone West Africa. Navigating the judicial system and legal culture in the region has required immense fortitude, yet as the region contends with pressing gendered issues, we believe our efforts to demand collective judicial intervention and conduct feminist strategic litigation remain vital.

Our growth over the past year has come with many lessons. As a learning and evolving organisation, we see this as an opportunity to reflect, adjust and improve our programme models so that our impact is deeper and broader. The results presented in this report demonstrate the increasing depth of our work, which goes beyond the surface of legal cases and calls for system change to hold states accountable for promoting, protecting, and fulfilling human rights.

Next year, ISLA will mark its tenth anniversary. We look forward to celebrating this milestone with the staff, donors and partners who have enabled us to come this far in our journey. We are grateful for your support, which remains invaluable as we continue to advance our vision of an Africa where the rights of all people, irrespective of their sexual orientation or gender identity, are respected, protected, and fulfilled.

Nonhlanla Mokwena

ISLA Board Chairperson



Even in the face of an ever-shrinking civic space, we witnessed rising advocacy for women's and sexual rights, reaffirming our belief in, and support of, the feminist movements that have brought us this far.

Executive Director's letter

Growth does not always mean more - often, it is about pruning, reducing and resetting our focus. Much of ISLA's growth in 2023-2024 stemmed from reflecting on our lessons learned and releasing what did not work to emerge with a more refined and sharpened framework that leads to impact.

From our analysis and evaluations, we concluded that our organisational goals would not be fulfilled without credible input from civil society regarding the ongoing changes to the African human rights architecture. We therefore joined efforts to develop a strategy that seeks to coordinate and strengthen civil society engagement with the African Commission on Human and Peoples' Rights (ACHPR) in the form of the African Civil Society Engagement (ACSE). Through the Litigants Group, we started a campaign calling for transparency of the ACHPR communications procedure, and we played a pivotal role in raising civil society awareness of the ongoing African Union Reforms Process.

Encouraging and unfavourable judgements alike also contributed to our growth. The decision by the Kenyan High Court declaring out-of-court settlements for sexual offences as unconstitutional, for example, was a significant victory as it compels the government to investigate and prosecute cases properly. On the other hand, the declaration that the mandatory minimum sentences provided by the Kenyan Sexual Offences Act are unconstitutional led to an overwhelming number of applications for resentencing by prisoners previously convicted of sexual offences. The judgement effectively reversed significant gains made by the women's rights movement to ensure that gender-based violence is treated with the urgency and weight it deserves.

It is precisely this disconnect between legal decisions at a domestic level and international human rights standards that propels us to work towards growing the pool of skilled advocates who will drive meaningful change in their legal systems and challenge the status quo. Thus, we launched the third cohort of the Feminist Litigation Network (FLN) 2024 – 2026, calling for candidates with a strong interest in feminist legal advocacy and those championing disability rights. While still focused on Anglophone Africa, this iteration will also have a broader geographical scope. During the year, through a series of consultations with partners and women lawyers, we also set the development of a Francophone FLN in motion, starting with creating a supportive ecosystem to nurture lawyers who are undertaking strategic litigation.

Additionally, we broadened our strategic litigation focus to address the physical and socio-economic impact of prolonged delays in prosecution on survivors of violence, the gendered impact of climate change as women's livelihoods are more likely to be affected by changing weather patterns and natural disasters, and the violation of sexual and reproductive health and rights (SRHR) including denial of SRHR services and obstetric violence.

On an operational level, we reviewed our priority area strategies, strengthened our internal coordination, and ensured that our structure remained aligned with our programmatic needs as the geographic footprint, scope, and depth of our work expanded.

Even in the face of an ever-shrinking civic space, we witnessed rising advocacy for women's and sexual rights, reaffirming our belief in, and support of, the feminist movements that have brought us this far. 2024 will be an important year for us as we mark ten years of our existence. The growth and impact we see today would not have been possible without the dedication and support of our staff, donors, and partners across the continent and globally. We are grateful for this support and look forward to ushering in the next decade of ISLA.

Sibongile Ndashe

Executive Director, ISLA

OVERVIEW OF THE ISLA

WHO WE ARE

Operating since 2014, the Initiative for Strategic Litigation in Africa (ISLA) is a feminist, pan-African organisation that uses the rule of law and African domestic and regional courts to advance sexual and women's human rights. Working within the African Regional Human Rights System, we seek to improve the lives of women in general and people whose rights have been violated based on sexuality and sexual orientation, gender identity and expression (SOGIE) in particular. We do this by developing a pool of feminist lawyers, holding states to account, and strengthening our partners' capacity to conduct strategic litigation. In addition, we highlight positive developments and emphasise crosscutting lessons from countries across the continent. We affirm women's leadership and contribution to the African human rights system by focusing on women's voices and experiences in jurisprudence to expose gender bias. We also support civil society organisations across Africa in their efforts to respond to threats and attacks, strengthen civic space, and defend human rights.

VISION

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

MISSION

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

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 work areas 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.
- Building Partnerships for Social Justice (BPSJ) - We collaborate with institutions and individuals that help enhance our work and vice versa and strengthen civil society in general and women's movements in particular.
- 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.
- 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 improve their ways of conducting it in Africa.

SUMMARY OF IMPACT



COUNTRIES COVERED

ORGANISATIONS INVOLVED IN AU REFORMS PROCESS	STRATEGIC LITIGATION CASES	LITIGATION PARTNERSHIPS
Benin Mozambique Rwanda Tunisia	Ghana Kenya Malawi Sierra Leone Tanzania Uganda	Ghana Kenya Malawi Sierra Leone South Africa Tanzania Uganda Zambia

40 **STRATEGIC LITIGATION CASES**
 Covering Ghana, Kenya, Malawi, Sierra Leone, Tanzania, and Uganda domestically, and regionally, the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights

Number of civil society organisations reached on the African Union Reforms Process
105

LAWYERS TRAINED THROUGH THE FEMINIST LITIGATION NETWORK (FLN)

Lawyers who graduated from the FLN • Cohort 2 in 2023 - 2024
8

Lawyers who have completed the FLN programme Cohorts 1 and 2
16

Lawyers in the FLN including Cohort 3.
31

PUBLIC ENGAGEMENTS

4 Engagements on the African Commission through the Litigants' Forum and the Women's Platform

3 Engagements on the African Union Reforms

LITIGATING FOR SOCIAL CHANGE (LSC)

ISLA's theory of change centres on feminist strategic litigation as a tool for social change on the African continent. We engage in strategic litigation through focused work as amicus curiae (friend of the court), advisors to counsel, and legal representation by acting as co-counsel before regional and international bodies. Within the LSC programme, we focus on three broad pillars - violence against women (VAW), sexual rights (SXR), and women's socio-economic rights (WSER). Our goal is to generate and facilitate the creation of a conducive environment for feminist strategic litigation on the continent.

VIOLENCE AGAINST WOMEN (VAW)

OVERVIEW

By articulating progressive standards and contributing to the development of legal precedents, our VAW programme strives to enhance the protection of women from violence in its many forms. ISLA pursues this goal primarily through strategic litigation before domestic courts and regional human rights institutions.

Therefore, our program goal is to litigate and support well-framed and well-argued cases to cultivate a body of positive jurisprudence on violence against women. Focus areas for cases include the state's due diligence obligation to investigate, prosecute, punish and prevent violence against women; delays in justice for victims and survivors of violence; discriminatory VAW laws; 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

Under international law, the State has a due diligence obligation to prevent, protect, investigate, prosecute, punish and provide effective remedies and reparations to victims of violence. Yet, very often, states fail to meet these obligations with detrimental physical, psychological and socio-economic consequences for victims and survivors.

In *IW & another v Attorney General and others*, the Petitioner, 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 proper investigations of rape cases. This case was filed, and submissions were highlighted in July 2022, but judgement was only received at the end of 2023. The judge ruled partially in our favour, granting that the settlement of VAW cases out of court is unconstitutional. However, the remedies we sought for the client were denied. While the client opted not to appeal the judgement, ISLA will continue with post-judgement advocacy work to popularise the judgement and ensure that the case outcomes are more accessible and widely understood.

In *MC & another v Attorney General & others*, the Petitioner, a university student, was raped by an acquaintance. When she reported the incident to the police, the officers accused her of giving the perpetrator “implied” sexual consent since they were friends. The petitioner had to report the matter at the police headquarters before they arrested the perpetrator. Even then, the police bungled the

investigations, and the matter was withdrawn without her consent. In addition to the State’s failure to investigate the case adequately, the case was also subjected to multiple delays as the judge at the Constitutional Division of the High Court who was hearing the matter was transferred. Eventually, we made submissions in open court in 2023 and expect judgement later in 2024.

Mandatory Minimum Sentencing

The Sexual Offences Act No. 3 of 2006 Kenya acknowledges the serious nature of sexual offences by setting mandatory minimum sentences where an accused person is found guilty of a sexual offence. However, several courts, including the Machakos High Court, delivered a judgement declaring that the mandatory minimum sentences provided by the Sexual Offences Act are unconstitutional and they limit the discretion of the court to determine the appropriate sentence to impose. Consequently, various courts across Kenya face an overwhelming number of applications for resentencing by prisoners previously convicted of sexual offences. This precedent claws back on the gains made by women’s rights movements over the years to ensure that the state treats gender-based violence with the gravity it deserves. The judgement, arising from the Court of Appeal in Nyeri in the case of Republic v Joshua Gichuki Mwangi, has been appealed by the Director of Public Prosecutions and is currently before the Supreme Court. ISLA, KELIN, FIDA-Kenya and Women’s Link Worldwide applied to be admitted as joint amici curiae on 25 August 2023 and were admitted by the Supreme Court of Kenya on 10 November 2023.

Consent in rape cases

Survivors of intimate partner sexual violence are confronted by a lack of awareness and discriminatory attitudes held by

police and prosecutors, with the result that their cases rarely proceed to trial. When cases do reach the court, it is not uncommon that judges also fail to understand the dynamics of this form of rape. Coko v S is a critical case that demonstrates how South African courts still fail to adjudicate cases of intimate partner sexual violence in a way that aligns with the country’s constitutional values and with international human rights norms. Although rape committed by women’s husbands, boyfriends, or ex-partners is the most common form of sexual violence, these cases seldom reach the courts.

In October 2021, the Eastern Cape High Court handed down judgment in an appeal by Loyiso Coko, who had been found guilty of raping his then-partner by the Regional Magistrates Court. The High Court found that the accused had not intended to rape the complainant and instead had mistakenly believed that she had consented. The court relied on the fact that the accused and the complainant had engaged in forms of intimacy, such as kissing and oral sex, before intercourse.

The court’s findings, which essentially negated the complainant’s voice and utilised certain rape myths, subsequently prompted public outrage and is currently being appealed to the Supreme Court of Appeal by the Director of Public Prosecutions, Eastern Cape Division.

ISLA applied to join the matter in the public interest to assist in educating the court about what international human rights norms require of governments in responding to intimate partner sexual violence. Courts must also centre the voices and experiences of victims and avoid using rape myths and stereotypes, which have the effect of diminishing victims’ experiences and bolstering the perspectives of perpetrators. ISLA maintains hope that this case will play a critical role in lessening bias against intimate partner cases within South Africa’s criminal justice system and will also help to foster a more victim-centred and rights-oriented response by

authorities to women who report that they have been sexually victimised within the context of a relationship.

Defamation/Women who speak

The Nairobi High Court admitted ISLA as amicus curiae in an appeal from a defamation case against women who speak after sexual violence - Wambui Mwangi v Tony Mochama and another (High Court Civil Appeal No 507 of 2019). This appeal seeks to set aside the whole judgement of the Magistrate court made on 5 August 2019, where the court restrained the appellant from saying, writing, and causing to be published any defamatory statements against the respondent. Further, it ordered the appellant to issue a written apology to the respondent and awarded the respondent general, punitive, aggravated, and exemplary damages. The case on appeal allows for a feminist legal analysis of the proceedings and judgement. This analysis would not only inform the development of jurisprudence around the case but also generally encourage a more informed and balanced discourse in the public domain, which has been one-sided in favour of Mr Mochama.

In its application, ISLA had pointed out to the court the need for additional information on the developments of defamation law in the context of the protection of women from violence and the applicability of the defences of truth and public interest in defamation cases brought against victims of sexual violence when they speak up on their experiences of abuse. ISLA finalised its amicus brief and filed it on 17 March 2023. On 8 May 2023, the court issued a judgement allowing the appeal. However, the court refused to consider ISLA’s amicus brief because it was not part of the proceedings at the lower court. ISLA will apply for review concerning the court’s decision not to consider ISLA’s brief in the final determination of the case. The aggrieved party has also filed a notice of appeal before the Court of Appeal.





SEXUAL RIGHTS (SXR)

OVERVIEW

We prioritise responding to human rights violations based on sexuality broadly, sexual orientation, gender identity, and expression (SOGIE). 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. To bring about broader social change, our strategy focuses on responding to everyday SOGIE-based violations. Specific issues that fall under our attention in the Sexual Rights Programme include:

- Freedom from violence and the obligation to act with due diligence (holding states accountable for failure to protect persons from violence, including failure to investigate, prosecute and punish acts of violence by state and non-state actors).
- Freedom from discrimination.
- Freedom of association and assembly.
- Protection from cruel, inhuman and degrading treatment.
- The right to privacy.
- The right to health and decriminalisation.
- Freedom and security of persons (arbitrary detention and police harassment).

Arbitrary arrests

In October 2017, ISLA and its local partner organisation from Tanzania organised a two-day consultative meeting with local movement members and local lawyers in Tanzania with the overall objective of developing a case to challenge the Ministry of Health's decision to close drop-in centres (where the community accessed certain health services) and the ban of the distribution of lubricants in public health institutions in Tanzania. Shortly after the meeting commenced, it was raided by police, culminating in the arbitrary arrest and detention of 12 people - nine Tanzanian activists/participants, two South African lawyers and one Ugandan lawyer. At the time, the reason for the detention, according to the police department and public announcements by the Tanzanian government, was the 'promotion of homosexuality', even though, under no law in Tanzania, is 'promotion of homosexuality' an offence. The matter ultimately culminated in the individuals' release with no formal charges against them, and the police deported the three foreign nationals.

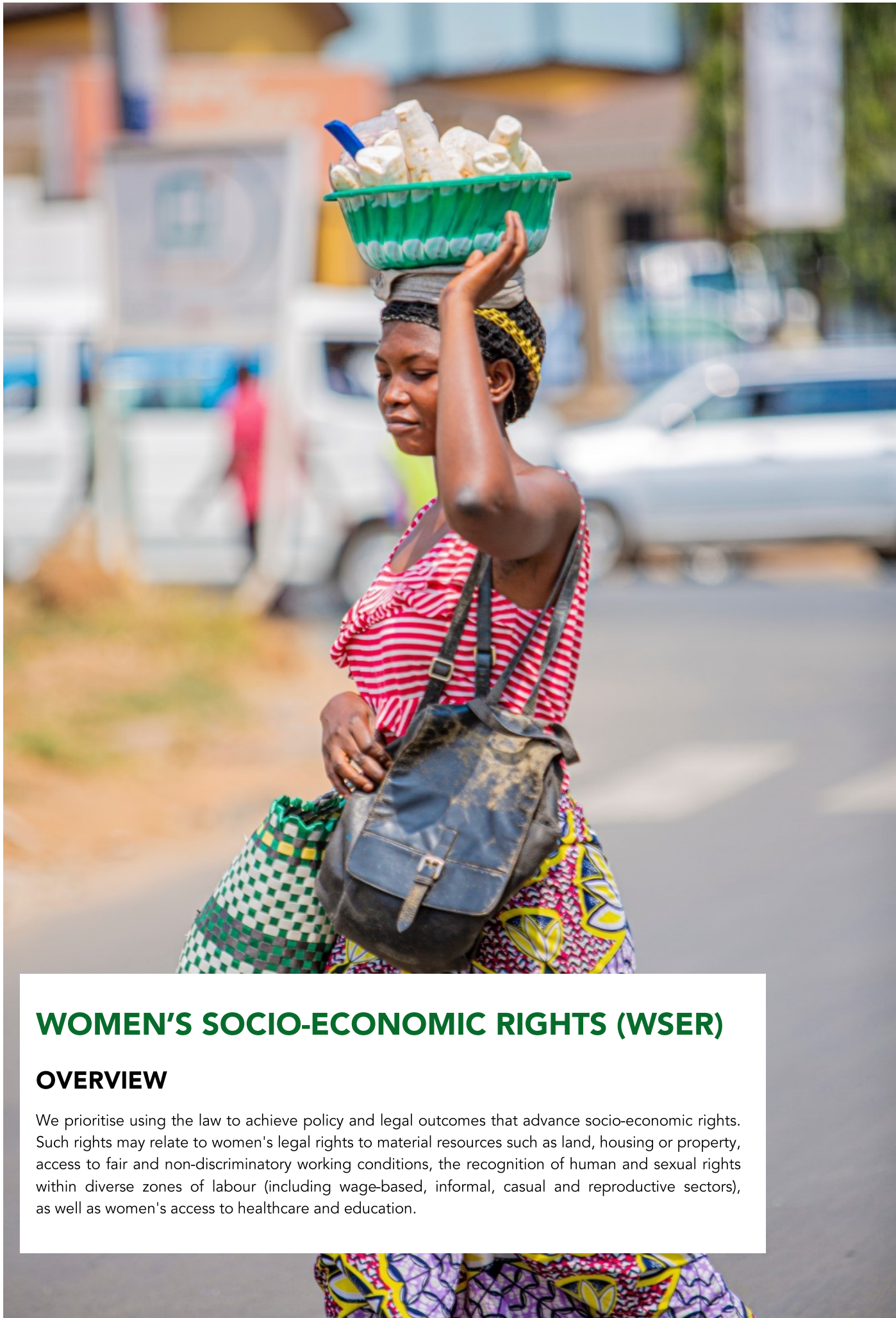
Following the 2017 arrests and the continued regression in the rule of law in Tanzania, ISLA initiated legal proceedings against the Tanzanian government to uphold the protection of the rule of law and obtain judicial confirmation of the need to ensure the right to liberty. A vital element of the litigation (*TZ3: Ndashe v Min Home Affairs*) was to overturn the decision of the Minister to deport the foreign lawyers. The litigation also sought to hold the Tanzanian government accountable for the individuals' rights. The case was heard with the affected ISLA staff and state witnesses, who gave their evidence (in Swahili, without interpretation or opportunity for effective cross-examination). The case received summary judgement on 26 July 2023. The court provided a summary of the draft judgement indicating that the application had been dismissed. The court held that there was probable cause for the arrest of the plaintiffs. ISLA plans to appeal the judgement.

On 20 May 2021, two Ghanaian LGBTI-led organisations hosted a paralegal and human rights training workshop on

intersex rights for their volunteers in Ho, Volta region. During the training, police raided the meeting, claiming they had been informed that the group was having an LGBT conference. The 21 participants and organisers (also referred to as "*Ho 21*") were arrested, detained and charged with "unlawful assembly". The police released a press statement announcing the arrests due to an unlawful assembly according to sections 201 and 202 of the Criminal Defence Act. After being denied bail several times, the detainees were finally granted bail by the Ho High Court on 11 June 2021 on the basis that not doing so would be an infringement of their fundamental rights. In August 2021, the Ho Circuit Court dismissed the case because the Prosecutor and Attorney General acknowledged there was insufficient evidence to prosecute the group for unlawful assembly with the supposed purpose of promoting same-sex activities. Throughout their unlawful arrest and detention, the individuals were subjected to harassment, assault, discriminatory treatment, and other violations of their constitutional rights.

ISLA had appointed legal counsel in Ghana to challenge the constitutionality of a time restraint in raising a case against the arbitrary arrests and joined the matter of Ativor Holali in the litigation. This case was rejected by the Supreme Court of Ghana, which exhausted all local remedies for challenging the time constraint to lodge a complaint in both cases. ISLA is now developing a strategy to allow the matter to be put before the African Court. However, the filing was delayed to allow for broader stakeholder consultations with the African Civil Society Engagement (ACSE) partners. The consultations showed general support for the case but also concerns around risk assessment in terms of the community in Ghana and the anti-homosexuality bill passed in February 2024.

As part of the advocacy process, we organised and hosted a consultation meeting with Ghanaian civil society and SOGIE movements to introduce the regional case to them. Additionally, ISLA is working with Synergia and will liaise with other partners to facilitate funding for the basket of care for those affected by the arbitrary arrests.



WOMEN'S SOCIO-ECONOMIC RIGHTS (WSER)

OVERVIEW

We prioritise using the law to achieve policy and legal outcomes that advance socio-economic rights. Such rights may relate to women's legal rights to material resources such as land, housing or property, access to fair and non-discriminatory working conditions, the recognition of human and sexual rights within diverse zones of labour (including wage-based, informal, casual and reproductive sectors), as well as women's access to healthcare and education.

CASE HIGHLIGHTS

Gendered impacts of climate change

Kituo Cha Sheria v Attorney General Iten ELC No. E002 of 2022, Kenya is a case challenging the Kenyan government's legal obligation to take measures to adapt to the effects of climate change and mitigate the impacts of climate change in the Rift Valley Basin. The petitioners in this case, who are inhabitants of the area surrounding Lake Baringo, claim that owing to the failure of the government to provide a sufficient response to climate change and mitigate its impact, they have suffered acute climate vulnerability, which has affected various aspects of their lives including health, source of livelihoods, and their natural habitation. The Environmental and Land Court admitted ISLA and KELIN as joint *amici curiae* to provide the court with information on the legal standards and principles that demonstrate the link between women socio-economic rights and climate change, the gendered impact of climate change and its disproportionate effect on women.

The National Land Commission filed an application seeking to have the case removed from the court and the Commission be allowed to adjudicate the matter. ISLA and KELIN filed an opinion on the question of jurisdiction focused on the implications of ousting the court's jurisdiction in claims for enforcement of fundamental rights. The court ruled on March 2024 and found the ouster clauses as inapplicable because of their impact on the right to access to justice and the right to an effective remedy.

In June 2024, KELIN and ISLA filed the joint amici curiae brief in court. The brief focus is on two issues:

- How women are disproportionately affected by the impact of climate change*
- The nature and extent of state obligation to address disproportionate impact of climate change on women through the adoption of mitigation and adaptation strategies that are gendered*

This information shall assist the court in establish how and why women are more vulnerable to the effects of climate change, the violations that they suffer when climate change programmes do not appropriately respond to women's lived experiences, realities and specific needs of women affected by climate change. More specifically, the information assist the court to engage with the international and regional legal standards and principles on state obligations to adopt a gender lens in developing mitigation and adaptation strategies that prevent negative climate change impact in order to ensure the protection of women as a vulnerable group. The court will therefore be able to acknowledge the importance of adopting a gendered lens to protect women

from the effects and impact of climate change. The case shall proceed for hearing on 26 March 2024.

Joyce Enukan and others v Tullow Oil Kenya and others ELC Constitutional PT No. E001 of 2024

The petition before the court challenges the impacts of exploration and drilling oil in South Turkana Basin by Tullow Oil PLC, a multinational corporation specialized in oil and natural gas exploration. The petitioners claim that in undertaking the exploratory development, the Respondents have caused harmful social and environmental degradation and degeneration through displacements of communities, excessive environmental devastations through clearing of vegetation, dumping of hazardous wastes, oil spills leading to health and human diseases, the spread of diseases due to water, soil and vegetation pollution; adulteration of underground and surface water quality, and destruction of the habitat through negligent acts of dumping extractive hazardous waste. The Petitioners claim that the actions of the Respondents have violated the Petitioners rights to clean and healthy environment, clean and safe water in adequate quantities, right to the highest attainable standard of health, right to life, right to development and security of person.

This petition is therefore important because it raises issues of grave importance on the impact of extractive activities on the host community and the nature and extent of state obligation to protect the host community from the harmful effects of extractives.

ISLA and KELIN sought leave to intervene in the case as joint amicus and filed the application in September. On 22 October 2024 the court admitted ISLA and KELIN as joint amici curiae in the case. The joint amici shall provide to the court information on:

- How women are disproportionately affected by social and environmental impacts of extractive industries*
- The nature and extent of state obligation to eliminate indirect discrimination against women in the extractive industries*

This information will be crucial to help the court appreciate the legal basis for protection which states should accord to women affected by extractives activities. The information will further enable the court to engage with international law principles and standards that gives expression to gendered approach to addressing the impact of women human rights violations arising out of the impacts of extractives activities.



Labour exploitation and sexual harassment

In *Kituo Cha Sheria and others v Cabinet Secretary Ministry of Labour and Social Protection and others*, ELC Petition No. ELC 038 of 2023 immigrant domestic workers in Saudi Arabia are seeking to hold the Kenyan government accountable for human rights violations they experienced while working in Saudi Arabia. These infringements included physical, psychological and sexual abuse; labour exploitation that included forced labour; contract substitution and other acts of slavery, including passport confiscation; working long hours; and 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 and the breach of their fundamental rights and freedoms.

ISLA and FIDA-K in an application dated 30 September 2024 are seeking admission as joint amici curiae in the case to provide information to the court on the nature of state obligations to prevent, protect, and respond to human trafficking of women for labour exploitation. As a result, using the due diligence framework, the court can determine whether Kenya should be held accountable for the actions of non-state actors who traffic women for labour exploitation. In addition, the joint amici brief will demonstrate to the court why trafficking women for labour exploitation is a form of discrimination against women as a segment of workers and as a vulnerable workforce. The court shall hear the application for joinder on 18 March 2024.

DK v Rileys Services Ltd ELC Petition No. E61 of 2021; the petition sought 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.

The court rendered its judgment on 17 October 2024 dismissing the petition in its entirety. The court did not find evidence of constructive dismissal and violation of the Petitioners' rights.

Recognition of marriage and family forming unions

Naisonzi Annet v Attorney General (Uganda) Misc Cause No. 277 of 2022, a case challenging the failure to recognize *de facto* monogamous cohabitation as a form of a family forming union. The client was in a monogamous cohabitation union for a period of 27 years. The union came to an end and her partner sought to evict her from family home, a property acquired during the subsistence of the cohabitation union through joint efforts. She filed the case at the Civil Division of the court seeking to enforce her fundamental rights. She claims that the failure of the state to enact a law that protects the rights and interests of persons in cohabiting relationships, has led to the violation of her rights to protection from discrimination, and property. She sought a remedy for a share of the family home.

The case was mentioned on 15 February 2024. The presiding judge was of the view that the case as framed was problematic as the applicant would not have a valid constitutional claim against the cohabiting partner owing to the fact that there was no horizontal application of fundamental rights in Uganda. Further, the case raised interpretative issues which were within the ambit of the Constitutional Court jurisdiction. In October 2024, a case strategy consultation was held and a new strategy for litigating the case at the Constitutional Court was adopted.

The case will be brought under Article 137(2) of the Constitution of Uganda, for the Constitutional Court to

interpret the question on State obligation to protect women who are in family forming unions that are not legally recognized marriages. Article 137(4) mandates constitutional court in addition to interpretational duty to provide redress where appropriate. This case shall therefore be seeking both interpretation of the constitution and provision of redress for Nassozi.

Coppler's Attorney and Consultancy v Attorney General Petition No. E75 of 2022

The petition seeks an interpretation of Article 45 (2) of the Constitution on the right to marry and found a family to include a commensurate right to divorce. The petition challenges the constitutional validity of the requirement to prove fault in divorce cases, arguing that parties should be allowed to divorce by mutual consent.

ISLA filed an amicus brief surfacing the gender discrimination inherent in a fault-based system of divorce and the disproportionate effect it has had on women; and historical developments in divorce laws in other jurisdictions and used comparative law to argue on the need to develop Kenyan domestic law on divorce to match regional and global standards in keeping with the ideals of our Constitution on equality and right to found a family. The case was heard on 30 September 2024 and judgment has been reserved for 19 April 2025.

Division of Property at divorce

FIDA-Kenya v Attorney General Civil Appeal No.238 of 2018 deals with the constitutional interpretation of Section 7 of the Matrimonial Proceedings Act that provides that parties are entitled to marital property as per their contribution at divorce. The case is an appeal from the High Court matter, which found that it was constitutional to consider contributions made by parties towards acquiring matrimonial property during the subsistence of the marriage. The High Court admitted ISLA as an amicus curiae in the proceedings. In the Court of Appeal, ISLA applied to continue participating as amicus curiae. This is because the Court of Appeal rules do not have a provision for amicus curiae, and ISLA's application seeks to develop the practice and procedure for amicus curiae intervention. The court issued a ruling in March 2024 and admitted ISLA as an amicus in the proceedings.

ISLA developed its brief to the court that seeks to highlight how the impugned law despite being gender neutral is discriminatory against women because of its disproportionate impact on women's right to share of matrimonial property by establishing to the court the legal

Innocent Ngobi Ndiko and others v Attorney General of Uganda Constitutional Petition No. 23 of 2020; this case is different than any other case that ISLA has intervened in. This is because the petition before the court challenges provisions of the law that protects women's property rights to the extent that they protect women from sharing with their spouses any property they acquire during judicial separation. The case challenges the constitutionality of this law that grants women protection without according the same to men. The provisions of Divorce Act at section 15, 16 and 18 provide that any property a woman acquires during judicial separation is not available for sharing with the

basis for elimination of discrimination against women, the existence of women's right to equal share of matrimonial property upon divorce and how the legal requirement to prove contribution indirectly discriminates against women. ISLA developed its submissions on the following legal issues:

- a) *Regional and international law on distribution of matrimonial property upon the dissolution of marriage;*
- b) *Comparative jurisprudence on distribution of matrimonial property upon dissolution of marriage;*
- c) *Relevant law reform initiatives in comparable jurisdictions;*
- d) *Inconsistencies in judicial pronouncements.*

This information shall be of great importance to the court in determining critical questions concerning the nature and extent of the state's obligations under national and international human rights law to protect and remove gender discriminatory provisions and guarantee the right to equality in matrimonial laws. The case shall be proceeding for hearing on 10 March 2024.

spouse. The Applicants who are men contend that these provisions are discriminatory against the husbands because the law allows women to share in the property the husband acquire during judicial separation. They are therefore seeking the declaration of that law as unconstitutional.

ISLA together with FIDA-U filed an application to be admitted as joint *amici curiae* in the case before the constitutional court. They sought to bring information to the court that would provide guidance on the historical context of the impugned provision that protect the property of women acquired during separation. The *amici curiae* brief sought to demonstrate to the court why the law although

discriminatory in effect, amounts to a positive discrimination and therefore was not unconstitutional as alleged. The joint *amici curiae* sought to develop their submissions on the nature and extent of States' obligation to develop special measures to remedy historical oppression. In addition, the brief sought to bring to the fore the utility of suspension of invalidity as a remedy in constitutional litigation in order to protect those women who had already benefitted from the impugned protection of the law.

The application for intervention as joint *amici curiae* was opposed by the Respondent on ground that the submissions the joint *amici curiae* sought to make will not aid or give assistance to the court that parties to the petition would otherwise render. Further that the 2nd *amici curiae* was partisan and not neutral as the matter before the court is in its core vision and mission.

Unfortunately, when the matter came up for hearing in March 2023, ISLA and FIDA-Uganda were not admitted as joint *amici curiae*. The court was of the view 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. It however directed that it would provide its reasons in the full judgment.

Thereafter, the bench that had been instituted to determine the petition was disbanded and a new bench constituted.

The new bench re-opened the hearing of the application on 12 November 2024. In determining the application for admission as joint *amici curiae*, the Constitutional Court of Uganda found that the joint *amici curiae* had satisfied the criteria set out in Rule 5 of the Judicature (Amicus Curiae) Rules 2022 on admission of *amici curiae* in court proceedings.

The court found both applicants as having considerable expertise in gender equality. The court acknowledged ISLA's involvement as *amicus curiae* before the High Court of Kenya and Supreme Court of Kenya on matters pertaining to gender discrimination and protection of women's rights. The court observed that the joint *amici curiae* brief was grounded in the law, it neither amounted to fresh evidence or a new cause of action nor favour either party to the petition and was likely to aid the development of law and jurisprudence in nature and extent of reliefs available in matters of divorce.

The constitutional court therefore concluded that ISLA and FIDA-U had met the criteria for admission as joint *amici curiae*. The court therefore allowed the application seeking leave to be admitted as joint *amici curiae* and adopted the joint brief already on record. We are now waiting for judgment on the petition.





BUILDING PARTNERSHIPS FOR SOCIAL JUSTICE (BPSJ)

ISLA uses multiple strategies and tactics within and across movements, targeting the social challenges preventing us from enjoying our rights and shaping feminist futures. Our overall approach is to work with others to achieve our objectives that advance social justice. As such, we build effective partnerships through networking and collaborations. Through our two knowledge-sharing networks, the Feminist Litigation Network and the Sexual Rights Litigation Network, we help our partners strengthen their litigation and institutional capacities.

FEMINIST LITIGATION NETWORK (FLN)

OVERVIEW

The Feminist Litigation Network (FLN) aims to cultivate a strong group of effective African feminist litigators within civil society organisations. These lawyers are embedded in the movements and communities whose rights they seek to defend. They also have a sophisticated understanding of the issues that they litigate. 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

Network development

Graduation of the Second Cohort of the FLN

At the end of the FLN Second Cohort’s final Institute in November 2023, eight members graduated, concluding a three-year process of nurturing movement lawyers and feminist litigators. These lawyers will contribute to the growth and strengthening of the African feminist ecosystem. This graduation brings the number of lawyers who have completed the three-year programme to 16. The FLN alumni now geographically represents lawyers from Kenya, Malawi, and Uganda. The finalisation of this three-year process provided valuable lessons on attrition (the second cohort began with 15 lawyers), partnership, socio-political contexts around strategic litigation, and network development. The FLN continues to be vital to our work. FLN members lead all cases in VAW and WSER portfolios, which ensures a wider geographical reach and the continued development of both domestic and regional jurisprudence on women’s human rights.

Recruitment for the third cohort of the Feminist Litigation Network

The recruitment process for the third cohort of the Feminist Litigation Network (FLN) began in July 2023. We identified three parallel processes that run concurrently between September and December 2023. The first process involved a call for applications for all of Anglophone Africa to encourage geographical diversity. The application window opened in September 2023 and closed in October 2023. Secondly, we scheduled a strategy consultation in Burkina Faso in October to develop a Francophone FLN strategy due to challenges in engagement in Francophone West Africa, including practice regulations that prohibit lawyers from being employed in NGOs and a conservative legal culture in Burkina Faso. The third process combined an inclusive recruitment strategy and resource mobilisation termed FLN+, geared towards including sexual and gender minorities (lesbian, bisexual, and transgender women), women with disability, and women within the sexual and reproductive health and rights movement. FLN+ envisions working closely with lawyers already embedded in these three movements to increase their capacity for strategic litigation while enhancing their roles as movement lawyers. Additionally, FLN+ seeks to identify countries increasingly affected by anti-rights attacks and work with movements in those countries as part of the FLN.

FLN Alumni Retention and Engagement

We created a strategy to retain and engage alumni, ensuring that FLN alumni continue to serve the African feminist ecosystem with the following objectives:

- Ensuring the FLN continues to contribute to the African feminist ecosystem,
- Strategic litigation and the pursuit of feminist jurisprudence remain the primary tools through which members of the FLN advance women’s human rights and work to create a feminist future.
- FLN lawyers become embedded in social movements, providing them with a constituency to represent and advocate for through litigation.
- There is continued learning and engagement for members of the FLN to support their growth and development.

The strategy ensures that we continuously improve ISLA’s engagement with institutional partners through a robust curriculum to create an enabling environment for strategic litigation and retaining feminist lawyers. We are also learning to be more deliberate in the legal mobilisation process, working symbiotically and in partnership with movements and not merely as their representatives.

The FLN+ Model

The FLN+ is the expanded Feminist Litigation Network which aims to improve the leveraging of domestic and international legal frameworks to protect the human rights of women who experience intersectional discrimination.

To contribute to this goal, FLN+ will work to achieve the following interconnected objectives:

- Increased capacity of marginalised communities to conduct strategic litigation to advance women’s rights
- Strengthened capacity of women lawyers and human rights CSOs to litigate cases of intersectional discrimination against women
- Enhanced capacity of FLN to address emerging and growing challenges impacting women from marginalised communities

To address the equity challenge, the FLN+ seeks a more diverse and inclusive FLN through geographical diversity, inclusivity of marginalised people, and agility to respond to the realities of strategic litigation. FLN+ focuses on including sexual and gender minorities, women with disabilities, and women within the sexual and reproductive health and rights movement. Additionally, FLN+ seeks to identify countries increasingly affected by anti-rights attacks and work with movements in those countries as part of the FLN. Lawyers within movements that face intersectional discrimination may be better placed to both understand discrimination and how it manifests and have the tools of feminist analysis and strategic litigation to support their movements.



Leah Aoko,
Utu Wetu Trust, Kenya

The FLN was a challenge to strengthen my capacity as a litigation lawyer. When we lead these cases, we often handle them from an NGO perspective, but courts of law are not courts of emotion. No one will listen if you do not submit the proper submissions and make the correct arguments. You have to be able to exercise your professional skills to assist survivors. I see an opportunity for NGO lawyers to be empowered to have the skills in-house to litigate cases. Constitutional or electoral matters are litigated so thoroughly, but it is usually the bare minimum for VAW. We need to be excellent in that realm as well. We need to go deeper to see how laws are gendered, how they influence women’s rights, and how women are inherently disadvantaged because the law was not made with them in mind. When cases come to us, we should be able to look at them from a feminist lens.



Mulenga Chilufya
Chapter One Foundation, Zambia

"I had just been called to the Bar. My organisation does strategic litigation, so I was looking for an opportunity to learn strategic litigation outside the organisation and from a feminist perspective – that stood out to me because I am passionate about women’s rights. When joining the FLN, I didn’t really have an idea of what was expected of me. Still, it sounded like such a comprehensive programme – to learn strategic litigation in a way that breaks down barriers and sets a new path – and that is what I’m looking to do – stand out and do something new. We always apply the law, and now it’s time to challenge it. So I feel that being part of this institute will give me the knowledge and capacity to learn how to challenge the law."



Vitumbiko Mbizi,
Women Lawyers Association, Malawi

"I was moving from private practice to the NGO sector. I wanted to be intentional about the cases I am taking up. I wanted to practise in a way that would have a greater impact beyond just the specific client I was working for. That’s why I intentionally moved to the Women Lawyers Association (WLA), as their work is focused and deliberate in supporting women and children. There was a case where police officers raped a group of women during riots. WLA represented these women, and they were compensated. That is a big case, but usually, you are dealing with normal cases that you may consider small but have a big impact. Maintenance issues or divorce may seem small, but they are just as important as other matters because they focus on women’s experience, and that is what I want to be a part of."

Strategy Consultations on Institutional Strengthening in Francophone Africa

As part of our institutional strengthening work, we hosted a series of strategy consultations in Burkina Faso. The first consultation from 16 – 18 October 2023 centred on the challenges and opportunities between VDF and ISLA and developing an outline of the Francophone FLN model, considering the context of strategic litigation in FWA. This consultation resulted from the need to rethink the engagement strategy in Burkina Faso to ensure that network lawyers remain committed to strategic litigation. A consistent challenge noted was the lack of a shared understanding of what strategic litigation is and how this type of litigation manifests in Burkina Faso. Discussions between ISLA, VDF and ten women lawyers in Burkina Faso again showed that while there was a need to ensure a shared understanding of strategic litigation, the lawyers were willing to learn and

employ it as a tool in their feminist agenda. Through the discussions, we appraised the barriers to full-time commitment to strategic litigation and human rights practice and subsequently agreed on what the FLN model would look like in Burkina Faso.

At the second consultation from 12 – 14 February 2024, we met with our partner NGO, Voix de Femmes (VDF) and two lawyers representing female members of the Burkina Faso bar. The consultation focused on the suitability of Burkina Faso as a pilot country for the Feminist Litigation Network (FLN) in Francophone West Africa. We also discussed the potential and suitability of alternative engagement models for the FLN in Burkina Faso. Based on this discussion, we designed a framework for the FLN in Burkina Faso and Francophone West Africa.

SEXUAL RIGHTS LITIGATION NETWORK

In 2023 we took the decision to discontinue the Sexual Rights Litigation Network (SXLN) having struggled both with setting it up and building traction around it as documented in our SXLN Insights, published in 2022. We opted to launch the insights, strategy, curriculum and other resources online for public use with the offer to provide technical support to movements and organisations that wanted to use the materials to strengthen their networks, legal mobilisation, and sexual rights litigation. Additionally, we took the opportunity to mobilise for resources that would support the establishment of country chapters of the SXLN. We have used strategic engagements to share our insights on the SXLN model and how these can be used by movements in strengthening their legal interventions.



COLLABORATIONS

OVERVIEW

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. ISLA collaborates through case-sourcing partnerships to support its litigation, knowledge production, and capacity-strengthening work. These collaborations enable us to work with first responders, service providers, research organisations, and 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 various actors within the African human rights system who, together, can influence and strengthen regional human rights mechanisms. Through collaborations with the African Civil Society Engagement platform, engagement with the African Commission on Human and Peoples' Rights (ACHPR), and involvement in the African Union reform process, ISLA has significantly contributed to promoting human rights and advancing the protection of marginalised communities in Africa. These initiatives are part of ISLA's broader vision to promote a society where the rights of all individuals, regardless of their sexual orientation or gender identity, are respected, protected, and upheld.

KEY RESULTS

Strengthening regional mechanisms



African Civil Societies Engagement (ACSE)

ISLA is developing a strategy with our partners to coordinate and strengthen African civil society engagement space and their capacity to utilise the African Commission on Human and Peoples' Rights (ACHPR) norms and mechanisms effectively to hold governments accountable. We are working closely with other regional human rights organisations and actors through a coalition called African Civil Society Engagement (ACSE). Through this coalition, we intend to invest in developing a pool of activists who will continuously advocate at the ACHPR. The coalition will also look at strengthening the mechanism to ensure that it is fit for purpose and that there is an enabling environment for our work. Future work by the coalition includes training on regional human rights mechanisms, movement building, litigation, shadow reporting, standard setting and norm development and coordination. ISLA will lead the litigation work. By collaborating with the ACSE, we hope to promote the recognition and protection of SOGIE rights and to build more robust and effective movements for their recognition and protection across the region.

civil society organisations. By mobilising these efforts, ISLA aims to ensure that the reform process is inclusive, transparent, and reflective of the needs and priorities of civil society, ultimately ensuring the AU's commitment to human rights and good governance in Africa.

To fund this project, ISLA and mobilized financial resources to support civil society organizations (CSO) engagement with the AU reforms process. The total amount of funding requested for these activities was **\$424,550**.

On **July 13, 2023**, ISLA organized a donor convening to engage both existing and prospective donors in discussions about funding CSO participation in the AU reforms process. The goal of this engagement was to secure financial support for CSO-led advocacy efforts ahead of the anticipated adoption of the AU reforms in early 2024. The meeting was attended by representatives from **ISDAO, ARCUS, the Foundation for a Just Society (FJS), the African Women's Development Fund (AWDF), and Dreilinden**. During this session, ISLA presented a detailed overview of the AU reforms, emphasizing their potential impact on human rights mechanisms in Africa.

Following the donor convening, ISLA's resource mobilization team continued engaging with donors by filling funding applications, drafting work plans, and finalizing funding agreements. This sustained effort ensured that financial support was secured for critical activities, including knowledge production, member state engagement, and direct advocacy with the AU reform team.

These efforts resulted in receiving a **total of from ISDAO, FJS, AWDF, CIVICUS, the Other Foundation, and UHAJ**. *(Some funds were received in ZAR and some in USD; finance would be best fit to do the conversion and give a total amount in either USD or ZAR).*

AU Reforms Project

ISLA is playing a pivotal role in raising civil society awareness and facilitating engagements on the ongoing African Union (AU) reforms process, which has seen limited civil society consultation and participation. Along with other organisations, ISLA is actively working to implement strategies to participate in the process. These strategies include generating media awareness and knowledge production, engaging with the reforms committee, fostering dialogue with member states, and collaborating with other



CSO engagement played a central role in raising awareness, strategizing interventions, and mobilizing advocacy efforts around the AU reforms. Several key activities were conducted under this initiative.

On June 9, 2023, ISLA, in collaboration with CHR, IHRDA, and Synergia, hosted a **webinar on the AU reforms and their implications for the African human rights system**. The primary objective of the session was to provide an educational platform for CSOs to better understand the reforms, key themes, and the role of critical actors involved in the process. Facilitated by Dr. Remember Miamingi, the webinar was also interpreted into French to ensure participation from Francophone Africa. This session helped CSOs identify strategic entry points for engagement in the reform discussions, and a recording of the webinar was made available for broader access.

Following the webinar, a **CSO Strategy Meeting** was held on June 26, 2023 to bring together civil society actors for in-depth discussions on engagement strategies. During this meeting, participants were divided into breakaway groups to brainstorm and refine approaches to advocacy.

Some of the identified strategies include:

- *Knowledge dissemination: conducting research, analysis, and impact assessments to identify potential risks and opportunities*

- *Civil society engagement: identifying spaces such as CSO-led conferences that would be suitable for CSO mobilisation, engaging CSOs at the ACHPR and AU Summit, diversity and inclusion convenings with Feminists and LGBTQI, and engaging ECOSOCC and other CSOs working on the AU Reforms.*
- *Engagement with member states: identifying the position of member states, engaging with diplomats, engaging states and developing relationships with allies who want to strengthen the accountability mechanisms.*
- *Engagement with the reforms team: meeting with the team to discuss CSO inclusion in the process.*
- *Effective use of media and communications to raise awareness and ensure CSO inclusion in the process.*

To further sustain engagement, a **working group meeting** was held on July 26, 2023. The meeting aimed to define the roles and responsibilities of working group members and formulate a work plan with clear timelines and deliverables. Initially, four separate working groups were created for each engagement strategy, but due to limited active participation, these groups were later consolidated into a single AU Reforms Working Group. A dedicated mailing list and WhatsApp group were set up to facilitate communication and coordination among participants.



A major milestone in the engagement process was the **CSO Roundtable on AU Reforms**, held on the sidelines of the 77th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) on October 19, 2023. This session, attended by 33 CSO representatives, provided an opportunity for participants to gain deeper insights into the reforms and their implications for the African human rights system. Many attendees revealed that they had no prior knowledge of the reform process, underscoring the need for continued outreach. Concerns were raised about the exclusion of CSOs from Francophone West African countries, particularly in regions under military rule where state repression limits civil society participation. The session also generated recommendations, including the need for an accountability mechanism to ensure state responsiveness to CSO concerns, as well as country-specific engagement approaches to strengthen regional participation in reform discussions.

On October 21, 2023, ISLA co-hosted a **consultation session** on the nomination and selection of members of human rights mechanisms in Africa in collaboration with the Robert Kennedy Foundation (RFK). This session provided a comparative analysis of selection processes within the Inter-American System, the United Nations, and the European Union. Participants discussed strategies for strengthening CSO involvement in the nomination and selection of

commissioners within AU human rights bodies. Several recommendations emerged, including the establishment of a voluntary working group to monitor upcoming commissioner vacancies, the appointment of regional focal points to track human rights body appointments, and the development of a publicly accessible database for monitoring nomination processes.

The final CSO engagement event of 2023 was the **webinar on the Feminist Framing of AU Reforms**, held on November 24, 2023. Organized in collaboration with Liberation Alliance and African Feminism, this webinar focused on amplifying feminist perspectives in the AU reform discussions. With 141 registered attendees, the session highlighted the importance of feminist leadership in shaping Africa's future governance. Key takeaways included the need for greater feminist participation, a shift from reactionary advocacy to proactive agenda-setting, and stronger cross-continental collaboration among feminist groups. Participants also called for a follow-up webinar to continue engagement on these issues.



Knowledge Production & Dissemination

Knowledge production was a crucial component of ISLA's strategy to enhance civil society engagement with the AU reforms process. The goal of this initiative was to equip CSOs, policymakers, and other stakeholders with the necessary information to critically analyze and respond to the proposed AU reforms. A variety of research and advocacy materials were developed, aimed at increasing awareness and guiding strategic interventions.

To ensure that knowledge production efforts were structured and impactful, ISLA developed terms of reference (TORs) for a consultancy to conduct a comprehensive and in-depth study on the AU reforms process. The research sought to examine the origins, focus, and proposed changes within the AU reform agenda while assessing their implications on the African human rights system. The research also aimed to identify effective strategies for CSOs, states, and the AU reforms committee to mitigate any negative consequences that could arise from the process.

As part of this initiative, ISLA, appointed a consultant to produce a CSO Position Paper on the AU reforms. This paper outlined key concerns regarding the reforms, the potential impact on human rights mechanisms, and recommendations for safeguarding civil society participation. A validation meeting was held on January 11-12, 2024, where CSOs reviewed and finalized the paper. The outcome of this session was the adoption of a unified CSO position on the AU reforms, which will be presented as a formal submission to the AU reforms consulting team.

Additionally, ISLA commissioned a comparative study on AU reform processes in other regional human rights systems to identify best practices that could be leveraged for CSO engagement. This study analyzed reform experiences from the United Nations (UN), the Inter-American System, and the European Union (EU), providing insights into how CSOs in other regions have navigated similar processes. The findings are expected to guide the development of policy recommendations for enhancing civil society participation in the AU reforms process.

Women's Platform

Bridging the Gap Coalition (ISLA, KELIN and Dullah Omar Institute)

The Bridging the Gap Coalition (composed of ISLA, KELIN and the Dullah Omar Institute) reached a consensus in May 2023 to redirect litigation efforts towards cases associated with Obstetric Violence. This shift is harmonious with ongoing efforts by ISLA to advocate for the recognition of Obstetric Violence as a form of sexual and gender-based violence (SGBV) and for it to be legitimised within legal frameworks. Following the partner's meeting in May, the coalition hosted a Women's Platform side event focused on obstetric violence on 18 October 2023 at the ACHPR 77th Session. The roundtable discussion offered a foundational understanding of obstetric violence in Africa, aiming to equip participants to explore specific aspects and nuances of Obstetric Violence in future discussions and research endeavours.

Resolutions from the roundtable included:

- Addressing the complexities of obstetric violence within the legal frameworks requires careful consideration of specific circumstances and objectives, alongside an understanding of the strengths and limitations of each legal paradigm.
- Tailoring the approach to the unique aspects of obstetric violence is crucial for achieving justice and protecting women's rights during childbirth.
- Exploring whether the Commission can develop a General Comment on OV primarily owing to the lack of a uniform recognition and standardised definition of OV within the legal literature, resulting in interpretational ambiguity and inconsistency, which subsequently complicates the identification and adjudication of obstetric violence cases.

The event served as a crucial starting point for examining the complexities of obstetric violence within the African legal framework.

Strengthening civil society

GBV Charter for the Arts Sector (Session at the National Arts Festival in Grahamstown)

As in many other economic sectors, the arts and creative industries have not been spared, with reported cases of gender-based violence (GBV) and sexual harassment. The ongoing emergence of cases has required us to focus on the specific manifestations of GBV in the entertainment industry and the conditions that create an enabling environment for GBV to thrive. In response, ISLA, the University of Johannesburg, the GALA Queer Archive, and the National Arts Festival have developed a draft GBV Charter for the Arts Sector in South Africa. As the technical partner, ISLA has provided legal advice on the substance of the charter to help it become more victim-centred. The charter intends to provide a framework to support victims and survivors and help people with varied contractual relationships with artists or those employed in the sector to respond. To ensure the charter is responsive to the complexities of the arts sector, during the National Arts Festival in Grahamstown (30 June – 2 July), ISLA held a consultative session with partners and relevant stakeholders to generate feedback on the charter's substance, institutionalising and operationalising.



National Strategic Plan on Gender-Based Violence and Femicide (South Africa)

NSP Council Bill Submission

The National Council on Gender-Based Violence and Femicide Bill was open for further submissions until 29 January 2024. The Advocacy working group of the Call-to-Action Collective, in collaboration with Lawyers for Human Rights, independent activists, and the Call-to-Action team broadly, prepared a submission. As part of the submission, the collective reiterated that they fully support the establishment of a National Council on Gender-Based Violence and Femicide as it is part of a plan for a fully costed and fully funded NSPGBVF, which they have advocated for since 2018.

The crux of our submission around the current version of the Bill related to:

A shortcoming in the establishment of the GBV Fund and its architecture. The current Bill is silent on the duties of the Council to establish a transparent process for allocating funds for the implementation of the NSP. We submitted that reference should be made to the NSPGBVF (Chapter 5) for the GBV Council's effective establishment and that it be stated explicitly that a National GBVF fund will be established, with clarity on the architecture of the Fund and how it will be constituted.

Interventions around the composition of the Council. During the 2018 multi-sectoral GBVF Summit, participants determined that the Council should consist of 49% government representatives and 51% from civil society, ensuring that the perspectives of marginalised groups are prominent. In our submission, we urged the National Council of Provinces to take note of the Department's unilateral decision to amend this decision on behalf of the government.

Tagging of the Bill. The NSPGBVF lists provinces and municipalities as part of the institutional framework that is key to implementing the NSP. By refusing to specifically include roles for provinces and municipalities in the Bill, the Department of Women, Youth and Persons with Disability and the State Law Advisor have eliminated a critical component of the institutional framework set out in the NSP.

Regulations to the Bill. The drafters of the Bill vaguely refer to regulations but fail to expressly provide for them in the Bill itself. Consequently, no clause expressly provides for the drafting of regulations within a specified time frame. We submitted that the failure to indicate when regulations should be drafted for the implementation of the Bill is likely to impact the rollout of the Bill.

For more information on the submission to the NSP Council Bill, please read the two opinion pieces that have been self-published here: <https://medium.com/@calltoactionza>.

#FundtheFight project (Advocacy working group)

The NSP on GBVF, adopted in 2020, delineates essential institutional arrangements crucial for its effective implementation, including a council, a fund, and accompanying legislation. However, notable shortcomings persist in the state's execution of these provisions, often deviating from the NSP's stipulations. The Call-to-Action Collective has consistently monitored this implementation deficit and actively holds the state accountable for its mandate. The #FundtheFight project is the Collectives' ongoing advocacy effort to emphasise the necessity of a cost-effective and adequately funded NSP. The Collective asserts that only through robust institutional structures can the NSP's envisioned outcomes be realised.

Strategic Partnerships

Waging Justice for Women Fellowship (Clooney Foundation)

ISLA is a partner organisation for the Clooney Foundation for Justice (CFJ), Waging Justice for Women Fellowship Program. The program aims to equip African gender justice champions to challenge inequality through the courts. The fellows, all qualified lawyers, are embedded in a human rights or legal advocacy organisation for a year and contribute to delivering access to justice for women and girls while receiving mentorship, training and access to leading legal professionals across Africa and globally. Human rights lawyer, Chuma Bubu (South Africa), joined ISLA as the 2023 - 2024 WJW fellow. Her work included research for the mandatory minimum sentencing case in Kenya (see pg. 14), research and drafting in the climate justice case (see pg. 8), and research on women who speak out about sexual violence they have experienced and are subsequently sued by their perpetrators for defamation in South Africa.

Research Support Partnerships

Faculty of Law, University of Pretoria

ISLA partnered with the Faculty of Law at the University of Pretoria to design a curriculum on feminist lawyering tailored to the unique challenges of immigration detention in South Africa for students undertaking the Community and Law Module. The curriculum explores human rights standards applicable to immigration detention, delving into international frameworks and national regulations to ensure compliance with global standards. It also examines the protections, legal frameworks, and human rights standards that address the treatment of women in immigration detention to highlight and address their unique challenges. This partnership enhances student's academic experience by providing an opportunity to engage with real-world issues and it contributes to the broader goal of building feminist legal frameworks that promote justice and uphold human rights within African legal systems.

Harvard Human Rights Law Clinic

ISLA's partnership with the Harvard Human Rights Law Clinic leverages the expertise of law students by guiding research focused on critical legal decisions, advocacy efforts, and comparative insights from global regions regarding SOGIE rights, ISLA hopes to gain insights from the research that can be applied to litigating SOGIE rights within the African context, specifically before the African Court. Applying this research will advance ISLA's overarching commitment to fostering justice and equality across Africa.

Internship Programme, May 2023

Our annual internship programme commenced in May 2023. Interns received a comprehensive briefing on the organisation's mission and ongoing projects. They also received work plans outlining their roles, responsibilities and learning objectives during their time with ISLA. We have designed these work plans to ensure interns understand their assigned tasks and align with the organisation's goals and projects. Importantly, they allow interns to maximise their learning opportunities and enable them to make valuable contributions to our team.

Language justice ISLA 2023

ISLA is expanding its efforts in Francophone West Africa by establishing the Feminist Litigation Network. This network aims to build partnerships with organisations dedicated to protecting women's and sexual rights, utilising strategic litigation as a means of social change. In these countries, French is the business language; as such, it is imperative that our partners can access and understand our communication. Key to the effectiveness of our work in Francophone Africa is clear, timely, consistent and accessible communication. Effective communication will ensure a shared understanding and analysis of issues we must collectively address and programme priorities. Prioritising communication will allow us to foster frequent engagement on progress, risks, and other issues that accompany a litigation process. As a result, ISLA will now ensure that all our communication materials, such as website updates, publications, and social media posts, are translated, and we will provide interpretation at ISLA events.

Effective communication will ensure a shared understanding and analysis of issues we must collectively address and programme priorities.



STRENGTHENING CAPACITY TO LITIGATE STRATEGICALLY

Although strategic litigation can be a powerful tool for social change, it remains underutilised. Our model, therefore, emphasises investing in local institutions and individuals through capacity-strengthening activities that promote the use of strategic litigation. Through our Feminist Litigation and Sexual Rights networks, we work with institutions and NGOs 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.

KEY RESULTS

Violence against Women (VAW) Institute

From 3 to 14 July 2023, ISLA held its Fifth Litigation Institute of Phase Two of the FLN Litigation Institute in Johannesburg, South Africa. The Institute focused on practical ways of using strategic litigation in the context of the due diligence state obligation to enact laws to protect women from VAW and specifically to address sexual violence and domestic violence. The first week covered feminist legal methods, due diligence standards in international law, due diligence and state obligations to legislate on VAW, due diligence and protection from sexual violence, due diligence and domestic violence. The second week covered practice and procedure, particularly legal practice management and included oral and written assessments, culminating in a moot court. We have also implemented a learning and development tracker, which each FLN lawyer populates with information based on their assessments. This process helps lawyers manage their capacity development activities more effectively outside the institutes.

Women’s Socio-Economic Rights Institute

ISLA held its WSER Institute from 21 November to 1 December in Mombasa, Kenya. The Institute, themed Women and Economic Justice was the final Institute for FLN Cohort 2.

Topics covered during the first week included an introduction to women’s economic justice, women in the low-paying and informal economy, legal protection of domestic workers, and protection of women from sexual harassment. The second week focused on practice and procedures around creating an enabling environment for feminist strategic litigation, including discussing the recent jurisprudential developments in instituting Amicus briefs, trial advocacy for feminist strategic litigation, and assessment of costs in feminist strategic litigation.

VAW litigation should rely on 'substantive standards' enshrined in the founding charters of international or regional organisations and in national constitutions.

In-depth Seminar on Due Diligence State Responsibility to End Violence against Women

The VAW In-depth Seminar on Due Diligence was held from 28 – 30 June 2023. The seminar focused on seven strategic cases at various stages of litigation on the state's responsibility to act with due diligence to prevent and effectively respond to VAW. The objectives of this seminar were to facilitate networking among lawyers and the sharing of valuable knowledge that would assist them in drafting effective briefs on due diligence. Participants aimed to document relevant cases and explore how they could sustain potential feminist legal victories. The seminar also sought to develop a network of feminist litigators equipped with the skills necessary for applying due diligence standards in cases of violence against women (VAW). It also aimed to create a repository of information for those seeking to utilise due diligence to combat VAW. The seminar activities included case presentations by selected network lawyers and reflections by invited expert reviewers.

Some of the key takeaways from the seminar included:

Litigating VAW as discrimination: To develop legal arguments that surface ways in which VAW amounts to discrimination, litigation should rely on 'substantive standards' enshrined in the founding charters of international or regional organisations and in national constitutions.

Litigating Due Diligence: When framing and drafting arguments on due diligence, a state's positive obligations must be reinforced rather than undermined; litigating due diligence is about ensuring compliance with those obligations. It is, therefore, essential to understand the meaning behind each positive obligation in the Constitution (respect, protect, promote, fulfil) before drafting any due diligence obligations, as they serve as the framework upon which we can craft specific rights and due diligence obligations.

Ideological Contestations: When developing feminist briefs, lawyers should consider how their ideological beliefs could affect the drafting process. Resolving ideological contestations is not impossible, but it requires open conversations between stakeholders about the organisation's overall feminist direction and its overall impact on furthering equality



Francophone Strategic Consultative Meeting, 3 – 4 April 2023

In April 2023, we organised a Francophone Strategic Consultative Meeting as part of a research project to develop a forward-looking strategy to guide ISLA's intervention in Francophone West Africa (FWA). We evaluated our implementation model in Francophone West Africa (FWA) during the 2019 – 2022 Implementation Cycle to collect and document network partner experiences and to identify FWA legal experts conducting strategic litigation on women's rights. In addition, we conducted a comparative analysis of the differences in strategic litigation processes in Anglophone and Francophone Africa. We also developed a relevant, comprehensive, and perceptive litigation strategy for ISLA's work in FWA

Francophone Capacity Strengthening Strategy Consultation, 19 – 20 October 2023

As part of our reflections on our work in Francophone Africa, we held a strategy consultation to perform an in-depth comparative analysis of ISLA's interventions in Anglophone and Francophone Africa legal systems, cultures, and representations. Additionally, we explored ways to sustain feminist successes in strategic litigation within Francophone West Africa (FWA). Selected participants were sourced from practising lawyers, magistrates, and academics from Burkina Faso and invited to a two-day session in Ouagadougou.

Based on the findings from ISLA's publication on comparisons between the legal systems in Francophone and Anglophone Africa, the first day focused on similarities and differences between these two jurisdictions and feminist strategic litigation in both Francophone and Anglophone systems. On the second day, discussions shifted to ISLA's second Francophone Publication, which detailed ISLA's entry into FWA, its lessons, barriers, and opportunities. We will include reflections from the strategy consultation in ISLA's upcoming publications on conducting strategic litigation in FWA. These lessons will inform ISLA's broader strategy as it expands into FWA.

PRODUCING KNOWLEDGE FOR SOCIAL CHANGE (PKSC)

To improve our understanding of strategic litigation in Africa and develop more effective strategies, we prioritise producing knowledge and creating materials that are useful to ourselves, our partners, and other organisations. As well as documenting our own strategic litigation experiences on the continent, we also seek to unearth undocumented knowledge held by feminist litigators, and we provide feminist alternatives to the gendered knowledge and legal interpretations 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 includes publications, public engagements (including seminars, lectures, and dialogues) and webinar series with invited or curated audiences and participants who can contribute to the discussions.

KEY RESULTS

Publications finalised in 2023 - 2024 (published on ISLA's website [here](#)):

Strategic Litigation in Francophone West Africa: Comparative Reflections on Legal Contexts, Systems and Practice' ([Link](#))



As part of its overall objective to develop a pool of feminist lawyers and feminist jurisprudence in Africa, ISLA, in partnership with the Foundation for a Just Society, envisioned expanding its model into Francophone West Africa (FWA). This publication is one of two works that detail ISLA's experience in FWA. It offers a comparative study between Francophone (civil law) and Anglophone (common law) legal systems, legal culture, and representation and how their similarities and differences can positively or negatively influence strategic litigation in FWA. Findings from the comparative analysis are used to evaluate the FWA legal system to understand how best to strengthen the practice of Feminist Strategic Litigation in FWA.

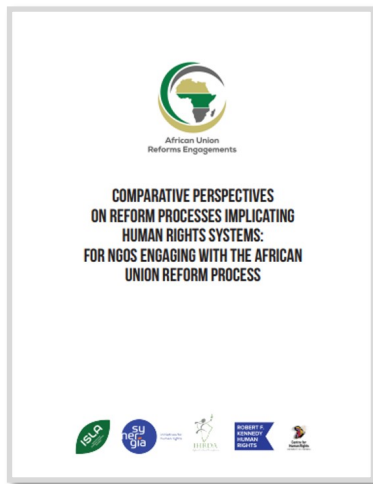
Some documented reflections are that the enabling factors for strategic litigation in FWA include constitutionalism, a pluralist civil society, a supportive record of treaty ratification, and the institutional frameworks that advance women's rights. The barriers to strategic litigation in FWA include a reluctance by lawyers and activists to engage in strategic litigation for fear of repercussion. The legal practice culture is also limited in its conceptualisation of how lawyers can engage in public interest strategic litigation within civil society organisations beyond traditional bar practice. There are also few women lawyers, which means there is a small pool from which to draw and develop feminist lawyers. Additionally, many FWA countries are patriarchal societies and resistant towards gender equality and progressive sexual and reproductive rights. Consequently, as ISLA's model was designed for an Anglophone common law system, it must be adapted to navigate the operational context in FWA and capitalise on existing enabling factors to advance strategic litigation.

ISLA in Francophone West Africa: Past Experience, Present Lessons, and Future Strategies ([Link](#))



Building on the contextual analysis presented in the first publication (*see above*), this INSIGHTS publication is the second instalment documenting ISLA's experiences in Francophone West Africa (FWA). The publication is both reflective and prospective. It begins by reflecting on ISLA's Francophone West Africa (FWA) approach and the attendant impact of this approach, and it concludes with recommendations for this strategy moving forward. Although FWA is a prime avenue for feminist strategic litigation, navigating this realm presents legal and practical challenges, particularly for Anglophone Africa-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. Practically, linguistic disparities and disparate legal and cultural nuances can create barriers, potentially hindering collaboration between Anglophone lawyers and their Francophone counterparts.

Despite these challenges, the importance of engaging in this space cannot be overstated and provides the overarching justification for this publication. FWA is home to pressing gendered issues that demand collective judicial intervention and feminist strategic litigation. By venturing into this context, Anglophone African-based NGOs can bridge gaps, enrich their legal strategies, and foster solidarity with their Francophone peers. Moreover, advancing feminist strategic litigation in Francophone West Africa is crucial for promoting gender equality, dismantling discriminatory practices, and strengthening the broader African feminist movement, transcending linguistic boundaries to create a more inclusive and powerful force for change. Therefore, the primary rationale behind this publication lies in its potential to serve as a valuable resource for feminist strategic litigation practitioners seeking to engage in FWA. By providing insights into the legal and practical challenges unique to this region, this publication aims to facilitate the learning process for those intending to work within this context and enhance their preparedness and effectiveness. This publication aspires to bridge knowledge gaps, nurture cross-cultural collaboration, and empower feminist lawyers to advocate for gender justice and equity across geographic, linguistic, and cultural boundaries.



Comparative Perspectives on Reform Processes Implicating Human Rights Systems For NGOs Engaging with the African Union Reform Process [\(Link\)](#)

ISLA conducted a comprehensive and in-depth research on reforms processes from a comparative perspective. The research centred on three case studies from the UN Human Rights Council, the Council of Europe, and the Inter-American system reform processes. Each case study examined the type of reform process that took place, the reasons behind the reform, key lessons learned, best practices, and recommendations that could be beneficial for the AU reforms process. Thematic issues arising from these comparative perspectives, such as compliance and implementation of decisions, election and appointment of commissioners/judges, transparency, promoting access to information, independence, CSO engagement, and regional and sub-regional cooperation, were also highlighted and discussed. On 11-12 January 2024, CSO leaders validated the report as part of a meeting hosted by ISLA to validate and adopt the CSOs' official positions on AU reforms. Along with the report, we developed several briefing knowledge products tailored for specific stakeholders and reflecting an inclusive and feminist perspective including:

- AU Reforms Briefing Note on State Engagement [\(link\)](#),
- AU Reforms Advocacy Brief on CSO engagement [\(link\)](#)
- Civil Society Organisation's Position Paper on AU Reform [\(link\)](#)

FLN Curriculum Development

In 2023, we developed a comprehensive curriculum to cover the three years of the FLN Institute cycle. The FLN curriculum focuses on developing knowledge and skill in instrumentalising comparative law, human rights methods, contextual feminist legal theory and strategic litigation on sexual rights and women's human rights. All existing modules and presentations were strengthened and merged with fresh modules and outlines. The modules were then distributed to selected network lawyers for internal review, leveraging their expertise to refine the content and enhance its effectiveness. ISLA worked with several consultants and collaborators from the University of Miami Law Clinic, the University of Chicago Law Clinic and the Stanford Law Clinic.

Development of Research Sites Document for Network Lawyers

Although an enormous amount of information is available online to network lawyers, it is often spread across disparate databases and platforms, making it difficult to track and determine which are most effective and relevant. By combining several online legal tools and databases, we have created a centralised and easily accessible repository of legal information for network lawyers. Once finalised, we disseminated the document to network lawyers via a virtual meeting. They were shown how to use the resources listed to access specific jurisprudence or journal articles.

ISLA Conversations – Acquaintance Rape Litigation Strategies

The 2024 ISLA Conversation Series explored the legal contours of acquaintance rape with speakers Nyokabi Njogu (Legal Counsel, KELIN), Dr Ruth Nekura (Feminist Lawyer and socio-legal researcher) and Dr Nyasha Karimakwenda (Feminist socio-legal researcher and scholar). The dialogue endeavoured to raise awareness and promote active discourse, fostering a society where legal and social frameworks harmoniously coalesce to combat and prevent acquaintance rape. Additionally, participants were encouraged to contribute to research that demonstrates how rape myths lead to failure in justice for victims and survivors.

Nyokabi Njogu –

"In acquaintance rape, the perpetrators are known to the victim or their circle of friends. This heightens the vulnerability of victims as relates to social ostracism."

Dr Ruth Nekura –

"It is possible for the state to eliminate sexual violence against women by challenging and eliminating stereotypes and harmful beliefs that are the root of most of the cases."

Dr Nyasha Karimakwenda –

"Some of the rape myths that play in most cases include: Rape has to be a violent act, male sexual entitlement insinuating that once they are in the process of a sexual act, they cannot stop despite refusal or withdrawal of consent."

RESOURCE MOBILISATION

Securing consistent and aligned funding is essential for continuing our strategic litigation efforts on the continent. In keeping with our expanding work in Africa, we continued to implement our resource mobilisation strategy in 2023, which aims to diversify our funding sources and attract more multi-year, large-scale grants. By continuing to engage with our current donors, forging new connections, explaining our methods, and showcasing our results, we secured renewed, multi-year funding commitments from long-term partners. We also received additional funding from new donors for programme-specific support. This growth in donor support is crucial as we operate in an iterative and reflective manner, which requires us to remodel, resize, and develop programmes to meet our goals. Additionally, we mobilised resources on behalf of or alongside collectives and movements, primarily focused on our AU Reforms work.

KEY RESULTS

Donor convening on resourcing civil society engagement with AU reforms process

In July 2003, ISLA held a donor convening to seek funding for a campaign aimed at bringing the AU Reforms process closer to African citizens. The campaign is intended to contribute to what civil society working in the African Human Rights System would like to see emerge from the reforms process. The convening was successful as several donors indicated interest and committed to fund the project.

SXLN Convening (PAI Conference)

The Global Philanthropy Project's Donor Pre-Conference (DPC), held at the 6th Pan Africa ILGA¹ Regional Conference, convened public and private grantmakers, donor governments, corporate funders, high-net wealth individuals, and other partners to advance sexual and gender rights in Africa. The DPC is an opportunity for participants to share their needs and to identify and encourage opportunities for alignment, collaboration, and learning within the LGBTI donor community. ISLA launched its Sexual Rights Litigation Network (SXLN) Insights publication at the DPC and made presentations on the next stage of the SXLN work.

Ford Foundation

ISLA was awarded two-million-dollar, five-year BUILD 2.0 grant from the Ford Foundation. The funding will primarily support programme and institutional strengthening. The BUILD (Building Institutions and Networks) initiative is a grant-making approach that focuses on helping social justice organisations become stronger and more resilient over time. It provides grantees five years of general operating support combined with targeted organisational strengthening support. Having been a beneficiary of the first BUILD grant, BUILD 1.0, during the organisation's formative years, continuing to build with FORD as ISLA approaches ten years of existence provides the boost that is needed to pivot to the next decade. BUILD aims to equip these organisations with the strategic clarity and the human, knowledge and financial resources they need to achieve long-term impact and advance systems change.

¹ILGA is the International Lesbian, Gay, Bisexual, Trans and Intersex Association

FINANCE AND OPERATIONS

Our Finance and Operations Unit provides high-quality, sustained support for ISLA's programs while adhering to high standards of good governance for responsible leadership, accountability, transparency, and participation. As a learning organisation, our operations team supports our programming unit to explore and implement opportunities, anticipate and mitigate threats and risks, and reflect on progress to ensure our work and approach continually evolves and improves.

KEY RESULTS

Organisational, system and process strengthening

The holistic safety, well-being and collective care for our employees and partners is central to our operations because we recognise how our work embodies significant risks. Legal feminist activism on women's rights and sexual rights in hostile territories and the pursuit of gender-equitable changes can arouse new or heightened opposition with the potential for attacks against individuals and organisations. To strengthen our response, we audited our existing practices, procedures and policies on personal, organisational, and professional security to identify gaps and opportunities. We will use these findings to compile best practices in diverse continental contexts and to update our policies and procedures.

Another key focus was strengthening the use of project tracking tools. Tracking our project cycles is critical to ensure we stay on course and deliver high-quality, timely work. All staff members are required to implement projects using Asana. New team members required additional training on the Asana platform to streamline project management and collaboration between programs and within the Operations Directorate. Changes to the organisational structure also necessitated the updating and amending of templates and reporting requirements to enable better inclusion and engagement with the finance team.

Human Resources

To ensure that we continue to strengthen our team with people who can move the organisation forward, we pursued a new recruitment strategy where we trial potential recruits for key positions through a short-term consultancy between three and six months. The consultancy would typically focus on a specific project to give the recruit time and room to immerse themselves in the work. Simultaneously, the organisation could assess the candidate's suitability for the role and determine if they were the right fit. Using this new recruitment model, we have identified people suited for a long-term partnership with ISLA. Successfully confirmed roles include the Producing Knowledge for Social Change and Strengthening Capacity to Litigate Strategically Manager, the Feminist Litigation Network Manager, the Legal Director and several coordinators.

Across the organisational structure, coordinator roles were redesigned to ensure that we maximise their effectiveness for our programmes. For directorates (litigation, legal, and operations), coordinators have strong project management and administrative backgrounds and the capacity to work with managers and directors to deliver efficient and timely workflow - they support our internal project management system. For priority areas, because the work is predominantly substantive, we have instituted a new legal associate role that merges the ability to support legal research within the priority area with coordination support.



Independent Auditor's Report

To the Member of Initiative For Strategic Litigation in Africa NPC

Opinion

We have audited the financial statements of Initiative For Strategic Litigation in Africa NPC set out on pages 7 to 25, which comprise the statement of financial position as at 29 February 2024, and the statement of comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements present fairly, in all material respects, the financial position of Initiative For Strategic Litigation in Africa NPC as at 29 February 2024, and its financial performance and cash flows for the year then ended in accordance with the IFRS for SMEs Accounting Standard as issued by the International Accounting Standards Board and the requirements of the Companies Act of South Africa.

Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the non-profit 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 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.

Material Uncertainty Relating to Going Concern

We draw attention to note 16 to the financial statements which indicates that as at 29 February 2024, there are conditions that indicates the existence of uncertainty which may cast doubt about the non-profit company's ability to continue as a going concern. The note further describes why, under these circumstances, the financial statements continue to be prepared on a going concern basis. Our opinion is not modified in respect of this matter.

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 Financial Statements for the year ended 29 February 2024", which includes the Directors' Report, and the statement of Directors' Responsibilities and Approval as required by the Companies Act of South Africa, which we obtained prior to the date of this report, and the supplementary information set out on pages 26 to 27. The other information does not include the financial statements and our auditor's report thereon.

Our opinion on the 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 financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the 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 Financial Statements

The directors are responsible for the preparation and fair presentation of the financial statements in accordance with the IFRS for SMEs Accounting Standard as issued by the International Accounting Standards Board and the requirements of the Companies Act of South Africa, and for such internal control as the directors determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the directors are responsible for assessing the non-profit 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 non-profit company or to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the non-profit company's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the directors.
- Conclude on the appropriateness of the directors' use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the non-profit company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the non-profit company to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

PSTM Auditors Inc.

30 May 2025

Per: Boas Mokone
Associate Director
Registered Auditor

1st Floor 7 Naivasha,
Cnr Leeuwkop Road &Naivasha Rd
Sunninghill,
2191

Initiative for Strategic Litigation in Africa NPC Annual Financial Statements for the year ended 28 February 2024

STATEMENT OF FINANCIAL POSITION

Figures in Rand	2024	2023
Assets		
Non-current assets		
Property, plant and equipment	251 475	299 012
Current assets		
Trade and other receivables	438 175	331 684
Prepayments	-	2 000
Cash and cash equivalents	35 094 770	24 639 736
Total current assets	35 532 945	24 973 420
Total assets	35 784 420	25 272 432
Equity and liabilities		
Equity		
Accumulated surplus	11 637 699	11 216 549
Other non-distributable reserves	600 000	-
Total equity	12 237 699	11 216 549
Liabilities		
Current liabilities		
Provisions	110 283	191 536
Trade and other payables	2 009 581	771 015
Deferred income	21 426 857	13 093 332
Total current liabilities	23 546 721	14 055 883
Total equity and liabilities	35 784 420	25 272 432

STATEMENT OF COMPREHENSIVE INCOME

<i>Figures in Rand</i>	<i>2024</i>	<i>2023</i>
Revenue	25 491 830	22 116 071
Other income	199	34 793
Other expenses	(27 437 603)	(21 290 715)
Other gains and (losses)	1 117 507	2 195 012
(Deficit) / surplus from operating activities	(828 067)	3 055 161
Finance income	1 249 217	656 291
Surplus for the year	421 150	3 711 452

STATEMENT OF CHANGES IN EQUITY

<i>Figures in Rand</i>	<i>Reserve Fund</i>	<i>Accumulated surplus</i>	<i>Total</i>
Balance at 1 March 2022	-	7 505 097	7 505 097
Changes in equity			
Surplus for the year	-	3 711 452	3 711 452
Total comprehensive income for the year	-	3 711 452	3 711 452
Balance at 1 March 2023	-	11 216 549	11 216 549
Changes in equity			
Surplus for the year	-	421 150	421 150
Total comprehensive income for the year	-	421 150	421 150
Operating cash-flow fund	600 000	-	600 000
Balance at 29 February 2024	600 000	11 637 699	12 237 699

STATEMENT OF CASH FLOWS

<i>Figures in Rand</i>	<i>2024</i>	<i>2023</i>
Cash flows (used in) / from operations		
Cash receipts from customers	33 663 564	19 161 630
Cash paid to suppliers and employees	(26 079 421)	(22 033 515)
Net cash flows from / (used in) operations	7 584 143	(2 871 885)
Interest received	1 249 217	656 291
Foreign exchange gains and losses on income statement items	1 114 281	2 190 983
Net cash flows from / (used in) operating activities	9 947 641	(24 611)
Cash flows used in investing activities		
Proceeds from sales of property, plant and equipment	3 226	9 000
Purchase of property, plant and equipment	(95 833)	(151 203)
Cash flows used in investing activities	(92 607)	(142 203)
Cash flows from financing activities		
Other inflows (outflows) of cash	600 000	-
Cash flows from financing activities	600 000	-
Net increase / (decrease) in cash and cash equivalents	10 455 034	(166 814)
Cash and cash equivalents at beginning of the year	24 639 736	24 806 550
Cash and cash equivalents at end of the year	35 094 770	24 639 736



OUR STAFF

Ayo Sogunro	SXR Lawyer
Carolene Kituku	WSER Lawyer
Cynthia Kalenga	Francophone and Collaborations Coordinator
Emmah Wabuke	SCLS and KPSC Manager
Joy Awich	Francophone Legal Officer
Kay Mahonde-Chaterera	FLN Manager
Matikomborera Nyamadzi	Litigation Coordinator
Nerima Were	Legal Director
Nomsa Mbaza	Office Assistant
Princess Josphat	Legal Programmes Coordinator
Sibongile Ndashe	Executive Director
Sophie M Jessie	Director of Finance and Operations
Sophie Ndhlovu	Operations Manager
Thabisile Sithole	Accountant
Winfred Odali	Associate Lawyer
Zinhle Hlatshwayo	Legal Associate

OUR BOARD OF DIRECTORS

- ▷ Nonhlanhla Mokwena
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- ▷ Carole Ageng’o
- ▷ Liz Letebele
- ▷ Salamata Sawadogo

OUR DONORS

- | | |
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| ▷ CIVICUS | ▷ Open Society Initiative for Southern Africa (OSISA) |
| ▷ Dreilinden | ▷ Social Change Initiative |
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