

# Editorial

There can seldom be greatness without consistency—it is only through steady and continued efforts to achieve and *maintain* a certain standard that one can truly be great. A year ago the inaugural volume of the Strathmore Law Review (SLR) was made available to the legal fraternity and academy at large. This volume served as an announcement on the part of the Strathmore Law School that we have humbly taken up the task of growing the culture of legal academic writing in the country and continent.

Since then, the SLR has grown in leaps and bounds by reaching out to wider audiences and expanding our scope within the African continent, improving internal and external processes, and pursuing ever-increasing standards of excellence all round. As this second volume is published, the vision and mission of the SLR have remained the same: to provide a platform to increase the volume of excellent, useful-to-society legal academic writing in Kenya and Africa.

The board is proud to note that the articles presented in this volume examine some of the most cutting edge and novel areas in law in new lenses.

In *A Call to Strengthen the Law on Insanity in Kenya*, Jentrix Wanyama finds gaps in the application of the mental element of crime in Kenyan criminal law cases. She responds to such gaps by examining literature around the issue and offering thoughtful ways to reconstruct the law. *Eminent Domain: The Perpetual Rights of the Indigenous People of Kenya to Land Ownership* is Mitchel Ondili's discussion of states' use of eminent domain powers in areas inhabited by indigenous persons. Per her contribution, indigenous persons occupy a special and unique place and as a result, the use of eminent domain powers where they are affected should be tempered.

Eric Kariuki, in the piece *Application of Therapeutic Jurisprudence: A Different Approach to Punishment in Kenya*, advances the idea that punishment as has been conceptualised under Kenyan law often fails to serve its corrective purpose. He discusses the somewhat novel 'therapeutic' manner of correction, urging for its adoption in certain circumstances. Ann Njarara's research—*Budget Deficits in Kenya: The Impact of Foreign aid on Sovereignty*—centres on the economic sovereignty

cost that the nation of Kenya pays as it fails to control its burgeoning foreign borrowing. She urges for more prudent management of foreign borrowing in order to preserve the country's economic sovereignty.

The difficult questions that emerge out of horizontal application of the Bill of Rights in Kenya are outstandingly assessed in Doris Matu's *Improving Access to Justice in Kenya through Horizontal Application of the Bill of Rights and Judicial Review*. In it, Doris calls for the lifting of the veil of privacy where human rights are concerned, albeit in a cautious manner. Mitchell Lüthi then gives a sweeping account of the regulation of the digital environment in South Africa in his study *Innovation, Regulation and the Digital Environment: The South African Case*, critiquing the laws and regulations in place in a most insightful manner.

Since the promulgation of the Constitution of Kenya, the Senate has faced fundamental questions on its usefulness per the structure of government. Melissa Mungai, in *Installing a More Coercive Senate for Enhanced Fiscal Capacity within the Counties of Kenya*, argues for retention of the institution, insisting that it could yet play a critical role in ensuring enhanced fiscal capacity within Kenya's young counties. Edward Paranta and Eva Maina handle the complex matters that arise off the Kenyan Court of Appeal's decision rendering illegally obtained income taxable in their work *Taxing Income from Illegal Activity: The Kenyan Perspective*. Through a wide analysis of case law around the matter, they concede that it will help in bridging the state's tax-collection shortfall, but nevertheless warn that the impact such a move by the Court may have upon the right against self-incrimination may be profound.

In the final essay carried inside this volume, Elkanah Babatunde discusses torture by the Nigerian Police Force in *Torture by the Nigerian Police Force: International Obligations, National Responses and the Way Forward*. Through an analysis of international and local literature, he comes to the conclusion that various actions of the Nigerian Police constitute torture according to international law and gives recommendations on legal revisions that can help clamp down on this.

We wish to fervently thank everyone who assisted in expert-reviewing the essays in this volume, including Dr Conrad Bosire, Emmah Senge, Jennifer Gitahi, Joshua Kembero, Kasyoka Mutunga, Lenah Achieng', Lucianna Thuo, Michael Murungi and Raphael Ng'etich. Finally and most importantly, we thank every author who submitted their work for scrutiny and publication. The journal could not be what we would like it to be without each author taking the plunge.

This volume is the last ordinary issue for the founding senior board members of the SLR, which will now be left in the capable hands of the incoming and future board members. The outgoing board members have perhaps almost given their lives to the building of an excellent, highest quality legal academic journal and to them, we say massive thanks. To those incoming, we wish all the best and say that clarity and consistency are not enough. Rather, the quest for truth requires humility and effort. We hope that they will continue to strive for even higher standards with this in mind.

Cecil Yongo—Editor in Chief  
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