

# STRATHMORE LAW JOURNAL

VOLUME 2, NUMBER 1, AUGUST 2016



**Strathmore University**

**Press**

Strathmore Law School  
Madaraka Estate, Ole Sangale Road  
P.O. Box 59857 00200  
Nairobi - KENYA  
Tel. + 254-703-034601  
[editor.sup@strathmore.edu](mailto:editor.sup@strathmore.edu)  
[www.press.strathmore.edu](http://www.press.strathmore.edu)  
[www.law.strathmore.edu](http://www.law.strathmore.edu)  
Twitter: @strathmorelaw

# Foreword

This edition of the *Strathmore Law Journal* introduces an outstanding collection of articles, book reviews and recent legal developments. It is the product of a year of laborious reading, blind peer-reviews and professional editing carried out under the supervision and enthusiasm of the Editorial Board under the leadership of Osogo Ambani, one of the most disciplined and focused young Kenyan scholars.

*Strathmore Law Journal's* 2016 edition is one more step forward towards the realisation of Strathmore Law School's vision and mission. There is excellent and innovative scholarship and jurisprudence in Africa and about Africa that permeates the most varied realities and legal challenges the continent is facing.

This edition presents the reader with engaging reflections on what I enjoy calling contextualised human rights issues. Several authors write on terror and terrorism, which highlight the conflict between security, privacy and human rights. The topics of trade and human rights, devolution, the political participation of persons with disabilities, as well as the rights of shareholders when it comes to derivative action are also featured. Finally, the editor-in-chief takes a look at the breath-taking expectations on the CAL application for observer status before the African Commission. On this issue, as I write, Africa awaits a decisive judicial verdict on a matter where the judicial and political organs of the AU are reading from contradictory scripts.

The authors have excelled in expounding their intellectual curiosity. They have analysed the topic of their choice with a critical mind, wit, freedom and, more importantly, with the difficult aim of finding the truth they set themselves to seek the day they entered law school.

William M. Sullivan, one of the most prominent modern advocates for a revival of professional responsibility, wrote an influential paper in 2005, titled "*Work and integrity: The crisis and promise of professionalism in America*".<sup>1</sup> He focuses on creating a new generation of professionals who embrace a stronger sense of social purpose. For Sullivan, educational training should include a strong social and ethical component; an essential part of the work of an advocate is to under-

---

<sup>1</sup> Sullivan, WM, *Work and integrity: The crisis and promise of professionalism in America*, 2ed, Jossey-Bass, San Francisco, 2005, 327.

stand the context so that he can give an intelligent response to the expectations others have of him in his client-advocate relationships.

This is a sort of third apprenticeship which has been largely ignored, and it is turning the wine of law and lawyers into vinegar before our eyes. Neil Hamilton and Sarah Schaefer have also pointed out in their paper “What legal education can learn from medical education about competency-based learning outcomes including those related to professional formation and professionalism”<sup>2</sup> that there is a clear worldwide shift in legal education towards this third apprenticeship. Hamilton and Schaefer advise that we should move away from a structure- and process-based curriculum, where exposure is limited to specific content for a specified period of time defined only by the expert judgment of teaching staff, towards empirical research on the actual needs of clients and lawyers in the legal system, and a competency-based curriculum that includes an assessment of each student’s developmental stage with respect to the core competencies.

Hamilton and Schaefer argue that the new lawyer should foster trust by caring about the person, taking into account individual personal needs and preferences; promote a respectful environment that embraces diversity and open interaction; aim at getting proper personnel, resources, and adequate facilities; develop and practice superior communication skills which cannot be improvised; be disciplined in completing tasks and responsibilities and serve as a positive role model and mentor; and finally, pursue scholarship, seek and generate new knowledge, and share it generously.

Law schools cannot be reduced to teaching the technicalities of a moribund law, forgetting ethics and the soft skills that will make our future lawyers succeed or fail. The best schools in the world are waking up to this reality, and they are trying to learn from other professions which have set the pace.

I hope the depth and thoroughness of the articles contained in this edition of the *Strathmore Law Journal* will be our small contribution to the immense and exciting task of advancing African legal scholarship to the next level by exciting the minds of teachers and students alike to appreciate the beauty of law and its technical and jurisprudential challenges.

Luis Franceschi, LLB, LL.M, LL.D  
*Dean, Strathmore Law School*

---

<sup>2</sup> Hamilton, N & Schaefer, S ‘What legal education can learn from medical education about competency-based learning outcomes including those related to professional formation and professionalism’, 400 *Georgetown Journal of Legal Ethics* 29 (2016), 399-438.