

Editorial

‘Our history should be written by us otherwise it will be written by others’

Professor Githu Muigai¹

‘We must also solve our problems ourselves’

Hon CJ Martha Koome²

In effecting the vision of Kabarak University, ‘To become a centre of academic excellence...’ Kabarak University Law School presents to you the very first issue of the *Kabarak Law Review*. This journal is set as a revival of the *Kabarak Students’ Law Review* which dates back to 2014. The journey towards this revival started as a dream whose reality is seen today. It has been my aim and that of the Kabarak University Law Students Association 2020-2021 to realise this dream and we cannot be prouder of this accomplishment.

Kabarak Law Review is a student run, peer-reviewed scholarly publication that includes full articles, case and book reviews to be published annually. This review has undergone a single blind peer-review, however, we aim to advance to double blind peer-review in the subsequent issues. In order to promote academic rigour among students, the *Kabarak Law Review* is primarily based on articles published by LLB undergraduate students as well as Kabarak graduates undertaking advocate

¹ From his speech given at the launch of his book, *Power, politics, and law: Dynamics of constitutional change in Kenya*, Kabarak University Press, 2022, on 15 July 2022.

² From her keynote address given at the launch of Githu Muigai, *Power, politics, and law: Dynamics of constitutional change in Kenya*, Kabarak University Press, 2022, on 15 July 2022.

training in the Kenya School of Law. It also welcomes scholarly articles from students in universities in Kenya, Africa and beyond.

Kabarak Law Review is founded upon the principle of academic integrity. In times such as these, when authorship and legal writing is ridden with intellectual laziness in the form of misquotations, plagiarism and redundancy, the place of thorough legal research and sincere critique cannot be gainsaid. This journal aims to cultivate a reading, researching, analysing and writing culture among students, to create an avenue for those interested in legal research and writing to further their passion. It also aims to encourage the identification of gaps on various aspects of law and making recommendations on them. In the writing and submission of articles for this publication, students will appreciate the works of other authors that they rely on. That they give to Caesar what belongs to Caesar. That readers may be able to rely on information provided in a student run published article, journal or book. That the understanding be so clear as to prevent misquotes that display intellectual laziness. That they be aware of the purpose of legal research and writing and that failure to adhere to the principle of academic integrity results in intellectual laziness. It is for this reason that student journals such as this ought to be encouraged for producing scholarly material in academic rigour.

This Issue has ten articles in total ranging from various themes of law. It covers topics on: discrimination of people with albinism; leadership and integrity in the Kenyan Constitution; bilateral investment treaties and class action suits in DRC; and the right to health and fight against corruption in Kenya; Legal arts of artistic law: Interdisciplinary reflections of law and other disciplines; and Structural interdicts of constitutional law. Aside from the above it contains an article which officially launches a section of the Review which will focus written in commemoration of one of Kenya's greatest scholars Professor FX Njenga's contribution on the Law of the Sea. This article officially brings to life a section in the review termed 'Honour Your Elders'. This section will be based on research and writings of African Scholars. We aim to ensure that there be a section within the *review* on 'Honour your elders' where students will research and write about great African scholars.

The last three articles are written in memory of our fallen brothers Benson Njiru Ndwiga, a student at Embu University, and Emmanuel Mutura Ndwiga who was our fellow law student at Kabarak University whose lives were lost in the hands of Kenya Police on 1 August 2021. It has been more than a year since the two young citizens lost their lives and there has been no conclusive report on the pursuit of justice for our brothers and their family. As grieving colleagues and law students, the authors have responded to this tragedy by analysing the areas of law related to the injustice that our brothers suffered. They include: policing in Kenya during Covid-19 containment measures; the inefficient response of Kenya's criminal justice system to deaths in custody; and the reparation system for deaths in custody. The articles propose solutions for the aforementioned issues with the hope that they will be used to advance future research and implementation of the proposals. It has been a whole years since this journal was set in motion. Therefore, as we launch this final product, I would like to begin by thanking God Almighty for taking us through. It has been a challenging experience for the authors and the team that put their best foot forward to ensure this reality. And in light of such success, we do not take it for granted. Rather, we thank God for this wonderful treasure that he has accorded to Kabarak University School of Law without measure. We hope that this Review's future is like that of the mustard seed.

I would like to recognise and sincerely thank the editorial team of 2021-2022 students who put in their very best efforts to ensure the success of this publication. Additionally, as an interim editorial board we have been able to formulate a manuscript submission form, image rights and consent form, an editorial policy as well as develop the Kabarak Legal Citation (KALCI) Guide that has been adopted as the editorial policy and guideline for the *Kabarak Law Review*. Special thanks goes to my team mates, Samson Muchiri Amboka, Onesmus Musungu, Linus Nyerere and Grace Jelimo Kipkulei as well as our external editor Sidney Tambasi for ensuring the success of this publication.

We also thank Professor Chief Justice Willy Mutunga who has graced *Kabarak Law Review's* first publication with a foreword. He has

mentored, advised and taken time to listen to students of Kabarak University School of Law and noted our efforts as the leaders of tomorrow. We hope to follow in his footsteps.

We also appreciate the efforts of the 2022-2023 Editor-in-Chief of *Kabarak Law Review*, Laureen Nyamu who has also supported this agenda. We take this opportunity to welcome the Editorial Team *Kabarak Law Review* 2022-2023. We are confident that the *Review* could not have been placed in safer hands.

Finally, we wish to extend our gratitude to our mentors; Professor John Osogo Ambani (our Dean), Mr. Humphrey Sipalla (Editor-in-Chief, Kabarak University Press) and Mr. Sam Ngure (Editor-in-Chief of the Kabarak Journal of Law and Ethics Volume 6 of 2022) for their immense support in making this publication a success.

With this step, we hope that Kabarak University will not only be known for successes in student moot court and debate competitions but also student legal writing and research publications. We hope that this first issue has laid a strong foundation for the publication of many more student scholarly publications that aims to benefit students, researchers and writers, and the society as a whole.

Sharon Moraa Amwama
2021-2022 Editor-in-Chief, *Kabarak Law Review*
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