Michael Murungi, Kenya Law Ex-CEO

‘As Much I Dream, I can

In This Issue:

• Marry a Lawyer? Proceed with caution
• The 2nd All Kenya Moot Competition
• Is Bigamy but a social problem; not legal?
  • Open Letter to Mr. President
The More we Change...

Comes a time when we must make a change; comes a time when we must be part of the best grains, when mediocrity shall no longer be allowed to fly, so say 'Bye' to the old and say 'Hi' to the new. Just a little while back the 2013 K.C.S.E results were released and many aced, and the obvious otherwise. But what strikes more is the fact that cheating is as prevalent as corruption and these are to male the next gen of leaders of this country: the more we try to change is the more we stay the same.

Moving on, as I welcome you to the 6th issue of Kenyan Legal Magazine, we give you an exclusive interview of one Mr. Michael Murungi, the outgoing Kenya Law Reports C.E.O and Chief Editor, whose leadership and team work skills has seen Kenya Law move from being just a Legal reporting institution to be 'Mwananchi' friendly where legal information is practically public knowledge. Also in this issue find Dr. Fiona's analysis of why Lawyers make the worst spouses in her article "Marry a Lawyer? Proceed with caution" Is it such a bad idea to marry/get married to a Lawyer? Find out.

Even as we progress to make generous successful steps, and growing as Kenyan Legal, challenges are abound; noting this, I, on the behalf of the Kenyan Legal Team, hereby appreciate your continued support so far. There's no 'Us' without you ('U'), quite literally. They say the Sequel is never as good as the Original, but I say, for Kenyan Legal, The best is yet to come!


REGARDS,

Michael

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To participate in the next issue, please send articles, with your personal details and picture to:
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With Complements:
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Correspondence &
Feedback

APPRECIATION
I personally appreciate the hard work the Kenya legal team are putting to come up with the legal magazine. This is by something that is very important to students as they get to learn more of writing skills and also legal writing which is important for us as lawyers. We also get to learn the law from fellow students and the professionals that Kenyan legal teams have approached and contributed in writing of the available issues. It has also become a magazine where we can freely express our view which in one way or another can change someone else opinion and sure will contribute in the development of jurisprudence in Kenya. I, although a contributor in only one of the last five issues retain all the five for academic and other purposes and would encourage as many people to contribute by writing articles in the magazine. We all have knowledge and ideas that other people don’t have and would like to have, please share, dying with such great idea or story we never had that could have changed our lives must also be sin.

FROM Mr. Aira Godfrey Wambura, Via Mail

Dear Kenyan Legal

I have received your beautiful and comprehensive 43-page online magazine and I intend to share it with our Director and all the staff.

I am thankful that you decided to give WPA priority placement on cover page and as the main feature. You also captured a suitable illustration and slogan" THE EYES AND EARS OF JUSTICE" below the photograph of a presumed 'mother-and-baby'. You have also managed to get some new columnists.

Overall, WPA is impressed with the quality of the magazine. Keep up the good work and continue to source authoritative/professional material.

Thank you and wish you well

FROM Mr. Dominic Nyawir, Liaisons OfficeWPA-Kenya, via mail

I would very much wish to be of assistance to this initiative. I have to say a big kudos to you and your team.

Regards,

FROM Prof. M.K Mbondenyi
LLB, LLM, LLD
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Strict laws are prone to violation. For instance, the specificity those children cannot give consent for sex under Sexual Offences Act No 3 of 2006, resorted to frequent reported defilements than previous reported rapes for girls above fifteen years of age. Such cases pose challenges on enforcement, making it difficult, expensive or burdensome on the legal system.

Similarly, violation of strict Constitutional provisions is rampant. For instance Article 81(b) of the constitution of Kenya 2010 requires the government to ensure that not more than two thirds of members of elective and appointive offices belong to same gender. The possibility of even aggravated violation can be observed from the decision in the Supreme Court Advisory Opinion in the matter of the Principle of Gender Representation in the National Assembly and the Senate SC Pet 2 of 2012. Yet, with the specificity of the provision under article 81(b), the court relied on the phrase “general principles” and indicated that the provision is a statement of aspiration. This indicates that not only is a strict provision prone to violation but also that a general or vague provision safe for utilitarian implementation.

Among the strict provisions in the Constitution of Kenya 2010 are provisions for time limits. A declaration of a state of emergency and any legislation enacted or other action taken in consequence of the declaration shall be effective only-for not longer than fourteen days from the date of the declaration unless the national assembly resolves to extend a declaration. Petitions concerning an election other than a presidential election shall be filed within twenty eight days after the declaration of the election results by the Independent Electoral and Boundaries Commission. A general election of members of parliament (president, governor and members of county assembly) shall be held on the second Tuesday in August every fifth year.

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1 Paragraph 69 of the Supreme Court Advisory No 2of 2012 on the principle of Gender Representation in the National Assembly and the Senate.  
2 Article 58(2) (b) of the Constitution of Kenya 2010.  
3 Article 87(2) of the Constitution of Kenya 2010.  
4 Article 101(2) of the Constitution of Kenya 2010.  
The vitality of a presidential petition under article 140 and 163(3) (a) being decided within two weeks brings a difficulty that the court has experienced and the Kenyan civil society has respondent to it. The rejection of the petitioners’ “further affidavit” in the case Raila Amolo Odinga and five others V Uhuru Muigai Kenyatta and three others SC Pet No 1 of 2013 was informed by Constitutional time limits. Within fourteen days after the filing of a petition under clause (1), the Supreme Court shall hear and determine the petition and its decision shall be final. In Paragraph 214 of the above decision, the court adopted a disciplined trial framework in ruling out a “Notice to Produce” a marked register and exclusion of a “Further Affidavit”.

Keenly observed, the time limits established by the constitution are sources of challenging disputes. This is because the possibility of their being violated is high yet no room for justification since the constitution is the supreme law of the land. The mischief of the constitutional time limits as well is the provision of expediency without justification of delay.

Dennis Maanzo is a Third year Law Student at Kenyatta University, Parklands Campus, and the reigning winner of the 2nd All Kenyan Moot Court competition 2014. To comment on this and other articles please visit www.kenyanlegal.com

“Real Kenya, Real Issues”

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6 Article 180(1) of the Constitution of Kenya 2010
7 Article 177(1)(a) of the Constitution of Kenya 2010
8 Article 140(2) of the Constitution of Kenya 2010
9 Article 159(2)(b) of the Constitution of Kenya 2010