



ISLA IN FRANCOPHONE WEST AFRICA: PAST EXPERIENCE, PRESENT LESSONS AND FUTURE STRATEGIES

INITIATIVE FOR STRATEGIC LITIGATION IN AFRICA (ISLA)

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ABBREVIATIONS

ACHPR	African Charter of Human and People's Rights
CPC	Criminal Procedure Code
ECOWAS	Economic Community of West African States
FLN	Feminist Litigation Network
FSL	Feminist Strategic Litigation
FWA	Francophone West Africa
IAC	Inter-African Committee on Traditional Practices affecting the Health of Women and Children
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights (ICESCR)
ISLA	Initiative for Strategic Litigation
LGBTQI+	Lesbian Gay Bisexual Transgender Queer Intersex +
LSC	Litigating for Social Change
NHRI's	National Human Rights Institutions
OHADA	Organisation pour l'Harmonisation du Droit en Afrique (Organisation for the Harmonisation of Law in Africa)
PVTW	Political Violence Targeting Women
SOGIE	Sexual Orientation and Gender Identity
SL	Strategic Litigation
SRLN	Sexual Rights Litigation Network
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review
WAEMU	West African Economic and Monetary Union
WRO	Women's Rights Organisations

1. PROJECT INTRODUCTION

The Initiative for Strategic Litigation in Africa (ISLA) is a feminist and Pan-African organisation whose mission is to protect sexual and women's human rights through litigation and capacity strengthening initiatives. We use the law to hold state and non-state actors accountable for human rights violations based on gender and sexuality. Using a rights-based framework, we endeavour to improve the lives of women, girls and people whose rights have been violated based on gender, sexual identity and orientation; highlight positive developments and emphasize cross-learnings from various countries on the continent; and seek to highlight and assert women's leadership and contribution in the African human rights system while centering women's voices and experiences in the jurisprudence to surface gender bias.¹

As part of this objective, ISLA sought to expand its operations to Francophone West Africa. This INSIGHTS is the second instalment of documentation of ISLA's experience in implementing this Strategy. Relying in the contextual analysis given in the first publication, this INSIGHTS is both reflective and prospective in that it begins by reflecting on ISLA's FWA approach and the attendant impact of this approach and concludes with recommendations on this Strategy moving forward.

Although Francophone West Africa is an important avenue for feminist strategic litigation, navigating this realm presents both legal and practical challenges, particularly for Anglophone African - based NGOs, such as, ISLA. Legal boundaries can arise due to the differences in legal systems and jurisprudence between Anglophone and Francophone nations, impacting the interpretation and application of feminist legal principles.

Additionally, the complexity of Francophone legal systems and varying degrees of adherence to international conventions can pose hurdles for cross-border litigation efforts. On a practical level, linguistic disparities, and disparate legal cultural nuances can create barriers, potentially hindering effective 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. Francophone West Africa is home to pressing gendered issues that demand collective judicial intervention and feminist strategic litigation. By working within this context, Anglophone African-based NGOs can bridge gaps, enrich their legal

¹ <https://www.the-isl.org/thematic-areas/womens-socio-economic-rights/> (accessed 30 May 2022).

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.

Thus, 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 Francophone West Africa. 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. Through a nuanced understanding of the intricacies, obstacles, and opportunities associated with feminist strategic litigation in Francophone West Africa, practitioners can enhance their preparedness and effectiveness. This publication aspires to bridge knowledge gaps, foster cross-cultural collaboration, and empower feminist lawyers to advocate for gender justice and equity across linguistic and cultural boundaries.

1.1. Methodology and Structure of Publication

The development of this research publication encompassed a multifaceted approach, combining rigorous desk research, key informant interviews, and data collection stemming from a series of consultative workshops and strategy consultations convened at various dates.

As stated above, this INSIGHTS benefitted from the comprehensive literature review captured in the First Francophone Publication, which drew comparisons between Anglophone and Francophone Africa, with a special emphasis on legal system, legal culture and legal representation. This preceding publication advised the thematic and practical approach adopted in this INSIGHTS.

In addition to the said literature review, this publication also benefitted from an assortment of sources, comprising ISLA's strategic documents, workshop and consultation reports, and relevant inception documents from local partners. This rich tapestry of data enabled ISLA researchers to triangulate their analysis and derive well-rounded insights.

This publication also encompassed primary forms of data collection, including semi-structured interviews and stakeholder workshops. In respect of the former, ISLA researchers interviewed notable key informants who participated in the implementation of the ISLA Francophone Strategy and included Mariam Lamizana,

the- then President of Voix de Femme du Burkina Faso; Maître Gouem Ariane, the- then Legal Counsel at Voix de Femme in Burkina Faso; Huguette Okadja, a legal practitioner based in Benin; Sibongile Ndashe, the Executive Director of ISLA; and Annette Wangong'u, a previous Manager of the Feminist Litigation Network (FLN) at ISLA. Their reflections have been captured throughout this publication and offer nuanced reflections.

Stakeholder workshops convened throughout the implementation cycle provided an excellent resource in the development of this Publication. One of these workshops, a virtual validation workshop convened in August 18, 2022, brought together a diverse participant group from Burkina Faso and Cote d'Ivoire and sourced from academia, civil society organizations, legal practice and the judiciary to appraise an initial draft of this publication and provide input which was then adopted in a revised draft.

This revised draft, together with the first content-based publication were presented in a strategy consultation on 19 and 20 October 2023 in Ouagadougou aimed to enhance the content's quality and precision. The comments that arose thereon were streamlined into the text culminating in the production of this final version.

For the sake of clarity and ease of comprehension, this publication is divided into four overarching sections. Part One: Project Introduction provides a comprehensive overview, encompassing the project's introduction, its overarching objectives, the methodologies employed in its development, and the approach adopted in crafting this publication.

'Part Two: Entry and Initial Implementation' documents the inception and early stages of ISLA's strategic presence in Francophone West Africa. Here, readers gain valuable insights into the purpose, processes, and the myriad challenges that ISLA encountered while laying the foundation for its strategy in FWA.

Part Three: Rethinking the Model then isolates specific possibilities and opportunities for the implementation of Feminist Strategic Litigation (FSL) in Francophone West Africa, shedding light on the potential benefits awaiting both ISLA and its network partners. The publication concludes in its fourth section, offering a synthesis of its findings and insights while presenting a set of well-considered suggestions and plausible reforms for future consideration.

2. ISLA IN FWA: ENTRY AND INITIAL IMPLEMENTATION

2.1. ISLA and Feminist Strategic Litigation as Theory of Change

To understand ISLA's strategy and experience in FWA, it is imperative to begin by appraising the organisation's theory of change and its working methods. Since its inception, ISLA has initiated its programs with the formulation of foundational concepts, operative principles, methodological frameworks, strategic approaches, and program structures. Initially conceived as a framework for advocacy and the cultivation of support networks for feminist causes and social movements, these programs were designed to foster a nuanced comprehension of various critical issues that impact women and gender non-conforming individuals. As the organization delved deeper into its mission, it recognized the significance of refining the operational methodologies within the strategic litigation framework to fortify its litigation practice and impact.

To enhance its strategic litigation practice, ISLA embarked on an exploratory journey to construct a program framework predicated on functions, strategies, and areas of focus, rather than adhering strictly to thematic categories. This reflective approach to learning and the evolutionary process of change has been integral to ISLA's pursuit of making strategic litigation a potent instrument for effecting societal transformation and influencing jurisprudence. Central to ISLA's efforts are guiding principles rooted in feminism, intersectionality, and Pan-Africanism, which underpin the organization's priorities, guided by a fusion of legal and social considerations.

The primary vehicle for social change utilised by ISLA is feminist strategic litigation (FSL). FSL incorporates feminism as a central component in its pursuit of addressing the lived realities of women. Feminism, defined as the 'movement aimed at eradicating sexism, sexist exploitation, and oppression,' is intricately linked to the concept of patriarchy, which represents the entrenched structural and institutionalized sexism favouring men over women.² As articulated by Tamale, a consistent theme within all African feminist movements revolves around the endeavour to extend fundamental human rights to female citizens across the continent.³

² B Hooks *Feminism is for Everybody: Passionate Politics* (2000) viii.

³ S Tamale 'The Right to Culture and the Culture of Rights: A Critical Perspective on Women's Sexual Rights in Africa' (2019) <<https://www.fahamu.org/mbbc/wp-content/uploads/2011/09/Tamale-2007-Right-to-Culture.pdf>>.

In essence, feminism seeks to challenge the legitimacy of the systems that perpetuate women's subjugation and aims to develop analytical tools and strategies for transformative action.⁴ FSL leverages legal means to confront the subordination of women by placing patriarchal social dynamics, structures, and systems, wherein oppression is deeply rooted, at the core of its analysis.⁵ The strategic approach of FSL goes beyond a mere examination of written laws, extending to an evaluation of their impact within the broader social, political, and economic frameworks, including their contribution to the perpetuation of discriminatory laws and practices that marginalize women.

In pursuit of its objectives, FSL employs a variety of methodologies, including the presentation of well-founded legal arguments rooted in feminist theory, a comprehensive analysis of power dynamics, the incorporation of diverse voices to shape legal cases, a reflection on a wide range of experiences and expertise, active listening to the narratives of clients and their integration into the legal strategy, and the utilization of the knowledge and experience of legal professionals to effectively guide litigation.⁶

Taking all these into account, ISLA has fleshed out a two-part theory of change as follows. First, ISLA deconstructs complex and inaccessible legal processes into constituent strategies, enabling us to formulate interventions and assess their effectiveness. By participating in FSL as *amicus curiae*, advisor-to-counsel or plaintiff representation, ISLA ensures that its engagement is integral to shaping legal transformation within a comprehensive framework that encompasses social, political, institutional, and legal dimensions.

Second, and further to its objective to catalyse social change, ISLA effectively connects and implements these processes and strategies through an intersectional analysis. As the intersectionality framework evidences, legal frameworks often mirror societally-entrenched patriarchal norms.⁷ Therefore, ISLA deliberately integrates an intersectional feminist analysis into its FSL efforts to expand the contextual understanding of legal cases and to evaluate the ramifications of judicial decisions on women.

⁴ Ibid.

⁵ African Feminist Forum 'Charter of Feminist Principles for African Feminists' (2016) <<https://awdf.org/wp-content/uploads/AFF-Feminist-Charter-Digital-%C3%A2%C2%80%C2%93-English.pdf>>.

⁶ Ibid.

⁷ Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color. *Stanford Law Review*, 43(6), 1241-1299.

2.2. Linking Theory of Change to ISLA's Entry into FWA

This theory of change was instrumental in designing ISLA's Francophone Strategy along two cross-cutting themes: context-specific and collaborative.

2.2.1. FSL as Contextual

As noted above, ISLA places significant emphasis on the importance of context in shaping FSL by acknowledging the substantial variations in systems, cultures, representation and historical trajectories across different societies in Africa. Even within specific sub-regions, unique national factors often exert a pronounced influence. Consequently, this contextual diversity underscores the fact that the inception point for FSL varies from one context to another, despite shared commonalities in countries, sub-regions, and the cultures and practices of social movements.

Implicit in this assertion is the recognition that the process of instigating change cannot follow a uniform trajectory or pace. ISLA is attuned to the reality that social transformation can occur at various levels within a given context, and that different actors, depending on their levels of involvement and associations with one another, may either embrace or resist change.

Consequently, in crafting its Francophone Strategy, ISLA was deliberate and meticulous in considering the unique nuances of the context. While a nuanced analysis of FWA Context has been canvassed in the preceding publication, herein below is a summary of the contextual factors to consider in conducting FSL in FWA.

To start off, FWA is characterized by a diverse array of legal systems, encompassing civil law, customary law, and Sharia law. This legal diversity is intertwined with a variety of cultural norms and values that influence the perception and handling of women's rights.⁸

Additionally, the historical legacy of colonization and post-colonial dynamics has influenced on legal and social structures in the region. The prevalence of the French language, both in legal proceedings and documentation, poses language barriers that need to be addressed to ensure access to justice for Francophone women.⁹

⁸ Fombad, C. M. (2016). The Rule of Law in Sub-Saharan Africa: Exploring the Institutional Context. *Comparative and International Law Journal of Southern Africa*, 49(2), 174-209.

⁹ Nmehielle, V. O. (2000). The Legal System of Francophone Africa: A Critical Evaluation. *International and Comparative Law Quarterly*, 49(4), 817-850.

Socio-political landscapes of FWA countries are highly varied, impacting the feasibility and effectiveness of FSL initiatives. Religion, notably Islam and Christianity, plays a prominent role in the region and intersects with gender issues, adding a layer of complexity to FSL efforts.¹⁰ Additionally, the accessibility and effectiveness of the legal system vary widely across FWA, with many women facing obstacles such as financial constraints, limited legal awareness, and gender bias within the legal system.¹¹

Legal pluralism also provides unique challenges. Customary practices and traditional dispute resolution mechanisms coexist alongside formal legal systems, influencing gender justice outcomes.¹² In addition, regional organizations like ECOWAS and OHADA have their legal frameworks, which may affect FSL strategies especially in the supra-national levels.¹³

2.2.2. FSL as Collaborative

ISLA's theory of change also favours a collaborative approach to FSL. Emphasizing a collective strategy, one that involves active collaboration with local partners in pursuing strategic appeals before competent courts, proves to be the most effective path towards achieving justice not only for individual victims of harm but also for the broader society. The approach of partnering with local organizations, which represent and support victims in emblematic cases of human rights violations, primarily aims at eradicating, through strategic litigation, the entrenched practices and norms—both formal and informal—that underlie discrimination against women. In essence, this collaborative effort seeks to create a lasting impact by dismantling the very roots of gender-based discrimination.

Moreover, these local partners play a pivotal role as valuable resources for ISLA. They possess a deep understanding of the operational context within Francophone West Africa, and their involvement is instrumental in enabling ISLA to draw lessons from its experiences in Anglophone Africa and apply them effectively within the sub-region.

¹⁰ Ibid.

¹¹ Menski, W. (2013). *African Law and Legal Theory*. Ashgate Publishing, Ltd; Nmehielle, V. O. (2000). The Legal System of Francophone Africa: A Critical Evaluation. *International and Comparative Law Quarterly*, 49(4), 817-850.

¹² Nmehielle, V. O. (2000). The Legal System of Francophone Africa: A Critical Evaluation. *International and Comparative Law Quarterly*, 49(4), 817-850.

¹³ Fombad, C. M. (2016). The Rule of Law in Sub-Saharan Africa: Exploring the Institutional Context. *Comparative and International Law Journal of Southern Africa*, 49(2), 174-209.

Hence, in the formulation of its Francophone Strategy, ISLA was particularly committed to establishing and nurturing collaborative relationships with partners in Francophone West Africa. This approach underlines ISLA's dedication to advancing feminist principles through strategic litigation while adapting to the specific nuances and challenges of the region.

2.3. Projected Stages of Implementation

Based on its success in other contexts (such as development of FLN and SXLN), ISLA envisioned a similar three-phase model for its Francophone Strategy.¹⁴ This model is summarised below.

The *Identification of Lawyers and Partners* included the need to identify and work with existing social movements interested or working on FSL in FWA.¹⁵ After this is *Case Sourcing and Development* which focuses on the importance of providing ongoing support to the social movement and lawyers by giving advice on case sourcing, case briefs in the preparation stages, legal strategies used in court, and providing access to any comparative and international law research related to the legal issues in the individual cases. The lawyers identified would source cases and detail the aims and specify activities to support the litigation, identify a forum for litigation, involve the research needed for the development of legal arguments, and envision suitable remedies.¹⁶

The third phase is *Network Development and Strengthening* which focuses on the importance of providing ongoing support to the social movement and lawyers by establishing and developing the FLN Network in FWA, and providing institutional strengthening activities with ISLA's local partners.¹⁷ While listed consecutively, in most cases, the latter two phases often work concurrently in practice and will be discussed as such in the subsequent section.

2.3.1. Initiation Phase: Identification of Lawyers and Partners

ISLA's Francophone Strategy was precipitated by a concern raised by a donor on the paucity of FSL in FWA. One of the research participants interviewed for this publication noted, in part:

¹⁴ ISLA, 'Legal Empowerment to Litigate SOGIE Cases: Documenting The Experiment (2016-2022)' (2023) < www.the-isla.org >

¹⁵ Ibid.

¹⁶ Ibid,

¹⁷ Ibid.

'In 2019, one of the donors specializing in networking organizations and legal experts working on strategic litigation in Anglophone Africa, Foundation for a Just Society, identified opportunities in West Africa. They approached ISLA to explore the possibility of implementing its Francophone West African strategic litigation model. ISLA seized this opportunity as it met its need to expand into the Francophone West African space. This strategic expansion is also motivated by ISLA's objective to develop jurisprudence on women's rights through the courts by bringing its know-how and support to social movements and legal experts in the region'¹⁸

After an exploratory exercise by ISLA, involving informal conversations with donors and partners, ISLA settled for two FWA countries for its initial implementation in its region: Burkina Faso and Côte d'Ivoire. These two countries operate under a civil law system based on the French model. While strategic litigation has been used to challenge discriminatory laws and practices, such as those related to inheritance and property rights and VAW in both Burkina Faso and Cote d' Ivoire, the effectiveness of these efforts has been limited by factors such as lack of access to justice, corruption, and societal norms that perpetuate gender inequality.¹⁹

Drawing from its experience in establishing operations in Anglophone East Africa during the initial phases of its program in Francophone West Africa (FWA), ISLA embarked on groundwork between to lay a strong foundation for its activities. In 2019, ISLA conducted two exploratory missions to Burkina Faso and Côte d'Ivoire, with the following objectives:

- Introduce ISLA, its mission, and operational updates to human and women's rights organizations;
- Identify potential partners for collaborative efforts in strategic litigation;
- Establish priority issue areas and identify potential cases for strategic litigation;
- Gain insights into the contextual factors contributing to women's rights violations and the responses of respective states; and
- Identify women lawyers interested in joining ISLA's Feminist Litigation Network.

The outcomes of these two meetings formed the bedrock upon which ISLA would base its implementation efforts. These meetings also provided ISLA with an opportunity to assess the capacities of the participating organizations in engaging effectively in strategic litigation., Voix De Femme (VDF), and, GEPALEF were selected as the primary strategic partners in Burkina Faso and Cote d'Ivoire respectively. These

¹⁸ Interview 4,

¹⁹ Amnesty International. (2016). Côte d'Ivoire 2015/2016. Retrieved from <https://www.amnesty.org/en/countries/africa/cote-divoire/report-cote-divoire/>

organizations were selected due to their established track records in implementing legal strategies aimed at fostering an environment conducive to gender equality, as well as the advancement of women's rights in the political, social, and economic spheres.

2.3.2. Phase Two: Case Sourcing and Development

After crystallising this partnership, ISLA worked with these local collaborators to identify a Francophone-based lawyer to implement ISLA's theory of change by sourcing and litigating cases relevant to ISLA's thematic pillars: VAW and WSER. With these in place, ISLA, together with the lawyer and partners began to source possible cases for litigation. A summary of identified cases are tabled below:

PILLAR AND STRATEGIC ANGLE	FACTS OF CASE
<p>WSER</p> <p>Wife's property rights in the conclusion of a religious marriage</p>	<p>The applicant entered into a religious marriage with Mr. Mahamadi Nikiema on December 24, 2005. This union resulted in the birth of three children. Initially, the applicant resided in the marital home with her husband and children.</p> <p>Over time, the husband not only removed the children from their mother's care but also relocated them to a new residence established with his new spouse. This act effectively deprived the applicant of any visitation or accommodation rights with her children. While the applicant was attending to her ailing mother in the hospital, the respondent took unilateral action by changing the locks on the marital home's doors and forcibly evicting the applicant. This eviction left her without any means of sustenance. Since that incident, the applicant's numerous attempts to reoccupy the marital home have proven unsuccessful.</p>
<p>WSER</p> <p>Wife's rights over sale of matrimonial property</p>	<p>The applicant is a widow, previously married to the respondent in a monogamous marriage under the joint property regime. Their conjugal relationship was marked by her husband's departure from the family home to cohabit with another woman, returning only briefly before his demise. Significantly, the husband sold the family home without Julienne's knowledge, and she only became aware of this sale after his passing.</p>

PILLAR AND STRATEGIC ANGLE	FACTS OF CASE
	<p>A critical point of contention in these proceedings is determining the exact date when Julienne first became aware of the sale, as this date serves as the starting point for the one-year period within which she can challenge the sale.</p> <p>The case has been pending before the High Court of Ouaga I since November 2019. Subsequently, the High Court decided to transfer the case to the newly established High Court of Ouaga II, whose jurisdiction encompasses the location of the property in question.</p> <p>The Applicant had an informal union with her husband, leading to a formal religious marriage in 1998. They had two children. They occupied an unallocated piece of land for around thirty years. The wife, who worked to support the family, initiated the property's registration during a town hall land census. She significantly contributed to the house's construction and took out a loan for the fence. The husband, absent for years, unexpectedly sought to sell the family home. The wife, though not legally married at the town hall, objected. The judge referred the matter to a trial court, but no action has been taken, leaving the threat of eviction.</p> <p>The Applicant is a young woman from Burkina Faso. At the time of the incident, in March 2021, she was 17 years old. She was raped, resulting in injuries that required surgery.</p> <p>Following a complaint from her aunt, with whom she lived, the case was heard by the OUAGA I High Court. However, the Court acquitted the perpetrator based on statement simply denying the facts.</p> <p>A medical certificate was added to the file attesting that the Applicant had severely injured her Rectouterine pouch (of Douglas) during the sexual act. The Court ruled that the severe injury of the Rectouterine pouch (of Douglas) was not evidence of rape and chose to give more weight to the perpetrator's testimony than to that of the victim, concluding that there had been no rape.</p>

PILLAR AND STRATEGIC ANGLE	FACTS OF CASE
	<p>The Applicant's aunt lodged an appeal on 27 May 2021. The case has been pending before the Ouagadougou Court of Appeal ever since.</p>
	<p>The Applicant, a 7-year-old girl was raped by a group of 4 teenagers. Her parents initially cared for her health before filing a complaint with the gendarmerie a month later. The gendarmerie refused to investigate, telling the father that the time between his complaint and the rape was long. The girl's mother was referred to ISLA in February 2022 who sent a letter to the gendarmerie and filed a complaint with the Office of the Public Prosecutor.</p> <p>In December 2022, the prosecutor contacted the lawyer and promised that investigations would be carried out. The alleged perpetrators were interrogated, and the last interrogation took place on 18 January 2023.</p> <p>To date, no arrests have been made and the victim has not been informed of the results of the investigations or the outcome of the case.</p>
	<p>The Applicant, a 23 years old woman was the victim of multiple sexual rapes by five young men about seven years ago. Four of them raped her while the fifth watched passively without coming to her aid. Her mother sent her to the shop to do some shopping at around 10pm, and on her way back the young men cornered her and took turns raping her in multiple ways.</p> <p>The case went to court via the gendarmerie. Unfortunately, the perpetrators were not declared guilty at trial. The Applicant was forced to move out of her neighbourhood with her mother because of the constant mockery she suffered in the hands of her attackers.</p>

2.3.3. Phase Three: Network Development and Institutional Strengthening

Between 2020 and 2022, ISLA conducted a series of initiatives and collaborations in Francophone West Africa. In Abidjan, during a first consultation in 2020, ISLA

introduced its theory of change regarding case research in Francophone West Africa, with a focus on the political and legal contexts conducive to strategic litigation on sexual and human rights. They established strategic litigation units at GEPALEF and Voix des Femmes to ensure synergy across program areas. An institutional strengthening meeting was held to provide network lawyers and Executive Directors with the tools and a shared understanding of strategic litigation.

In 2021, Francophone FLN members participated in the “Violence against Women Academic Engagement and Introduction meeting.” They also joined ISLA’s FLN lawyers from Anglophone Africa for their first Litigation Women’s Social Economic Rights (WSER) Institutes in Kilifi, Kenya, enhancing their capacity for case identification and strategic approaches. In 2022, ISLA conducted a second round of strategic consultations in Ouagadougou and Abidjan to guide core network partners in developing cases. This resulted in action plans involving lead partners and collaborating organizations.

During this period, ISLA continued to foster partnership with Voix De Femme (VDF) which received support to attend the Feminist Litigation Institute in Kenya in 2022, focusing on human trafficking, to enhance their technical capabilities. Following this, Voix De Femme hosted a seminar for the Francophone FLN, addressing the protection of women in cohabiting relationships and family unions outside of civil marriage, aiming to advance the rights of diverse family structures through strategic litigation.

ISLA and its network partners also participated in knowledge production, including, coordinating a series of webinars which led to the launch of five publications, including ISLA’s Guide in Litigating Human Trafficking Cases.

3. SOCIO-LEGAL CONTEXTUAL BACKGROUND: LEGAL SNAPSHOT OF BURKINA FASO

While the initial phase of ISLA's entry into FWA focused on both Cote d'Ivoire and Burkina Faso, ISLA eventually narrowed down its initial focus to the latter Burkina Faso due to its specific legal landscape, ongoing gender-related issues, and the receptiveness of the judicial system to feminist legal advocacy. This decision was also influenced by the presence of willing local partners. This existence of local organizations and activists aligned with ISLA's mission provided a collaborative foundation for effective engagement and advocacy. By strategically honing in on Burkina Faso and forging partnerships with local advocates, ISLA aimed to leverage collective expertise, amplify its impact, and contribute to meaningful legal advancements in support of gender equality.

This section briefly highlights important and relevant factors on the legal context in Burkina Faso and its potential to promote feminist strategic litigation.

3.1. Legal System in Burkina Faso and Feminist Strategic Litigation

In respect of legal system in Burkina Faso and its ability to sustain feminist strategic litigation, certain key factors are notable:

On Internal Legal Framework: Burkina Faso's internal legal framework comprises various laws and regulations relevant for purposes of women's rights, including the Constitution, Penal Code, Code of Family and Persons, Civil Procedure, Employment Act, Act 003 of 2001 on Electoral Laws, Act No. 61 of 2015 on the Prevention, Punishment, and Redress of Violence against Women and Girls, and Act 49 of 2005 on Reproductive Health.

On Regional Legal Framework: In addition to its internal legal framework, Burkina Faso is also influenced by various regional and international legal instruments, including CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), ACHPR (African Charter on Human and Peoples' Rights), the Maputo Protocol, CRC (Convention on the Rights of the Child), ACERWC (African Committee of Experts on the Rights and Welfare of the Child), ICCPR (International Covenant on Civil and Political Rights), ICESCR (International Covenant on Economic, Social and Cultural Rights), and the Kampala Convention. However, Burkina Faso typically

does not employ comparative legal analysis in its domestic courts. Nevertheless, on occasion, they may draw from regional legal reasoning, particularly in the Court of Cassation.

On Judicial and Quasi-Judicial Bodies: Domestic Courts in Burkina Faso encompass administrative courts, civil courts, social courts, criminal courts, children’s judges, children’s chambers, the Court of Cassation, and the Constitutional Council. In addition, international and regional courts that Burkina Faso interacts with include the African Court on Human and Peoples’ Rights, ECOWAS Court of Justice, African Commission on Human and Peoples’ Rights, Committee on the Rights and Welfare of the Child, and the World Court of Human Rights.

While, in general, domestic remedies must be exhausted before turning to international or regional bodies, the ECOWAS Court of Justice’s method of referral seems to be more favourable for strategic litigation, as it does not require the prior exhaustion of domestic remedies. Nevertheless, the implementation of decisions from these courts may be impacted by the current political situation in Burkina Faso. Other several positive factors enabling a positive environment for feminist strategic litigation in Burkina Faso, include the enactment of the National Strategy for the Promotion of Gender and the FARF (Fonds d’Appui aux Activités Rémunératrices des Femmes or Support Fund for Women’s Income-generating Activities) which initiate projects on the promotion of positive masculinity.

Recent legal developments also create a positive environment for FSL. Prior to 2019, it was not possible for a victim to appeal sentencing given in lower courts. However, following an appeal made by the President of the Law Society (and one of the participants in this consultation), a significant reform has been enacted to allow victims to appeal a case, compelling the judge to reconsider the matter, which could result in a change in conviction or sentence. Furthermore, a victim may pursue a second avenue of appeal by taking civil legal action against the perpetrator to seek remedies.

3.2. Legal Culture and Feminist Strategic Litigation in Burkina Faso

Burkina Faso generally lacks a strong litigious culture, favouring traditional dispute resolution mechanisms for civil and criminal matters over court litigation. Consequently, there is minimal activity in the courts.²⁰ This poses a challenge for

²⁰ Reflections drawn from participants at the ISLA Francophone Strategy Consultation, 19 - 20 October 2023 at Ouagadougou, Burkina Faso.

the acceptance of FSL within the community, as there's a prevailing stigma that deters victims from participating in such litigation. Moreover, gender-related issues often face resistance within the judiciary. For example, presenting a case related to abortion with feminist legal reasoning may encounter strong resistance.

Politically, the environment is not conducive to FSL. Civil society, while expected to be supportive, often falls short in embracing feminist perspectives and women's rights issues. Implementing or enforcing judgments from regional courts, like ECOWAS and ACtHPR, also presents challenges, as demonstrated by the Mali case where court-ordered changes to laws have not been executed within the specified timeframe.²¹

Regarding VAW, there is a need for more non-legal collaborators, but societal pressures and perceptions in Burkina Faso hinder their presence. For instance, addressing marital rape is a formidable challenge and receives insufficient attention. Changing judicial perceptions is essential and can be achieved through advocacy around women's rights issues and engaging men to shift societal perspectives.

On a positive note, participants at the ISLA Francophone Strategy Consultation, 2023 highlighted the willingness of certain NGOs to collaborate with ISLA and the presence of some favourable existing laws on women's rights. However, Burkina Faso needs more convictions of perpetrators violating women's rights, as well as decisions from regional and international courts that compel the state to align its legislation with international standards. Additionally, training programs on how to implement feminist strategic litigation are necessary, and the Ministry of Gender must play a proactive role in promoting women's rights. Quasi-judicial bodies can also play a crucial role in positively adjudicating women's rights cases.

Despite legal advancements on women's rights issues, social and cultural barriers can lead to regression over time. To address complex women's rights issues in Burkina Faso, it may be helpful to begin by advocating for human rights, such as promoting girls' education, which can have a cascading effect, reducing practices like Female Genital Mutilation (FGM), early pregnancies, and child marriage.

Despite this, some positive aspects remain, including, the fact that Burkina Faso is under the jurisdiction of the African Court on Human and Peoples' Rights (ACtHPR) and the African Commission on Human and Peoples' Rights (ACHPR), providing an opportunity to hold the state accountable for protecting and promoting women's rights, particularly those enshrined in the Maputo Protocol, as this Protocol was adopted in Ouagadougou, Burkina Faso.

²¹ Ibid.

3.3. Legal Representation and FSL in Burkina Faso

In Burkina Faso, there are three parallel routes which you can take if you want to engage in legal activities. The entry route is dependent on whether one wishes to be an Advocate, Law Professor or Magistrate. The general requirements for individuals pursuing the path to advocacy are as follows:

'Attain a Law degree; Obtain a Master 2 in law; Be at least 24 years of age; Complete 12 months of training at the Bar school (comprising 6 months of classes, 3 months of pupillage at a company, and 3 months at a law firm); Gain 3 years of experience in a law firm, with training commencing at the age of 21; Successfully pass the validation test; and Gain admission to the bar'²²

For those aspiring to become magistrates or judges and then transition to advocates, the process involves: Serving as a judge for a minimum of 10 years; Completing 6 months of training at a law firm; and Securing admission to the bar. It is worth noting that such transitions are relatively rare, with only two magistrates having successfully converted to the role of advocates.

Law professors also have an avenue for transitioning, which entails a 12-month training period at the Bar school (comprising 6 months of classes, 3 months of pupillage at a company, and 3 months at a law firm). However, it is important to emphasize that both law professors and judges wishing to be admitted to the bar must resign from their positions or respective professions. Additionally, reciprocal agreements within the West African Economic and Monetary Union (WAEMU) allow advocates to practice in all eight member states, including Burkina Faso. Furthermore, mutual agreements between Burkina Faso and countries such as France and Canada enable admitted lawyers to practice in each other's jurisdictions without the need for additional training or examinations.

However, there are certain barriers within the legal profession that impact the implementation of strategic litigation:

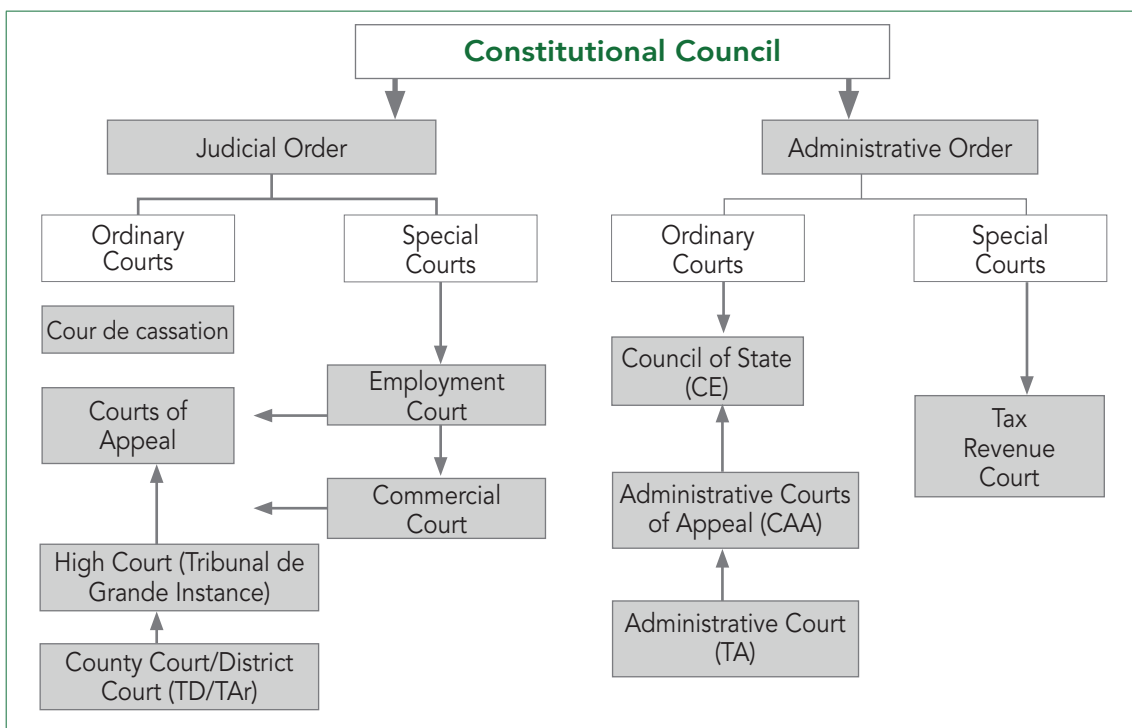
- Lawyers are prohibited from being employed by companies, institutions, or organizations outside of law firms. Violation of this rule results in their removal from the roll of advocates.
- NGOs in Burkina Faso are generally unable to initiate legal action in their own names, except in cases related to corruption or public interest. Only victims have the legal standing to sue in their names.

²² chrome-extension://mhnlakgilnojmhinhkckjncpbhabphi/pages/pdf/web/viewer.html?file=https%3A%2F%2Fworldjusticeproject.org%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2FBurkina%2520Faso_2021%2520WJP%2520Rule%2520of%2520Law%2520Index%2520Country%2520Press%2520Release.pdf

Despite these challenges, there are opportunities to strategic litigation in the legal profession in Burkina Faso, particularly concerning legal provisions such as Section 230 of the Penal Code, Section 332, and Article 8 of the UEMOA Regulation 2006. Moreover, legal clinics, which are common in Anglophone countries within universities, are predominantly associated with NGOs in Francophone West Africa and can help with sourcing of cases.

3.4. Accessing the Courts for Constitutional Litigation

The structure of the Courts in Burkina Faso may be illustrated as follows:



Constitutional matters, including, FSL interventions follow a specific trajectory as follows. A party is required to raise a constitutional issue either at the court of first instance or the magistrate/judge may independently recognize that the case at hand holds constitutional significance. In either scenario, the matter will be certified as constitutional and referred to the constitutional council for adjudication.

However, it is important to note that, as per Article 157 of the Constitution, only citizens have the right to refer the unconstitutionality of a law to the Constitutional Council, either directly or through a plea of unconstitutionality. Parties or victims, with the exception of presidential election matters, cannot directly approach the council.

Participants in the discussion suggested that this limitation could be a valuable subject for litigation, addressing the issue of access to justice and potentially driving legal reform through strategic litigation.

Nonetheless, participants at ISLA Francophone Strategy Consultation, 2023 emphasized that there are ample remedies available at the lower courts, where more evidence can be introduced. Thus, it is advisable to ensure that a robust case is presented at the lower courts before considering a referral to the constitutional council. This approach was seen as crucial for conducting strategic litigation effectively within the existing legal framework in Burkina Faso.

While judges and magistrates in Burkina Faso typically employ a textual approach to legal interpretation, focusing on the literal wording of the law, there is willingness to consider regional and international laws when advocates, serving as officers of the court, present detailed analyses, particularly in cases involving human rights issues, in the lower courts

4. EVALUATING THE ISLA STRATEGY IN FWA

ISLA's initiatives in Francophone countries were designed to be flexible, aligning with opportunities and the specific needs of individual network partners, while considering the organization's capacity. Therefore, in its initial implementation phase, ISLA drew out significant lessons, including, appreciation of the need for FSL intervention due to frequency of women's rights violations in the region; and paucity of strategic litigation approaches and presence of feminist lawyers which offers a unique opportunity for social change.

Notwithstanding this, several challenges were also identified, including, backlash against strategic litigation; elitist nature of legal practice, and language injustice, impacting the flow and understanding of information. These challenges are discussed in more detail below.

4.1. Challenges in Implementation of FWA Strategy

4.1.1. Challenges Arising from FWA Legal System

The FWA legal system is a double-sided sword. On one hand, lawyers from different FWA countries can engage in cross-border practice due to regional arrangements which can then allow a feminist lawyer based in one country to be able to litigate on cases in other jurisdictions provided they fall within this regional set-up.

On the other hand, the FWA legal system in Burkina Faso presented other challenges, especially, in respect of accessing regional human rights systems. The political instability in Burkina Faso has led to the country's suspension from ECOWAS. This suspension has far-reaching implications, notably in terms of accessing the ECOWAS Court. The ECOWAS Court is a regional judicial institution responsible for adjudicating on matters related to the ECOWAS treaty and protocols. However, with Burkina Faso's suspension, individuals and entities within the country face increased challenges in seeking justice through the ECOWAS Court.

The suspension means that the country is not participating in the functions and activities of ECOWAS, including the ECOWAS Court. This can severely hinder the ability of citizens and organizations in Burkina Faso to bring cases before the ECOWAS Court to seek redress for human rights violations or other legal issues. Accessing the ECOWAS Court becomes exceedingly difficult due to this political

instability and suspension, creating a legal vacuum and further limiting the avenues available for seeking justice at the regional level. As a result, individuals and entities in Burkina Faso may need to explore alternative means and mechanisms to address their legal concerns and seek redress.

4.1.2. Challenges Arising from FWA Legal Culture

One of the key reflections in the initial implementation phase of the ISLA FWA Strategy was the perceived elitist nature of legal profession in Burkina Faso. Entry into legal profession is difficult. To become a lawyer in Burkina Faso, one must first obtain a law degree from a recognized university. After obtaining a law degree, the individual must then complete a two-year internship under the supervision of a practicing lawyer. Upon successful completion of the internship, the individual must pass a professional examination administered by the Bar Association. Only after passing this examination can the individual be admitted to the Bar and practice law in Burkina Faso.²³

The road is more difficult for legal professionals who follow a less-traditional format. As one lawyer interviewed for purposes of this Report noted: 'If you have a PhD in law, you have to teach for 5 years or more before you can write the bar exam'.²⁴ The rigorous and time-consuming nature of these requirements further complicates the professional journey for non-traditional legal professionals, making it a more demanding and protracted process.

Moreover, it is crucial to note that the Burkina Faso Legal Association has established a strict policy that exclusively permits lawyers employed by legal firms to engage in litigation before the courts. This categorical regulation expressly prohibits lawyers based at non-governmental organizations (NGOs) from practicing law.

In effect, this legal framework further narrows the avenues for legal representation in Burkina Faso. Lawyers associated with NGOs, who often focus on matters related to human rights and social justice, face significant limitations in their ability to provide legal counsel and representation in legal proceedings. As a result, there are significant obstacles in accessing justice, legal remedies and support, especially for victims and entities seeking to address human rights violations.

This legal practice system presented a challenge in the implementation of the Feminist Litigation Network because the aim of the model is to develop a pool of

²³ GIZ. (2014). Legal and Judicial Training in Burkina Faso. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Retrieved from <https://www.giz.de/en/worldwide/14909.html>

²⁴ Ibid.

feminist lawyers embedded within NGOs, to serve social justice movements through their expertise in strategic litigation to advance protection for human rights.

To navigate this challenge, ISLA adapted the implementation of the FLN model in Burkina Faso by establishing agreements with NGOs and feminist lawyers with the understanding that while the lawyers will be based at the NGO, they will keep their legal chambers/law firm active for purposes of obtaining practicing certificates. There was an understanding that the lawyers will prioritise and focus on strategic litigation on women's rights.

However, in practice, the lawyers could not give up general legal practice and struggled to dedicate time to the work of feminist lawyering for various reasons. For instance, the prestige and promise of the conventional legal practice career made it difficult for the lawyers to be willing to explore a career in human rights strategic litigation practice. Having gone through a long and strenuous journey to qualify as a practicing advocate, the already very few women litigators in the country are hesitant to leave law firms because of the anticipated financial gains that is expected to result from a career at the bar.

Further, the legal practice culture has developed in ways that presume that the only legitimate way to develop a career as a practicing advocate is to operate from a law firm. There were concerns among lawyers that if they explore a career in social justice lawyering, and it does not work out, what will they go back to if they let go of developing their law firms? Therefore, even beyond the regulations of the Burkina Faso legal association, there is a legal culture challenge which is a function of attitudes and expectations where advocates believe that the legitimate way to practice law is within law firms and not within social justice NGOs. Such concerns of how legal culture shapes the practice of public interest litigation are not unique to Burkina Faso, Francophone West Africa or civil law jurisdictions.

For example, in Kenya, the legal practice culture has been that although there have always been lawyers working within social justice NGOs, most strategic litigation cases are outsourced to advocates in private practice. A large part of how this practice culture emerged has to do with conceptions of public interest cases as only high-profile cases which must then be litigated by very senior counsel, often men in private practice. Consequently, the expertise for practicing strategic litigation is not developed within NGOs. A gap is created in the practice of strategic litigation because lawyers within NGOs who are connected to social movements end up not leading the work of developing feminist jurisprudence.

This is one of the gaps that the FLN model sought to respond to by building strategic litigation expertise among lawyers connected to social movement NGOs

to ensure women and constituencies of rights violations are part of developing feminist jurisprudence, in order to achieve broader social change. In Kenya, the FLN model was able to work in this context because ISLA was able to identify feminist lawyers and partner organisations that were willing to challenge the prevailing legal practice culture and provide opportunities for women lawyers in NGOs to do strategic litigation.

In South Africa, the split bar legal practice separates attorneys and advocates. While attorneys work directly with clients in-house, advocates litigate. This legal practice culture operates through a system of referral, where attorneys refer cases to advocates in chambers who specialize in litigation. Although there is no specific legal rule prohibiting attorneys from registering to get the certification to practice/ right to appear as advocates, attorneys will often always opt to keep outsourcing to advocates to litigate.

In the context of public interest litigation this has meant that attorneys who work within social justice legal organisations, who are more likely to be connected to social movements, who understand the human rights issues being litigated, will still prefer to outsource strategic litigation cases to advocates, who may not have the expertise or interest in the human rights issues before court. Often it is the attorneys that will do the background research and develop the pleadings but they will not appear to argue the cases in court.

In many jurisdictions, conventional legal practice operates in ways that does not lend itself easily to lawyers working in social justice organisations to lead in practicing public interest litigation. It takes active efforts by interested lawyers to challenge barriers in legal practice, procedures and culture to create an enabling environment for strategic litigation on human rights to thrive. There is need for efforts to challenge and change such legal practice cultures to facilitate development of feminist jurisprudence by movement lawyers based in NGOs.

In the context of Burkina Faso and Francophone West Africa, this requires:

- a. Engaging with law societies and bar associations to clarify the rules and remove barriers to legal practice culture and systems that impede access to justice.
- b. Identifying and working with lawyers who are willing to test and implement the idea of social justice lawyering within NGOs.
- c. Engaging with universities on legal education curriculum that integrates the meaning and practice of public interest litigation

4.1.3. Challenges Arising from Legal Representation

Burkina Faso's legal representation provides a specific challenge especially in the lawyers' widespread unfamiliarity and unwillingness to engage in feminist strategic litigation. This may be due to a combination of historical, cultural, and institutional factors.

Firstly, the legal system in Burkina Faso is largely based on French civil law, which traditionally does not emphasize strategic litigation as much as common law systems.²⁵ This is because civil law systems tend to focus more on codified laws and legal principles, rather than case law and precedent, which are the main tools of strategic litigation.

In addition, the culture of litigation in Burkina Faso may not be as developed due to socio-cultural norms and attitudes towards conflict resolution. In many African societies, traditional methods of dispute resolution, such as mediation and reconciliation, are often preferred over formal litigation.²⁶ This could potentially limit the familiarity and use of strategic litigation in these contexts. Institutional factors such as lack of resources, capacity, and training in strategic litigation could also contribute to its unfamiliarity in Burkina Faso's legal system.²⁷

This is exacerbated in respect of feminist approaches to strategic litigation. Culturally, Burkina Faso is a patriarchal society where gender roles are deeply entrenched.²⁸ Women's rights and gender equality are often not prioritized, and feminist movements face significant resistance.²⁹ This cultural context makes it difficult for feminist strategic litigation to gain traction.

4.2. Ongoing Adaptations and Adjustments

Throughout the implementation phase, ISLA made several adaptations and adjustments to the initial FLN Strategy to address some of the challenges that had been identified:

²⁵ Badini-Kinda, F. (2012). Women's rights in Burkina Faso. In *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*. Freedom House.

²⁶ Ibid.

²⁷ Ginsburg, T., & Moustafa, T. (2008). *Rule by law: The politics of courts in authoritarian regimes*. Cambridge University Press.

²⁸ Badini-Kinda, F. (2012). Women's rights in Burkina Faso. In *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*. Freedom House.

²⁹ Ibid.

- Network development - ISLA facilitated collaboration across FWA by connecting various social movements and network lawyers from both the Anglophone and Francophone sub-regions. This helped foster peer learning and the exchange of ideas;
- Increasing Knowledge Capacity in FSL - ISLA placed a strong emphasis on enhancing the knowledge and skills of its network partners in Francophone Sub-Saharan Africa (FSL) through continuous capacity-strengthening activities. Additionally, ISLA deployed a female lawyer as a consultant to collaborate with partner organizations and further enhance strategic litigation efforts in the region; and
- Language Justice - The differences in sociolinguistic contexts between Francophone and Anglophone contexts provided significant language barriers. To remedy this, ISLA staffed a Francophone Legal Officer who was responsible for language interpretation in meetings and shared documents which helped improve understanding and foster greater interaction between ISLA and its partners.

4.3. Verdict and Summary of the Reflections

While the adaptations made during the implementation phase have certainly been valuable in addressing immediate challenges and facilitating collaboration, some challenges still persist. However, they should be viewed as a stepping stone towards a more comprehensive and refined strategy. A more extensive strategy would encompass a broader scope and a more in-depth approach, considering the long-term sustainability and effectiveness of the initiatives.

This refined strategy should focus on not only addressing the existing barriers but also on proactively identifying potential challenges and developing solutions for them. It should take into account the evolving dynamics within the regions, changing sociolinguistic contexts, and the unique needs and capacities of the network partners.

Additionally, a comprehensive strategy would include a well-defined roadmap for capacity building, knowledge transfer, and sustained collaboration. It would seek to foster a stronger sense of ownership and participation among the network partners, ultimately contributing to the self-sustainability of the initiatives.

5. RETHINKING THE MODEL: CONSIDERATIONS FOR FUTURE IMPLEMENTATION

The work in Francophone Africa was initially conceived as a pilot project, representing an initial, contained strategy with a carefully defined scope. Its purpose was to explore how the ISLA model can be most effectively applied to achieve maximum impact in the specified countries and the sub-region. Drawing from lessons learned, in this section, we identify specific aspects which are required to be adopted in order to serve as a foundational reference for shaping a reworked FWA strategy for future implementation.

5.1. Rethinking FLN Objectives

As noted above, FLN's core objectives include the development of feminist jurisprudence, the establishment of a cadre of feminist lawyers, and the enhancement of institutional partners' capacity for strategic litigation. While these objectives remain fundamental to the FLN's mission, there is a need to reconsider their prioritization. For example, prevailing socio-legal attitudes and regulatory frameworks indicate that building a pool of feminist lawyers will pose persistent challenges. Consequently, in the FWA region, the FLN will deprioritize this objective, recognizing it as a medium to long-term endeavour. In this way, the development of feminist jurisprudence, although inherently linked, can proceed independently of the establishment of a pool of feminist lawyers, as illustrated below.

5.2. Rethinking Feminist Lawyering

In collaboration with VDF, FLN in FWA will engage lawyers possessing expertise in or a strong commitment to human rights. Recognizing the relatively mature age demographic of the bar, FLN will adopt an inclusive approach, not limiting its engagement solely to women lawyers. It will actively involve male lawyers, acknowledging the potential for a deliberate transfer of skills between senior male practitioners and junior female counterparts, thereby contributing to the cultivation of a pool of feminist lawyers.

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Feminist Litigation Network in Francophone West Africa

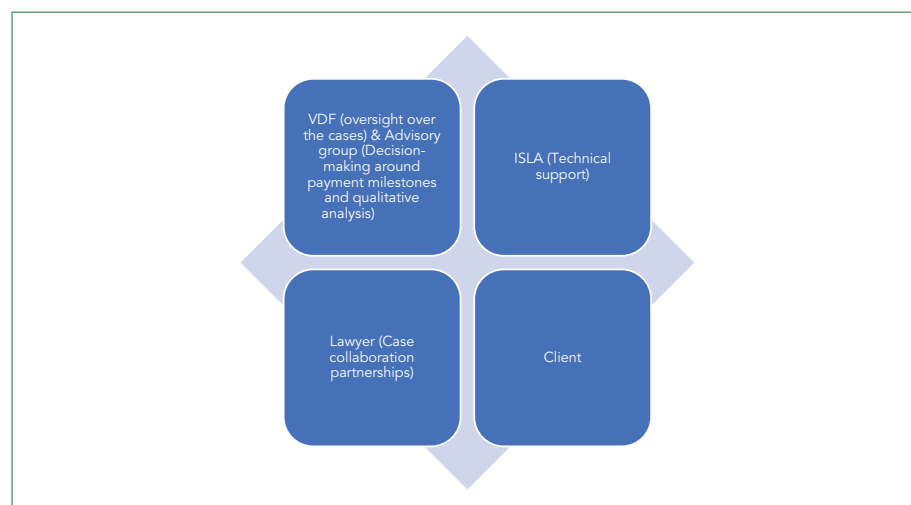
Objectives	Modification
<ol style="list-style-type: none"> 1. Develop jurisprudence 2. develop feminist lawyers 3. strengthen the capacity of institutional partners 	<ol style="list-style-type: none"> 1. Case collaboration partnerships-Lawyers in VDF (Role to get the case filed - the focus is not learning but using already existing expertise in human rights litigation, subject matter expert, a person with experience litigating in BF).* ** *** 2. De-prioritising this objective but not scrapping it - what initial things can we do to build interest and exposure around public interest and feminist lawyering? Engage with the advisory panel - to identify students with an interest; engage with pupil masters to develop a pupillage linked to public interest; fellowship in VDF among others - prioritisation of a culture for public interest litigation. 3. Institutional strengthening curriculum@@@, advisory groups and other human rights organisations with which to enter into strategic partnerships -
How/Modality	Action Points
<ol style="list-style-type: none"> 1. Who are these lawyers? Where do we find the? How do we work with them? - Develop criteria for eligibility - senior lawyers who have knowledge and expertise in human and rights. 2. We need to better understand how we develop a pool of feminist lawyers in Francophone West Africa for purposes of Strategic Litigation - Expert Advisory - enablers and disablers for feminist lawyering and strategic litigation@ 3. What currently exists in VDF for litigation - analyse what is currently happening and guide it towards strategic outcomes@@ 	<ol style="list-style-type: none"> 1. <ol style="list-style-type: none"> 1.1. Advertisement, recruitment, terms of reference, and Service Level Agreements (rates are determined through negotiation) 1.2. Modify case development plan for Francophone and share it with VDF. 1.3. Meet and discuss cases for handover - share handover memo and schedule a meeting 2. Expert advisory and engagement with Bar associations 3. <ol style="list-style-type: none"> 3.1. Tailored institutional strengthening curriculum for Francophone West Africa 3.2. Analysis of what is currently happening and guiding it towards a strategic outcome 3.3. VDF being a pilot for the institutional partnerships in Francophone West Africa

5.3. Rethinking the Partnership

As part of the FLN Strategy includes institutional strengthening, modifications will be made to the institutional strengthening curriculum to equip VDF with the capabilities to source cases for strategic litigation and to provide the necessary guidance and monitoring throughout the case process.

To implement the proposed modifications of the FLN model, the existing tripartite relationship adopted in cohort 2 (ISLA, core partner, client) needs to evolve into a quadripartite structure involving:

- VDF: VDF's role will continue to focus on case sourcing, while also expanding to include monitoring support through institutional strengthening. Additionally, VDF will serve as a liaison to social movements and psycho-social support services. Collaboration with Association Femmes Jurists will persist, with the condition that engaged lawyers align with the FLN's objectives in FWA
- ISLA: ISLA will adjust the curriculum to enhance VDF's monitoring support and deepen their strategic litigation expertise, aiding in the identification of suitable cases for strategic litigation
- The Lawyer: Responsible for case development and client consultations, the lawyer will receive substantive feedback from a panel of experts to refine briefs and ensure case readiness for court.
- The Client: Recognizing the unique requirements of strategic litigation, clients will be informed upfront about the extended duration of the litigation process.



It is anticipated that shared recognition of the skills transfer benefits stemming from the partnership will mitigate possible conflicts. In the event of challenges becoming unmanageable, clear dispute resolution procedures will be in place for all parties involved.

5.4. Rethinking Advocacy

As the objectives of the FLN in FWA are reprioritized, there is an opportunity to develop advocacy initiatives. These efforts will focus on challenging the rules of practice that prohibit lawyers from working in NGOs, highlighting the significant repercussions that ensue, ultimately obstructing access to justice for many individuals.

In Burkina Faso, legal practitioners traditionally face restrictions on their ability to work within non-governmental organizations (NGOs) due to legal and regulatory constraints deeply entrenched within the country's legal framework. These restrictions, stemming from a colonial legacy, aim to uphold the independence and integrity of the legal profession while also mitigating potential conflicts of interest. However, such limitations can impede access to legal services for both NGOs and the communities they serve, underscoring the imperative for legal reform to address this issue. Key actors expected to be involved in advocacy efforts include a coalition of partners focused on access to justice and women's human rights, with strategies and timelines informed by expert advisory convenings, as well as active engagement from bar associations and law schools.



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