

Editorial

In his seminal *Things Fall Apart*, Chinua Achebe brought to the world's attention the Igbo saying, 'if a child washes his hands he could sit with kings'. Knowledge creation is like a regal space only few dare, or can even successfully manage to venture into. This explains the scepticism that has always surrounded law reviews. Critics have long wondered what good can come out of student editors, or worse, student-authored research. The Strathmore Law Review has for three consecutive volumes done much to demonstrate the contrary. The Review has aided to fill the void evident in legal writing, and more crucially, dedicated itself to creating a space for upcoming scholars to address issues facing Africa. This singular pursuit remains, and is evident in each article in this volume, each challenging, forward-looking yet alive to the present, and tailored for the continent. It is with great pleasure that we bring you this volume which has the theme: *Legislating for Tomorrow's Africa*.

In *Till Death Do Us Part: The Ailment Affecting the Widow's Life Interest in Kenyan Intestate Succession*, Khalil Badbess presents the inadequacies of the Law of Succession Act in protecting a widow's right to inheritance. By comparing the determination of life interest upon the remarriage of a widow against that of a widower, the author argues that the legal position is discriminatory against widows and that the courts ought to pronounce it as such.

Abdulmalik Sugow in *The Right to be Wrong: Examining the (Im)possibilities of Regulating Fake News while Preserving the Freedom of Expression in Kenya* addresses fake news in the age of social media. He discusses the dilemma in regulating the evolving and largely subjective notion. The author examines the recently enacted Computer Misuse and Cybercrimes Act of 2018 and embarks on an intellectual journey towards achieving a balance between the freedom of expression and the need to regulate fabricated information. At the journey's end, ways of achieving possible resolution of this legal dilemma are provided.

Enock Okwach's *The Problematic Jurisprudence on the Law of Defilement of Adolescents in Kenya* explores whether the sanctions imposed by the Sexual

Offences Act against juvenile sexual offenders are just and reasonable. The author invokes social science evidence to advance the position that the mandatory minimum sentences in the Act hinder the right to a fair trial by tying the judges' ability to consider mitigating facts. Interestingly, the author also argues that the defilement laws hinder the full realisation of the right to access reproductive health and that they fail to address the delicate position of consensual sexual relations between minors. Finally, the author proposes reforms for adjudging criminal culpability in such cases.

Does the environment exist to serve us or do we exist to serve the environment? This is the question that Timonah Chore in *Reconceptualising the Right to a Clean and Healthy Environment in Kenya: The Need to Move from an Anthropocentric View to a Bicentric View* grapples with while analysing the right to a clean and healthy environment. The author argues that the view that the environment should only be protected to the extent that it promotes humans' well-being is faulty as the environment has intrinsic value such as biological diversity amongst others which ought to be protected regardless of its short-term utility to man. By arguing that the latter is more sustainable, the author calls for a balance between the two positions.

Cognition and Volition Impairment in Criminal Conduct: A Look into the Application of the M'Naghten Test in Kenya by Muoki Ndunge examines the shortfalls of the M'Naghten rules. By arguing that the traditional insanity test places undue and consequently detrimental focus on cognitive impairment, the author then makes a case for the inclusion of volitional impairment and suggests reforms to sections of the Penal Code.

In *Taxing a Digital Economy: Exploring Intangible Assets to Broaden Revenue Base in Kenya*, Justice Gatuyu examines the challenges of taxing intangible assets. By a thorough analysis of both accounting and legal aspects of intangibles assets, the author presents an inter-disciplinary view of how the digital economy can be applied in broadening the country's revenue base. *Structural Interdicts for Socio-economic Rights: What the Kenyan Jurisprudence Has Missed* is an impassioned take on the implementation of socio-economic rights in Kenya by the Strathmore Law Clinic in the wake of the *Mitu-Bell* decision which ruled against the use of structural interdicts in Kenyan courts. It brings to fore the complexities in enforcing socio-economic rights, a regime new to the Kenyan legal landscape and questions the role that courts can play in securing them.

Mdathir 'Timamy's *Is Agriculture a National or County Governments' Policy Function in Kenya? Interrogating Section 4 of the AFA Act together with the Fourth Schedule and Article 191 of the Constitution* closes off the volume with a thoughtful analysis of the division of agricultural functions between the county and national governments in Kenya. This article speaks to the reality of devolution almost a decade into the promulgation of the 2010 constitution. It offers a constitutional and comparative approach to resolving the overlap of functions between the national and county governments.

This issue marks a great milestone. It is the last one by members who were part of the first ever crop of editorial assistants to serve on the Board, and the second without the founding Board members. With this in mind, the Board strove to honour both the legacy and continuing mission of the *Strathmore Law Review* with renewed rigour and insight. This brought about a recommitment to producing world-class research that is useful and contextual: a daunting and humbling task that ironically, served to fuel each editor. The result is a work of labour by remarkable young men and women. New horizons were also traversed, key among them being forging new partnerships and creating new programmes. The Review welcomed on board its first Sponsor, KN Associates, to whom much gratitude is owed.

The Board also maintained the double-blind peer review method, and the following provided expert review for the articles: Jane Wathuta, Cecil Yongo, Charles Opiyo, Desmond Tutu, Emma Wabuke, Lyla Latif, Mohammed Ruwange and Mukami Wangai. Thank you all for enriching this volume with your insights. Lastly, we would like to sincerely thank each author for entrusting us with their work and putting in admirable effort in achieving this fete, congratulations!

AnnBeatrice Njarara and Jentrix Wanyama
Editor-in-Chief and Managing Editor
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