



STRATHMORE LAW REVIEW

VOLUME IX, ISSUE 1

Shaping the Future of Africa:
Harnessing the Power of Legal Scholarship
for Social Transformation.

(2024)



Strathmore University
Law School

Strathmore Law School
Madaraka Estate, Ole Sangale Road
P.O. Box 59857 00200
Nairobi - KENYA
Tel. + 254-703-034601
lawreview@strathmore.edu
<https://lawreview.strathmore.edu/>

Partnerships

The production of this document has been possible thanks to the support of our partners



CMS Daly Inamdar Advocates



Editorial Board

Editor- In Chief

Amelia Midwa

Managing Editor

Tabitha Munyaka

Publishing Editor

Esther Omanga

Digital Publishing Editor

Peter Muindi

Editors-in-charge of Peer Review

Mark Gitau Wangari Kamau

Senior Editors

Abigail Burgei David Mwenda
Teya Barongo Winnie Amakutwa
Zayn Aslam

Associate Editors

Gia Sajan Kiwara Irungu
Michelle Adika Wayne Simwa

Editorial Assistants

Aaron Mwangi Bakhita Munenge
Faith Gakii Jaynerose Ochieng
Melissa Oganga Nigel Wasike

Artwork by John Agutu,

Email: agutujo@gmail.com

Printed by

Mzuqa Creations, Kimathi Street

Phone: + 254 723 030 528, Email: geonnie.g@gmail.com

Contents

Foreword	7
Editorial	9
Algorithmic Bias in Hiring Algorithms: A Kenyan Perspective <i>Kazungu Mrashui</i>	13
BIT by BIT: Regulation of Highly Capable AI Through the Remodelling of Bilateral Investment Treaties <i>Esther Omanga</i>	37
Using a Sledgehammer to Crack a Nut? Kenya's Approach to the Detention of Asylum Seekers and Refugees in Prisons and Police Stations <i>Marie Iradukunda</i>	63
Double Invisibility: Realising the Right to Vote for Persons with Intellectual Disabilities in Kenya <i>Valentine Kaburu</i>	97
Compulsory Licensing for Pharmaceutical Access in East Africa: The Challenge of Kenya's Failure to Adopt Article 31 <i>bis</i> of the TRIPS Agreement <i>Vicky Miriti</i>	129

Foreword

Another team of talented and inspired students at Strathmore Law School has produced yet another Volume of the Strathmore Law Review at the end of their term of leadership. The SLR team is composed entirely of students and led by the students themselves. We commend their constancy and unwavering determination and are proud of them for continuing to carry the SLS banner high.

This year's edition comes at a time when we begin an important milestone in the history of SLR. The Strathmore Law Review was approved as a credit bearing course in the most recent update of the LLB curriculum. The SLR, together with the Strathmore Law Clinic and Mooting have become our flag-bearing experiential courses. From now on, the students who dedicate much of their time, skills and talent to the activities promoted under these three banners will be able to get academic credit for it. It is hoped that this move will give even more motivation to the students involved, should they have needed it, to expend themselves in doing well what they love and are gifted in, for the greater benefit not only of themselves, but also of the Strathmore community and the wider society.

With the production of this edition, we hope that another lot of young students have been empowered to see themselves as producers of useful knowledge. It is no mean feat to write an article and go through the rigors of having it reviewed with the back-and-forth correspondence with editors pointing out errors in what was considered flawless at submission. The process is an education in articulation of one's thoughts, the ability to defend one's ideas - their originality and credibility of references - and the art of writing well, down to the minutest of details. We hope that the authors and editors proudly carry the lessons learnt in the efforts that went into the production of this edition and feel empowered to undertake similar onerous and complex tasks in their future careers.

I wish everyone who picks this journal a fruitful reading and hope that those in the student community will be inspired by the work of their peers to also contribute to future Volumes of SLR, or to join the illustrious team of editors and put their talents and skills to good use for the greater cause.

Dr. Lynette Osiemo

Research Director, Strathmore Law School.