



A vibrant agency for responsive law reform



**Report on Cyber Crime Courtesy Mission by
Dr. Alexander Seger (Executive Secretary of the Committee of the Parties
to the Budapest Convention on Cybercrime)**

Venue: Kenya Law Reform Commission Offices, Nairobi Kenya.

Date of Visit: Thursday, July 2nd 2015.



From Left (Chairperson KLRC Mbage Ng'ang'a, Dr. Alexander Seger, Vice Chair- Doreen Muthaura, Commissioner Njoki Kahiga, Corporate Communications Officer- Jacob Otachi, Legal Officer Irene Kabua and Luke Mikedon)

INTRODUCTION

The Kenya Law Reform Commission, (the Commission) is established by the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013) as a successor to the Law Reform Commission, established under the repealed Law Reform Commission Act, Cap 3. The Commission is a body corporate with perpetual succession, which serves both National and County Governments in all matters pertaining to law reform.

The mandate of the Commission include reviewing the laws of Kenya, assisting County Governments to develop their legislation and working with the Attorney-General and the Commission for the Implementation of the Constitution to develop legislation and administrative measures required to implement the Constitution.

Pursuant to the mandate of the Commission cited above, the Office of the Director of Public Prosecutions had *vide (in reference)* a letter dated 10th April 2014 to the Commission requested it to undertake a comprehensive status analysis of all matters pertaining to legal issues emanating from cybercrime in the Republic including the development of a new Bill on the subject matter.

Background

The Kenya Information Communication Act, Cap 411A of the laws of Kenya (the Act) came into force in 1998. There have been a number of amendments since then including the introduction of Part V1A on electronic transactions which provisions came into force following the enactment of Kenya Information Communication Amendment Act, 2009 and recent amendment as to the institutional framework in 2013 vide Kenya Information Communication Amendment Act (2013). The Act's primary objective is to provide for the establishment of the Communication Authority of Kenya to facilitate the development of information and communication sector (including broadcasting, multimedia, telecommunication and postal services) amongst others.

For a number of years now, there have been calls to review the Act because of identified shortcomings with regard to cybercrime. It is in response to these calls that Office of the Director of Public Prosecutions requested the Commission to commence the process to review the Act.

Main Activities for the realization of the cyber-crime bill 2015:

1. Convene a one in-country Cyber Stakeholder meeting in Nairobi;
2. Hold meetings with key stakeholders from the government, private sector and civil society sectors to explore possibilities of greater involvement in the development of the bill;

Observations during the courtesy call by Dr. Seger



- a) There is solid Budapest Convention commitment to cooperate with countries willing/ that have acceded to the convention;
- b) The draft Cyber Crime Bill 2014 needs to be opened for further feedback and consultation from broader stakeholder groups;
- c) The Commission welcomed suggestions to champion the cyber-crime bill 2014 and to receive additional representation from

- stakeholders;
- d) Concerns that numerous activities touching on cyber- crime in other such as the security amendment bill are not fully comprehensive;
 - e) There is limited capacity on cyber-crime issues in Kenya and in the region despite advancement in technology;
 - f) There is an across the board recognition of Cyber Crime Bill as a useful platform to enhance online safety;
 - g) Citizen awareness about cyber-crime is still low;
 - h) There are opportunities for funding in the arena of cyber-crime protection.



Action Points

1. Expand the Cyber Crime Bill 2014 list serve to involve more stakeholders;
2. Link the Kenya Law Reform Commission with other regional commissions and national institutions for possible sharing and support to the country process;
3. Explore the possibility of sub-regional exchange visits for greater learning;
4. Kenya Law Reform commission to benefit from the model laws under the EU convention.

Recommendations

1. More capacity to be made available to all stakeholders especially the cyber coalitions and interest parties;
2. Kenya Law Reform Commission to take a leading role in spearheading the bill as a high priority.

Notes:

Issues Raised

- Are there sufficient strategies to enhance country cooperation after accession the convention?
- Challenges to the Budapest convention?
- Role of regulatory bodies?
- Best case examples of countries that have adopted the Budapest convention.

Progression:



Welcome:

See you again: