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## Editorial

Over 100 years ago, the culture of student-run law reviews emerged, giving rise to exceptional and inspirational scholarship the world over. On the African continent, this culture is relatively nascent with the Strathmore Law Review (SLR) proudly holding the mantle as the longest-standing student journal. Now in its eighth year, the SLR has always stood guided by its visionary aspiration: to cast a luminary spotlight on the African continent through the lens of autochthonous and authentic legal scholarship. Year after year, the insightful and novel articles featured in every edition of the SLR serve only as a testament to realise this very noble goal; one that is enshrined in the journal's Constitution.

This year, however, we stand at the brink of a momentous transformation. The theme of our eighth volume, 'Enriching Legal Scholarship in Africa,' has heralded a remarkable evolution in our mission. While our commitment to amplifying legal scholarship remains, the articles showcased this year transcend mere discourse – they rupture conventional boundaries, interrogate established norms, and lay the foundation for a profound renaissance in legal thought.

In this light, it brings me tremendous joy to present to you the articles of this, the Eighth Volume of the SLR. These articles traverse a captivating and informative spectrum of jurisprudence: from judicial philosophy to artificial intelligence and from public interest to human rights. It is indeed an all-encompassing journal; particularly as far as subject matter is concerned. Here then, are the works that make up this edition of the SLR.

Our inaugural offering is William Ngaruiya's thought-provoking article *Critiquing the Supreme Court of Kenya's Jurisdictional Decisions to Adjudicate Matters of General Public Importance*. Here, Ngaruiya directs his gaze towards the Supreme Court of Kenya's appellate jurisdiction with a trained focus on its prerogative to hear appeals from the Court of Appeal, certified as matters of general public importance; a dictum finding basis in Article 163(4)(b) of the Constitution. Central to his analysis is the Hermanus test – a framework established by the Supreme Court to provide clarity on the nuanced concept of 'general public importance'. He advances a persuasive argument, contending that the prevailing

understanding within the pinnacle Court tends to treat public interest as a homogenous, uniform construct, overlooking the rich diversity that exists within our society.

Still scrutinising the apex Court, and adhering to the practice of conducting rigorous doctrinal analysis, we turn our attention to an inquisition on what is and should be the judicial philosophy of Kenyan courts. This, a pressing legal inquiry, is addressed by *Mark Lenny Gitau* in his paper, *“Emerging Horizons: Transformative Prudentialism and the Renaissance of Judicial Philosophy in the Supreme Court of Kenya”*. In this meticulous examination, Gitau delves into a critical analysis of the approaches taken by judges when rendering case decisions, with particular emphasis on the underlying factors that influence their judgements. Gitau took it upon himself to conduct a scrutiny of cases adjudged by the apex Court, with a primary lens, focused squarely on the Court’s judicial philosophy concerning the fundamental concept of separation of power. He posits a compelling argument, and cogently contends that the Court’s existing philosophy exhibits a conspicuous lack of clarity, characterised by moments of both undue restraint and sporadic overreach. In response to these complexities, Gitau goes as far as to advance the proposition of adopting ‘transformative prudentialism, as a more fitting judicial philosophy for the Constitutional era that has unfolded post-2010.

In keeping with the current digital trend and burgeoning discussions surrounding Artificial Intelligence, *Mitchelle Kang’ethe* in *“Me, Myself, and AI: Should Kenya’s Patent Law Be Amended to Recognise Machine Learning Systems as Inventors?”* carefully dissects a method of attribution still in its infancy. In this ground-breaking exploration, Kang’ethe navigates the remarkable case of a South African invention which credited an AI model as the inventor within the patent application – an occurrence which stirred global interest. Kang’ethe artfully continues her inquiry of whether Kenya’s Industrial Property Act of 2001 ought to formally recognise Machine Learning (ML) systems as inventors. The paper cogently argues that certain ML systems can manifest inventive capacities akin to, or even surpassing, human intellect, thus warranting due recognition as inventors.

Continuing the journal is a thought-provoking fusion of mathematics and law found within the pages of *Elvira Akech’s* exceptional article: *“Equitably Assessing Non-Monetary Contributions in Kenya.”* Akech delves into the complicated terrain of dividing matrimonial property when unions are dissolved in Kenya. The paper illuminates a stark schism in legal perspectives: whereas one side advocates for an equal division of property, grounded in the principle of spouses’ equal rights, the opposing contend the championing of distribution based on individual contribution. Akech, on the other hand, adeptly contends that non-

monetary contributions have been historically relegated to a secondary role, overshadowed by their monetary counterparts. This, she opines runs counter to the bedrock principle of equity. In response to this budding concern, the paper puts forth a unique proposal – a mathematical formula that accords equal weight to both monetary and non-monetary contributions. In her considered view, she argues that such an approach would serve as a beacon of fairness and equity, aligning seamlessly with the Constitutional standards that underpin the division of matrimonial property.

To conclude the eighth volume, Nicholas Kipkoech's article, "*The Delicate Balance: Exploring the Interplay Between the Right to Healthcare Services and the Right to Strike for Medical Practitioners in Kenya*" brings forth a debate that has taken center stage in recent memory. In this insightful piece, he embarks on an examination of the profound significance of the right to strike for medical practitioners within the Constitutional framework of Kenya. He expertly scrutinises the efficacy of this right in addressing instances of employer non-performance, especially when pronounced disparities in bargaining power persist. Kipkoech subtly, but profoundly, underscores the intricate interplay between healthcare practitioners right to strike, the constitutional assurance of the right to healthcare services, and the overarching right to health; collectively enshrined within Kenya's Constitution.

The foregoing then, are the exceptional pieces that form the eighth volume of the SLR. It is at this juncture then, that I register sincere, and heartfelt congratulatory sentiments to the host of incredible authors for their commitment and hard work. Moreso, I wish to thank them for entrusting the SLR's editorial team with their hard work, and the journal as the platform for the dissemination of their valuable insights.

I must harken to state that these exemplary articles bear witness not only to the rigorous research and intellectual dedication of our authors but also to the relentless exertions, countless late nights, and occasional tears shed by our devoted student editors whose zeal to work for the journal is the heart and soul of this journal. Therefore, to the Editorial Assistants, the Associate Editors, the diligent Senior Editors, and the able leadership of this institution, I convey much appreciation. I would also like to give a special recognition to *Larry Chula*, our Digital Publishing editor, who was always on hand, ready to selflessly transcend beyond the confines of his role to ensure the success of this Volume.

The achievements of our journal are not solely a product of our own endeavours; we owe a debt of gratitude to our well-wishers and supporters. To the esteemed expert reviewers of this volume, the dedicated SLS administration team, and the entire Strathmore Law School community, whose support

propelled us to producing this finished volume, we extend our gratitude. We would especially like to thank: *Dr. Peter Kwenjera, Mr. Allan Mukuki, Prof. Luis Franchesci, Mr. Cecil Abungu, Ms. Mukami Wangai, Dr. Jane Wathutha, Dr. Francis Kariuki, Dr. Lynette Osiemo, Ms. Jade Makory, Mr. Joseph Kaguru, Mr. Arnold Nciko, Ms. Vellah Kigniru, Mr. Richard Muhwa, Dr. Constance Gikonyo, Mr. Wesley Oroo, and Mr. John Agutu.*

Leading the editorial team for this volume marks the pinnacle of my journey in law school – an experience that will remain a lifelong treasured memory. I am grateful to the team for entrusting me with this role and giving me the opportunity to serve this institution. The passion, dedication, and intellectual curiosity that pervades this institution continue to be a wellspring of inspiration, even to this day.

At the outset of this piece, I drew a comparison (something our editors love) to the longstanding tradition of Law Reviews, which have graced academic landscape for over a century. In contrast, our SLR boasts a relatively brief history, spanning a mere eight years. Yet, within this short span, we've etched an indelible mark. We have published remarkable articles, nurtured a vibrant academic culture among our law students, and have cast our influence not just within our school but across our nation and continent. This exemplifies the immense potential that resides within our journal. The magic formula lies in the tireless work of dedicated editors, a supportive university, and willing authors – the quintessential trifecta for law reviews. In this regard, we are cognisant that we are indeed fortuitous.

To the incoming team, the Strathmore Law Review editorial team, I wish to impart a single piece of advice that has been invaluable throughout my own journey: the next time you find yourselves engrossed in the art of editing at 2 a.m., your fingers typing the words, "Kindly provide an authoritative source to cite this claim," remember this – your task extends far beyond the realm of mere paper editing; you are, in fact, architects of the narrative that defines African legal scholarship. You are crafting history, sculpting what will one day evolve into a venerable institution with a 100-year legacy. With the baton now gracefully passing into your capable hands, I wish you the absolute best on your journey. As you curate the next volume always remember, we will champion your successes, and forever be there to support you, as past leaderships have been there to support us.

**Sanjana Ragu**

*Managing Editor - SLR*