



8TH MAY 2023 | ISSUE 8

THE LEGAL INSIGHT

The Official LSK Weekly Newsletter

LAW SOCIETY OF KENYA PARTICIPATES IN A WORKSHOP ON EUROPEAN PROPOSES DIRECTIVE ON CORPORATE SUSTAINABILITY DUE DILIGENCE (CSDD)

The Law Society of Kenya Compliance & Ethics Directorate participated in a 2-day workshop hosted by The Business & Human Rights Resource Centre and Eco News to discuss the proposed European Directive on Corporate Sustainability on Due Diligence and its impact on Kenyan businesses.

Day one of the workshop focused on giving a brief on the directive and its impact on workers. In addition, the Deputy Director of Kenya National Commission on Human Rights (KNCHR) presented the National Action Plan on Business and Human Rights, which is a government strategy aimed at protecting against human rights violations by businesses. The Line Urban, European Union delegation also made a presentation on the CSDD and why it matters for workers and civil society. Subsequently, they presented a case study on the allegations of Gender-Based Violence in the tea sector in Kenya and its negative impact on the employees in the final session.

FEATURED

News Segment

Tech News

Notices/Vacancies

Practice Matters

Upcoming Events



CONTD...

Day two of the workshop focused on key elements of the CSDD. The participants discussed the scope of the directive, sustainable business relationships, stakeholder engagement, due diligence tools for building worker power, and an intersectional approach to corporate sustainability. The discussions were held in panel groups, and participants made recommendations to be included in the directive.

The participants recommended that the CSDD should ensure meaningful engagement of stakeholders, including workers and trade unions. The directive should require companies to carry out due diligence assessments of their whole supply chain, extend due diligence responsibilities beyond established business relationships, and provide mechanisms through which the grievances of workers and other affected rights holders can be raised and addressed. Additionally, the directive must guarantee protection for labor rights defenders and recognize the issue of cultural sensitivity among communities in Kenya.

In conclusion, the workshop was an opportunity for stakeholders to discuss and make recommendations to the European Directive on Corporate Sustainability on due diligence and its impact on Kenyan businesses. All stakeholders and participants agreed that the directive is a positive step in ensuring accountability in businesses and in advancing and protecting human rights in work spaces.

The meeting was attended by 30 stakeholders, including representatives from the Kenya National Commission on Human Rights (KNCHR), Global Compact Network Kenya and Central Organization of Trade Unions Kenya (COTU-K) amongst others.



SENIOR COUNSEL BAR HOSTS THE LSK COUNCIL

The Law Society of Kenya was hosted by the Senior Counsel Bar, chaired by Dr Fred Ojiambo, SC at a luncheon at Serena Hotel on 5th May 2023.

The guest speaker was CJ Emeritus, Dr. Willy Mutunga. He reflected on the Bar's history in Kenya and reminded the LSK Council to continue to protect the rule of law as the beacon of alternative leadership. He also highlighted the importance of reverse mentorship in the profession.

The LSK President, Eric Theuri, encouraged the Senior Counsel to continue supporting the Society in handling matters of public interest and mentorship of young lawyers. The luncheon marked the beginning of fostering positive and productive engagements.





ETHICAL HACKING (BUG BOUNTY HUNTING): WHAT DOES IT MEAN?

New word alert: **Bug Bounty Hunting** = **Ethical Hacking**. You are welcome!

Last week, I was invited to a Tech Conference to speak about the various legal issues arising at the intersection between Law and Technology. To start us off was this lady, let's call her Alice, who led a discussion on Cyber Security and boy, didn't she impress! She understood the topic so deeply, so intimately and so precisely that I wondered whether the topic itself, Cyber security, might get the wrong idea and ask for a happy ending from its handler? Haha anyways.

When my mind got back into the room, Alice was talking about 'Bug Bounty Hunting'. Picture her in an all-black ensemble, complete with a thick, studded leather belt and stilettos. I kept wondering: "When is she gonna pull out the gun?"

I could already picture her, harlot-red lipstick, red nails, and a fire spitter trained to her waist. It had to be there somewhere under that belt, it just had to be. And so, I sat and waited. But to my great disappointment, the moment never came, because first, the chicdee' didn't have a gun and second, I had mis-read her whole talk on Bug Bounty hunting. It's got nothing to do with hunting a bugger down, just imagine that. Nothing!

So, what exactly is Bug Bounty Hunting?

Bug bounty hunting simply means being an ethical hacker who is allowed access into protected code for purposes of checking for errors and malfunctions. As a software programmer with notable skills, you will be shortlisted into a company's bug-bounty hunting program, and you will get paid for every error that you find. It is a safe way of staying ahead of black-market hackers who might be trying to unethically and illegally access your data or source code.

Black Market Hacker vs. Ethical Hacker

Let's say you are a large Law Firm or corporate holding sensitive client data, which data is worth billions if it is accessed and traded in the black market. With the proper incentives, black market hackers will normally try to infiltrate your system illegally and attempt to access that data.

In order to make better decisions regarding the cyber security measures your firm needs to take to protect your systems from hacking, you will need to think like a hacker. That's where Ethical Hacking (Bug Bounty Programs) come into play.



CONTD...

Ethical hackers help corporates identify hacking risks and loopholes in their systems and software. This enables the corporates correct and make upgrades where necessary and make their systems more secure.

Bug Bounty is a reward paid to an Ethical Hacker for identifying and disclosing a potential security risk in a corporate's web, mobile or systems. The Ethical hacker checks for loopholes in the software and discloses the vulnerabilities and weaknesses to the corporation to ensure the owner of the software acts on the bugs discovered. The whole point of the exercise is to ensure that a system or software is as secure as possible, to fully protect the confidentiality and integrity of data held within it.

Where did it all begin?

The first bug bounty program was introduced in 1995 when a startup called Netscape Communications offered cash and Netscape merchandise to people who reported security bugs in the new beta release of its Navigator 2.0 browser. In the last few years, different companies including Google, Microsoft, Facebook, Yahoo, have started to offer significant rewards to bug bounty hunters to identify bugs within their systems.

Companies are willing to pay sufficiently high a price for the discovered vulnerabilities as the ultimate end user of the unpatched vulnerability is unknowable at the point of sale. It might take an outsider to discover a loophole in the systems of a company which may be a blind spot for its in-house cyber security professionals.

In Kenya, Safaricom launched its first bug bounty program in 2018 through HackerOne, the cyber security company and the telecom's program partner.

"The reason for starting this program was to encourage hackers to report any bugs/vulnerabilities that they may find in Safaricom's products and services to Safaricom in a confidential and ethical manner instead of exploiting them or disclosing them to the public," said Thibaud Rerolle, Safaricom's then Technology Director.

Now that you understand what Ethical Hacking is all about, next we shall look at how to draft Agreements for Ethical Hacking.



LAW SOCIETY OF KENYA

The **4** STEPS FOR ONLINE APPLICATION FOR CERTIFICATES OF GOOD STANDING

1

LOG IN TO YOUR PORTAL

Go to <https://online.lsk.or.ke/> and click on Login
Enter your Admission number (from the middle digits of your P.105) and click on the "Proceed" button.
Then input your password.

INITIATE APPLICATION PROCESS

Once logged into your portal, click on "Click to Apply for Good Standing Certificate"
Click on the "Apply For Good Standing Certificate" button on the top right corner and then click "Proceed"

2

3

MAKE THE PAYMENT

Print the PDF Invoice and make payment by following the instructions on the invoice.


DOWNLOAD

Once you make the payment successfully, click back on the initial 'Apply' button on the portal, where the Certificate of Good Standing and receipt shall be displayed for download.

4

The online application for Certificates of Good Standing is available for individual advocates who have no pending disciplinary matters.

Incase of inquiries:

 0111 671 458

 memberservices@lsk.or.ke



NOTICE FOR COMMENTS/ QUERIES ON THE ORDINARY GENERAL MEETING OF THE LAW SOCIETY OF KENYA HELD ON 31ST MARCH, 2023

In view of the recently held Ordinary General Meeting of the Law Society of Kenya held both physically & virtually through Zoom/Webinar Platform on Friday, 31st March 2023, at Safari Park Hotel, Nairobi, the Council resolved to invite members to submit their queries and comments on the various reports presented during the Annual General Meeting (AGM). The reports can be accessed through this link,

<https://bit.ly/3Nd0Gj4>

Members are hereby invited to submit their queries/comments on the reports to memberservices@lsk.or.ke to reach us not later than Friday, 19th May, 2023.

N/B- Members will be advised on the date of the Special General Meeting in due course.



LAW SOCIETY OF KENYA JOURNAL VOLUME 17 (2021)

The Council of the Law Society of Kenya through the Editorial Committee convened by Prof. Michael Wabwile, Council Member would wish to inform the membership that, the Committee has published the LSK Journal Volume 17 (2021).

Members can access the LSK Journal Volume 17 (2021) via this link, [The Law Society of Kenya Journal Volume 17](#)

N/B- Hard copies of the Journal will be dispatched to the members through their declared branches.



NOTICE FOR COMMENTS ON THE DRAFT INTERSEX PERSONS BILL, 2023

The Intersex Persons Implementation Coordination Committee established by the Attorney General vide Gazette Notice No. 7264 of 2019 dated 16th August, 2019 has completed the development of the Draft Intersex Persons Bill, 2023. This Bill seeks to provide for a framework for the recognition of intersex persons, protection, fulfilment and promotion of the rights of Intersex persons.

Specifically, the Bill seeks to:

1. Facilitate the enjoyment of human rights and fundamental freedoms contemplated in the Constitution, National laws and International instruments by Intersex persons
2. Include Intersex persons in all aspects of the society, in order to eliminate all forms of discrimination particularly in areas of access to justice, security, health, employment, information and education

In accordance with Article 10(2) (a) of the Constitution that highlights National values and principles of Governance including participation of the public, Members are hereby invited to submit their comments on this Bill, which can be accessed through this [link](#), to Ms. Winnie Tsuma via winnie.tsuma@lsk.or.ke not later than Friday 12th May, 2023.

COLUMBIA LAW SCHOOL EXECUTIVE EDUCATION PROGRAM FOR LEGAL PROFESSIONALS IN KENYA

The Law Society of Kenya is in receipt of a request from Columbia Global Centers, Nairobi to inform the membership of the Centers intention to establish an Executive Education Program for practicing legal professionals in Kenya. The idea is to develop an Executive Education program as follows:

- 6 months-1 year hybrid program combining online teaching and 2 weeks of in-person instruction at Columbia Law School in New York.
- The sponsoring law firms will pay for travel to and accommodation in New York for participating legal professionals.
- Admissions into the program will be based on an application process.
- At the conclusion of the program, participants will obtain a certificate.

Members are hereby requested to take a poll on the areas of legal jurisprudence that would be the priority areas of learning for the legal professionals in Kenya in the following areas of study: <https://www.law.columbia.edu/areas-study>

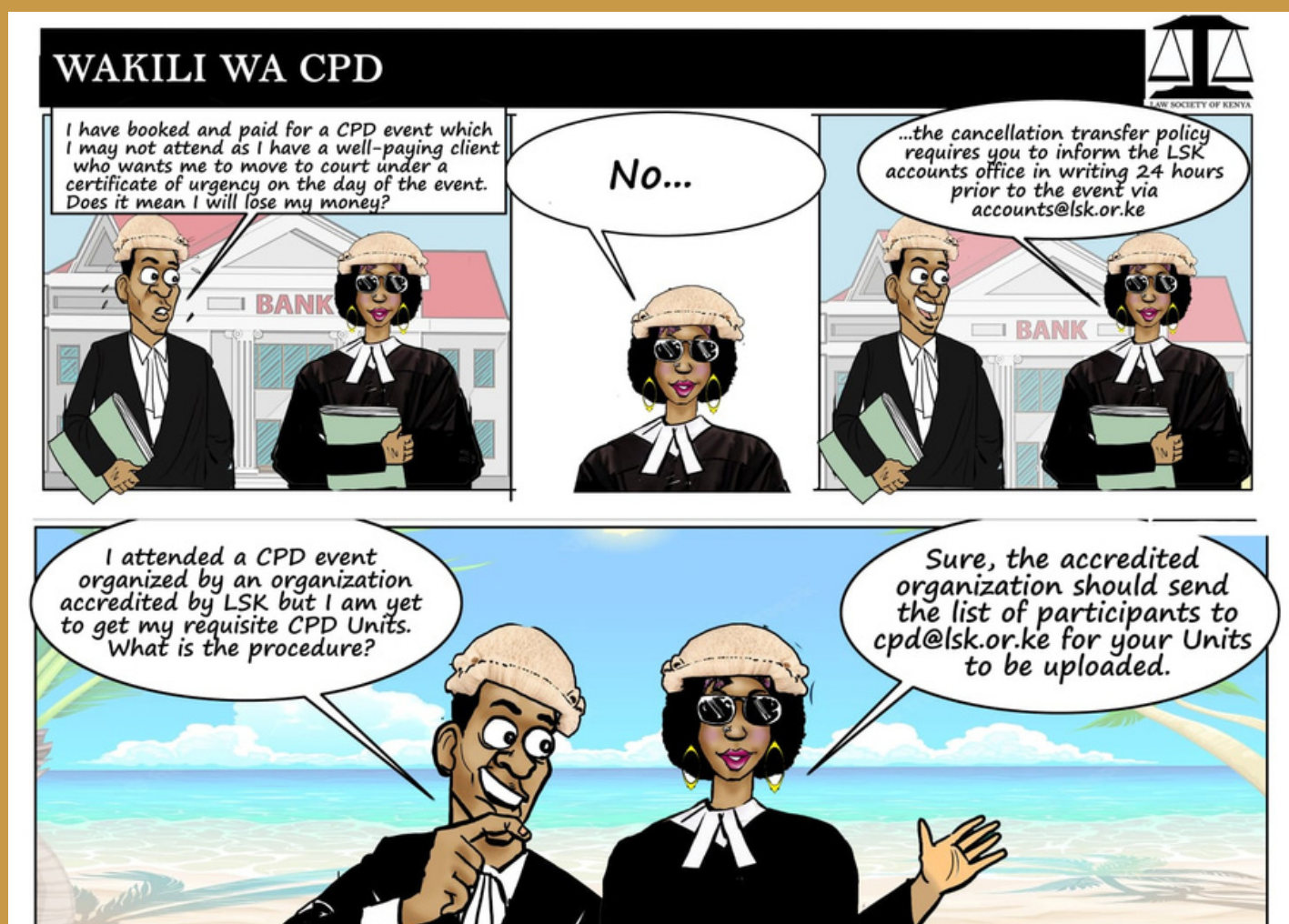
The short poll can be accessed via, <https://forms.gle/cwZwy6f8EJnuq7Bo6> to reach us not later than Monday 8th May 2023 at 5:00pm.



LSK CONTINUING PROFESSIONAL DEVELOPMENT (CPD) EVENTS - MAY 2023

This month, the Law Society of Kenya has 8 CPD Seminars/Webinars left for participation. To access the full calendar for the month, [click here](#).

Booking for CPD events is mandatory before making any payments. Those who intend to attend CPD events are required to book online and pay as illustrated on the link [Kindly click here for the online CPD booking manual](#)





PRACTICE DIRECTIONS ON PENDING WORK INJURY BENEFIT ACT (WIBA) MATTERS

Arising from deliberations between the LSK Council, the LSK Branch Chairs, and the Judiciary on the way forward with pending WIBA matters after the Supreme Court Judgement, the Chief Justice has today issued Practice Directions on pending WIBA matters filed before the Supreme Court Judgement.

The Objectives of the Practice Directions are to—

- (a) Consolidate and standardize practice and procedure in the Employment and Labour Relations Court and the Magistrates Courts in relation to claims for compensation for work related injuries and diseases instituted prior to the Supreme Court decision dated 3rd December, 2019, which are pending in courts;
- (b) Enhance access to justice;
- (c) Facilitate timely and efficient disposal of cases that were filed prior to the Supreme Court decision; and
- (d) Ensure uniformity in court experience.

Members are hereby notified of the Practice Directions which can be accessed via this link.





ADVOCATES' PRACTICE STANDARDS CAMPAIGN ALERT:



Masqueraders, Quacks, Impersonators and Unauthorized/Unqualified Persons

Who is an Advocate of the High Court of Kenya?

A person duly entered to roll of Advocates and has a practicing certificate for the current year.

You can check the practice status of such an advocate on online.lsk.or.ke by clicking on **Search Advocate** and entering the name of the advocate. If the Advocate has a valid practicing certificate, it will be **Active**. If not, it will be **Inactive**.

In case of an advocate is inactive, please report to the director practice standards by email to compliance.or.ke or send a letter to LSK Secretariat.

Practicing without a valid Practicing Certificate is professional misconduct tantamount to disciplinary proceedings.
Who is a quack or Masquarader?

This is a person who pretends to be an advocate.

They can equally be identified by the above process. If a person is not entered in the LSK Portal, the person is a masquerader and criminal proceedings should ensue.

● 0110 459 555 || ✉ compliance@lsk.or.ke

PLEASE NOTE THAT THE SEARCH
ENGINE IS ACCESSIBLE ON
<https://online.lsk.or.ke/>





LAW SOCIETY OF KENYA

2023

ANNUAL CONFERENCE

15TH-20TH AUGUST 2023

**VENUE: DIAMONDS LEISURE BEACH & GOLF RESORT,
KWALE COUNTY**

MAIN CONFERENCE THEME:
**Climate Change: From Theory to Action, the
Role of the Legal Profession in Climate Justice**

Other discussions will cover:
Anti-Money Laundering: The Uncomfortable Agent
A Lawyer's Role in Balancing the Competing Interests

PERIOD	1st to 31st May, 2023 (Early Bird)	1st to 30th June, 2023	1st to 31st July 2023
ANNUAL CONFERENCE RATE (PER DELEGATE)	Kshs. 32,000	Kshs. 35,000	Kshs. 37,000

**FOR MORE
INFORMATION**

Call +254 745 569854 or
email annualconference@lsk.or.ke



4
CPD
POINTS



KSL COURSE: BOARD SECRETARIAL PRACTICES

DATE: 5TH to 9TH DECEMBER 2023

VENUE: NAKURU

ABOUT THE COURSE

Boards of directors have a direct impact on shaping the success of the organizations they govern. In order to be effective, they ought to have a thorough grasp of their authority, mandate, roles and responsibilities as well as the organization's operational environment and regulation.

The Board Secretarial Practices training is designed to equip participants to understand and implement sound policies and ongoing procedures for effective governance in a manner that complies with set legislation and various guidelines. The aim of the training is to equip participants with an in-depth appreciation of the operations and processes of boards. It will similarly explore a practical application of how boards and management can work together to enhance board operations within the organization's operational environment and regulation.

The outcome of the training will be that participants will gain practical insight into how to set up structures, policies and procedures for governance, leadership, authority, decision-making accountability and transparency.

By the end of the course, the participant will be equipped to;

1. Relate corporate governance theory and corporate governance in practice;
2. Describe a typical board structure, operation and processes;
3. Demonstrate an understanding of the roles and responsibilities of the board, its committees and the individual members, on the one hand, and the management, on the other hand;
4. Explain the rationale and purpose of the Mwongozo Code;
5. Apply the knowledge and skills gained to their respective organizational demands;
6. Help their respective organizations to establish effective strategies and systems for board operations and processes and their interface with the management;
7. Manage the challenges attendant to the interaction between the board and the management of an organization.

YOUR INVESTMENT: Ksh. 95,000 inclusive of VAT and registration fee (covers tuition fees, course materials, stationery, lunch, and refreshments). Non-East Africans pay USD 1,250.

CPD POINTS: Members of the Law Society of Kenya who attend and complete the training will be entitled, on payment of an extra Kes. 1,000.00 to be awarded 3 CPD points. Payment of this sum shall be effected during the training, as will be directed by the organizers of the training.

Application Process Application form may be obtained from the Kenya School of Law CPD Department at Karen or be downloaded from our website http://www.ksl.ac.ke/wpcontent/uploads/2018/04/CPD_REGISTRATION_FORM_.pdf

Money should be deposited in the School's account: (Account No. 202 2029 110 Barclays Bank of Kenya, Absa Bank Kenya PLC, Plaza Branch, Nairobi, Kenya) and the bank slip or evidence of electronic funds transfer presented to the Finance Office. Please note that we would wish to have your duly completed application form and proof of payment (or confirmation of participation) one week before the commencement of the course to enable us to adequately prepare for the course. For any queries, contact Course Coordinator Ms Naserian Sitelu at msitelu@ksl.ac.ke, or Jacqueline jacqueline@ksl.ac.ke; Christine cmwanza@ksl.ac.ke or cpd@ksl.ac.ke.