

THE PLM magazine

PARKLANDS LAW MONTHLY

The Voice of the law student

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Collins Koyo

Third Issue

Welcome to the third issue of the parklands law magazine.

The success of a magazine depends purely on the charisma and commitment of its writers. I take this opportunity thank all the writers for their contributions.

I further thank the student body for their emotional support and their willingness to provide quality content for the magazine. I invite more students to embrace the magazine and use it as a platform to nurture our writing skills, as we air our most heartfelt views on topics we individually choose.

I am also grateful to the administration, particularly Ms. Connie for advising the editorial team on ways to improve the magazine, Prof. Daniels for providing a statement from the administration for publication in the magazine and Mr. Mwinzi for allowing the team to put posters around the school advertising the magazine.

Thank you and God bless.

**Mumbi Gichuki,
Editor.**

Kenyatta University School of Law has a record of academic excellence and national scholarly influence. One of the first law schools to achieve ISO 9001:2008 standard certification, the quality mark serves as a stringent template for all the Schools operations, from the preparation of the teaching and learning process to other areas of our service delivery charter.

The innovative, Council of Legal Education (CLE) accredited LL.B programme, goes beyond the standard syllabus to allow students to excel, by for example, enrolling on the innovative clinical externship programme, where the law student works with an organisation approved by the Faculty for eight weeks providing the student with a hands-on practice perspective.

Buttressing practical work, is the mooted course, which provides students with a realistic court room setting and the opportunity to practice what was learnt in the lecture room.

Nestled in the midst of the thriving business area of Parklands, Nairobi, the School of Law infrastructure includes a brand new lecture hall block and moot court, and an adjacent administration block planned for 2012 completion.

The School of Law prides itself on collegial students who take seriously its curriculum grounded in social justice and experiential learning.

“We are deeply committed to the idea that every lawyer needs to understand the importance of law in furthering the public good,” says Professor James T. Daniels, Chairman of the Public Law Department. “Our

goal is to give them the skills, knowledge and values to be proficient advocates and jurists.” Not every Kenyatta University School of Law student will become a public-interest lawyer, but Prof Daniels says a large amount of the School’s students are “idealistic pragmatists” who have thought hard about “issues of social disparity and how the law affects different people in different ways”.

Supporting learning and research, are the on-line legal research search engines as Lexis Nexis , providing users, against the backdrop of a modern law library replete with core and key legal books , the necessary tools to enhance their research, preparation of assignments and fine tuning their scholastic and legal research aptitude.

To find out about our academic specialties and the first-rate faculty that teach them, explore the link <http://www.ku.ac.ke/schools/law/>

There you can learn about Business, Clinical, Constitutional, Criminal, Environmental, human rights, trial advocacy, International, Procedure, Public Interest, alternative dispute resolution, international criminal law, election law, Law and Technology and Tax Law, amongst the over 50 law and related subjects offered by the School.

In preparation, is the Masters in Law (LL.M) programme to complement the LL.B, aimed at preparing and providing a course candidate, a specialist, in-depth and expert view of select legal areas.

“The students here are more engaged because there is a sense of immediacy of what they’re learning,” says Chairman of

Private Law and Associate Dean Mr. Mwinzi.

“They have a much more sophisticated set of questions about what things mean.”

The legal externship also give students an advantage in the job market. “We have lawyers who are ready to go when they

graduate,” “They’ve learned how to navigate a legal atmosphere” he added.

Prof Daniels says Kenyatta University School of Law students “mature faster” than students in traditional programmes because internships force them to contemplate their long-term professional prospects.

compiled by Henry Paul
from KUSOL Admin



Deep at the heart of Kenyatta University lies potential unexploited, and within the very jurisdiction lies a resource craving utilization, an asset that has for a long time served with efficacy the KU community and that which seeks to exploit and manifest potential therein contained. The KU 99.9 FM radio station stands situate in the KU Main Campus and operates as a not-for-profit station by the students for the students as well as the entire KU community. Join our reporter, Henry Paul who in seeking the true position of the Radio spoke with The Administrator, KU Radio Services; Collins Koyo.

Henry: Thank you for honouring my invitation. Who exactly is Collins Koyo?

Koyo: Collins Koyo is one of the five permanent employees of the Kenyatta University Directorate of Radio Services. I serve under a director, Dr. Gitau in the capacity of an administrator together with a colleague.

Henry: Tell us something briefly about the Radio.

Koyo: The Kenyatta University radio was established in 2008 and was aimed at providing an avenue of communication that would offer the staff and students opportunities to present, debate and interact with the target audience for the creation and dissemination of knowledge as well as for entertainment purposes. It currently has a staff made up of 90% volunteer students and ideally covers a radius of about 2km round the main campus. It however covers areas of KU, Ruiru, Kahawa, Githurai, Roysambu, Zimmerman, parts of Kahawa west and Kasarani.

Henry: What informed the establishment of the radio station?

Koyo: This was need to give an opportunity to those students who despite not taking Journalism as a course, had a passion for the radio and broadcasting as well as giving internship opportunities to guest students. There was need moreover for correspondence within the university management as well as between the students and the student bodies and organizations.

Henry: Who is your target audience?

Koyo: The radio mainly targets the student community and reaches out to the neighbouring community as well. However, whenever students raise concerns requiring the University's attention, the radio usually does a report to the VC on the same.

Henry: How is the reception of the radio services from the students so far?

Koyo: Though not so good, I can say it's quite satisfactory given the stiff competition from other major and full fledged stations in town. Also, reason the reception still lies at average is due to the student composition and the fact that some are non-resident and only come to attend their lectures and leave soon after.

Henry: Given the ever present competition you've just cited, what has the radio done to enhance its audience?

Koyo: Currently the radio has the mandate to engage the marketing sector unlike before and as such we are intending to roll out a program survey to get feedback from our



listeners about their expectations. With sponsors coming on board we anticipate quality shows which we believe will draw more listeners on board. We moreover intend to do a lot of publicity for the radio soon.

Henry: Are there any plans to increase the radio coverage area to probably extend to further areas including the satellite campuses?

Koyo: Our technicians are currently working on modalities to institute machinery that will see the reception of the station in satellite campuses. We however on a short term basis intend to effect the online streaming of the radio so that we are able to reach our satellite campus listeners among others.

Henry: Briefly, tell us something about the programme schedule and how it is effected.

Koyo: The programme schedule constitutes shows which are run by the students as well as news anchoring which is also done by student presenters usually picked in auditions we carry out once at the beginning of every academic year.

Henry: Talking of auditions, what could be the key considerations for the presenters as well as for the radio programmes?

Koyo: (Produces a checklist) Two processes are usually conducted during the auditions, one is an interview to gauge the contestant's command of language which should be unquestionable and the other is a voice test conducted on presenters mainly to gauge the suitability of their voice for the radio. We moreover give credit for confidence and to a greater extent, creativity among other things therein indicated.

Henry: Does the radio make provision for the engagement of the various schools within the university?

Koyo: Yes it does. We are currently having the Foreign Languages Department carrying on a show, Kiswahili Kitukuzwe on Saturdays. However, in the recent past the shows by the schools have depicted and been hampered by a great deal of unpreparedness where we have members of the school coming up with excellent ideas, are given slots but only carry the show for the first two or so weeks after which they run out of ideas and fail to show up. The longest show was run by the school of Environmental Science and lasted for 6weeks only.

Henry: What are some of the challenges you've had to grapple with as KU 99.9 FM?

Koyo: First is the fact that initially the University policy restricted the radio's involvement with sponsors hence presented a great financial constraint which we believe will be well addressed now given the lifting of the restriction. Second is the fact that the radio is majorly run by student volunteers, both presenters and reporters which provides a great challenge as pertains them balancing their class schedule and that of the radio and lastly a major setback on the side of the school shows is the fact that they've always presented very promising ideas which they fail to implement for failure to adequately prepare in advance and as such the program schedule ends up suspended.

Henry: The Law being an integral component of the society, how possible is it to have a programme on the radio that would cater for the provision, discussion as well as the



debating of the emergent legal issues in the nation as well as aspects of the law which directly affect the KU community?

Koyo: Very possible. The only condition if it has to be a consistent show is that whichever the idea the school may come up with, should in advance be broken down into sessions of what they intend to do like for the next 10 weeks or so to avoid the issue of running out of ideas and thus suspending the schedule. However, if it has to be intermittent then, the discussions and ideas will always be auditioned before admission into any show.

Henry: How else do you feel KUSOL can engage the radio for the benefit of the KU community as well as a means of exploitation and development of their potential?

Koyo: The country for instance has in the recent past been through scenarios that evoked legal discussions which needed great insight and moreover given the electioneering year we are in, a lot has to be discussed with respect to provisions of the new laws, their applicability and their implications to the country and the whole process altogether, we are looking up to you the experts, the school of law to come up and enlighten us, help us understand these mostly ignored legal issues rather than having some random students say for instance from the school of business come and talk about issues of which they lack the moral authority to.

Henry: What's the procedure?

Koyo: The only requirement is that you do a proposal to the director on the kind of show you intend to run, the target audience, why the show is necessary and the slots required

to cover the topics as well as the convenient time you require after which we will call you up, if the proposal goes through, and require for earlier stated reasons that you give us a breakdown on what you intend to cover in every show after which we will check our time-line and attach you a presenter who will guide you through the subsequent shows.

Henry: What would be your last word to the KUSOL community?

Koyo: I'm certain that if the school of law wanted to take a slot, the directorate will definitely issue you with one and this will be important both to us as a radio and to you as a law school as means to develop personal potential as well as popularizing the school. Also as I'd earlier indicated, we are reaching out to sponsors who if such a show was to be initiated we are able to reach out to and ask that they come on board and sponsor the show. I believe in the potential of the students, only and only if they are willing to explore such potential through such avenues as the university is able to provide and the Radio is one such crucial avenue.

For comments, suggestions and a chance to inspire KUSOL email to:

sirhenriz@gmail.com or
parklandslawmagazine@gmail.com

or

Join the Parklands Law Monthly group on Facebook.

DEAR CARLA,

The last time I checked, Purity was planning to shift rooms complaining that she was “really tired” of enduring long, boring lectures from Ray. So now that I am thinking of visiting Carole (Purity’s roommate) I think I’ll catch up with the latest developments, which of course includes, whether Purity has left.

I do a mental calculation and decide that ten minutes will be enough to play and re-play Taylor Swift’s “Teardrops on my guitar” before leaving the room. Gracey peers sleepily from her sheets, her eyes are in slits as she flashes me a crooked smile.

“Na unapendanga Taylor Swift mmph!” Gracey begins.

“Yeah”, I reply, folding my pink nightgown and placing it on my bed, next to my teddy bear.

“.....he’s the reason for the teardrops on my guitar, the only thing that keeps me wishing on a wishing star....” I hum along, dreamily trying a bit of salsa across the room. Gracey looks fascinated. Soon the song is over and as I get ready to leave I inform Gracey that I’ll be in Carole’s room incase she needs me.

“Aki nitamboekaaaa!” Gracey says as I close the door. I nearly choke with suppressed laughter.

Moments later I’m seated on Carole’s bed telling her that I think Purity made the right decision in choosing to stay because people should learn to survive and deal with problems wherever they are. Purity comments about the car that came to

pick Gracey yesterday, Carole says it was a probox and Purity contents that it was a voxy.

Carole complains about the rice and beans that she is trying so much to consume. “Eeehsi unaikula kimakmende!” Purity chirps in. We break into fists of uncontrolled laughter that my ribs hurt.

“Aki hazijaiva”, Carole complains, playing with the food with her spoon. “Usijali, we’ll go for chips later”, I say consolingly.

“Economy ni mbaya...” Carole starts to say.

“A starving man will eat anything”, Purity explains, plaiting her hair. We smile understandingly. Silence reigns. Not until Ray bursts into the room claiming that someone stole her white t-shirt at the hanging line, do we start to chat and there seems to be no end to our conversation.

And now that Peter is texting me, I excuse myself and leave the room, smiling at his words, “Eeeh, aki wewe, hutaki nikuambie nimekumiss!” I almost knock down a sleepy Gracey at the corridor, holding a bucket, heading to the bathroom. “Pole sweetie!” I say smiling, heading to our room.

I’ll let you know how I nearly got a heart attack, of course next week.*wink*

Au revoir! (DEAR CARLA is a diary of a law student sharing her hostel experiences)

WHERE DID THE ART OF ADVOCACY GO?

I read an article that stipulated that there is a research done that showed that there is something people fear more than death, and probably some of you know the answer, the answer is speaking in front of the people.

Unfortunately that is, what we lawyers in the making must do in future. Even if you want to be an in house type, there will be one day you will need to do some presentation to justify a decision or something of the sort. However this article is not to give you tips on how to overcome that fear, but instead about the state or level of advocacy based on the few court cases I have attended in our local courts.

I can vividly remember a joke made by one of our lecturers when I was in 1st year, that at the end of my roughly 4 years in school, I should be able to bring a donkey on stage in front of quite a good a number of audience and manage to convince them that it is horse rather than what it really is, a donkey.

I am writing this article, hot on the heels of attending The Jessup International Law Moot Competition(as an audience and not a participant) that took place on the 4th of this month at Kenya School of Law, and I would thus like to ask for pardon from any exaggeration that my emanate from the excitement.

What I experienced from the mentioned competition was a deep contrast from what I experienced from my few court attendances, there was a lot of zeal, passion, versatility, tonal variation, deployment of gestures and many other beautiful attributes that were missing from the former-the court sessions I attended.

Another thing that impressed me in the competition is the ability of the pleaders to

think in lightening speed on their feet, their ability to answer a barrage of mindboggling questions from the judges with ease. And not just answer questions, but answer them inter alia citing case laws, writings of publicists and specific articles from the many international conventions.

I was simply stupefied by their almighty elephant's memory and quick thinking.

Of course a moot court is a 'fictional' court while a court sitting is a real thing, that a times involves a matter of life and death(murder trials), but such a reason can hardly justify the discrepancy, in fact the zeal and valiancy should be higher on the real courts. Most of you can remember the beauty of some ICC lawyers a few months ago, the likes of Kioko Kilukumi and friends; they were quite enticing in their arguments.

I would also like in conclusion to share another joke by PLO Lumumba,that he made when he visited us, over two years ago. He joked that these days we are having lawyers who can hardly construct a grammatically correct English sentence. I don't know if he meant it to be a joke or he was stating a real fact.

If his assertions were true then it would be a pipe dream to expect them to amaze us in courts, like moot students I saw in the competition.

Just a few tips I was given during my active days in the moot court club by our then instructor Dr. Musila, that the skills attained in moot court are priceless and cannot be harnessed anywhere else, not even in your attachment or pupillage. A former lecturer also advised me to read literature and philosophy. Maybe it is a high time to pack the moot court club and begin speaking in English!

Emmanuel Yegon, 3rd Year Law student.

Email: e.kiprotich@yahoo.com

THE GOLDEN ANGEL.

She is original gold,
It takes a miracle to find her;
You have to diligently search the earth to find
her.

You have to dig through a spectrum of
millions to find her,

Her beauty is not only on the coating but
also on the heart's core,
Her character is thoroughly refined through
the fiery furnace;
And thus trite and true, devoid of tyranny.

She glows even in darkness, and makes us
wonder how many stars she has swallowed.

No wonder many go through rigorous
training for ages, just to try win her heart
during the Olympics,
And you always only embrace the victor, not
even number 2 or 3.

And not only is the victor's heart ignited on
conquering your heart, but the whole nation
at large.

Some have been swallowed by the grounds,
while in their fervent efforts to find your
'salvation' which is located deep in the earth.

But alas! I hope you will not deny me a
chance, since I know you are priceless and
none can commensurate you splendor.

Everybody is attracted by your magnetic
charisma, but few can find or even touch
you.

*The writer is Emmanuel Yegon, a 3r Year
student at Kenyatta University, School of Law*

MY VALENTINE

I keep you up tree tops
And in the sky that I may keep you
In my sight.

I keep you alive in the
Work of art that I know of.
I keep you between the lines of music
I keep you in my ears when I think of
Sounds of waves against the rocks in the
sea.

I keep you in the light of day and of night
And in the clouds up high
And in the falling raindrops.

I keep you in depths of sweet memories
And in the silence of my peace above the
crowd.

I keep you in the palms of my hands
Which you held in a handshake
So soft and full of affection.

I keep you in nirvana
In wildest hopes and wildest dreams
In a portrait of me, places I hold dear
Voices of passion singing a beautiful song....
I keep you
Today and forever.

by, Carren Kerubo Ondeyo.

WHO CAN

Who can claim their fate to know?
 Or dare say their destiny is in tow?
 Who can through eternity evade sparks of
 woe?

And in the perfection's untrodden path go?
 E'en so when 'gainst life's ebb they be in
 row,
 When 'tis imprudent to sullenly lie low?
 For that, no answer do I know.

Kennedy Mulwa
1st year

A LAWYER'S JOKES By Omondi S.

Ken: If lawyers were to make their clients take an oath, what would it look like?

Sam: "Do you promise to pay the bill, the whole bill and nothing but the bill?"

A new client has just come in to see this famous lawyer:

Client: Can you tell me just how much you charge?

Lawyer: Of course. I charge \$300 to answer 3 questions.

Client: Well, that's a bit expensive, isn't it?

Lawyer: Yes it is. And what's your third question?

Client: ...

Question and answer

Q: What do honest lawyers and unidentified flying objects have in common?

A: You always hear about them but you never see them.

A man is innocent until proven broke



Mak'Owade Gabriel of U4, during the U4-warrior basket ball match



U-0 play U1 in a table tennis match



U-0 Football Team



Rakeli of U4 cheerfully submits an entry for the scrabble game



U1 Football Team



Rosemary Kamau of U3 oversees contestants begin a game of chess as Hospital Hill kids look on



U1 members



Rosemary of U3 plays Manu of U1 in a game of chess



The Kusol Rugby team plays a guest team



The formidable U4 basketball team



The U7 cheer-squad are joined with a section of U-0 as they cheer the U7 football team



U- 0 Football Team celebrate their first goal against U1



A section of the U7 Members receive glucose from Oketch after a match with U4



A Member of the U4 class basket ball team makes a shot while playing warriors, a guest team



Ivy Muriungi of U7 playing Lawn Tennis



Patrick of the U7 team during a substitution

Who is liable when a spectator incurs injuries?

In Kenya and in many jurisdictions, matters concerning sports are adjudicated in court are to a large extent governed under the law of tort. The spectators may incur injuries in the course of the game and different persons may be liable depending on the circumstances in which the injury was incurred. However, it is assumed that the spectators understand that there is a possibility of suffering an injury that occurs as a result of an honest accident due to the nature of the sport.

The law foresees such circumstances and confers a responsibility of the spectator to assume risk. Nevertheless, there are situations when the spectator cannot assume risk, such as, if the harm was intentional or a harm that is as a result of an arena operator failing to exercise reasonable duty of care. In such circumstances negligence can be established to prove liability of either the participant or the

arena operator for injuries incurred.

Can a school be liable in any way?

Yes it can. Under the principle of vicarious liability the school may be responsible for adverse actions leading to injury done by their employees such as the coach, groundskeeper among other agents of the school. The school may be responsible for the negligent acts of their agents, done in the course of employment. The principle of vicarious liability also covers those who are not directly employed by the school but volunteer their services on behalf of the school.

The liability of school can be on grounds such as: failure to warn the participant of risks and injuries likely or unlikely to occur during the game; failure to give proper instructions that may help avoid injuries; failure to hire competent coaches and instructors; failure to supervise accordingly as well as the failure to maintain sports equipment.

by Mumbi Gichuki

WHY BECOME A LAWYER

Of all the questions that I've been asked, this is probably the easiest to answer. If you want a career which is mentally stimulating, personally challenging and that is fundamental to the workings of a civilized society, then you should become a lawyer. The profession has grown in recent years and is far more diverse than ever before. Many lawyers still work in a traditional high-street practice, but it is no longer the default career option that it once was. Private practice also encompasses multinational firms and many lawyers work overseas.

Our society is built on the rule of law, but the law is a complex thing. A lawyer is an enabler—who helps others to unravel the complexities of the legal system. By so doing, the lawyer empowers individuals, businesses and other organizations to take best advantage of the provisions of the law. Lawyers are able to help in a myriad of circumstances, from

the certification of mundane transactions to navigating the labyrinth of business tax law or ensuring that an individual's dying wishes are carried out in the manner that that person intended. Lawyers are also able to help individuals level the playing field in disputes with the state and enforce rights and obligations. Everyday lawyers ensure that this is a just land, where justice is available to the ordinary citizen.

The path that they have taken is not the path for everyone yet the variety of options is so broad that there could be a path for everyone. This path we have chosen will be hugely competitive with no guarantee of success. It is not for the faint-hearted, and not all will succeed. However, in spite of the difficulties along the way, I have never regretted making the decision to enter into this course. I hope one day in future we will be able to look back and feel the same.

© **MERCY MOKEIRA**
1st Year

INTERNATIONAL CHILDREN'S RIGHTS

Introduction

Rationale of International Children's Rights. Children's rights are the human rights of individuals who are yet to be legal adults, that is children, with particular protection and care afforded to those young persons. These rights include both natural and legal rights. They include: right to association, basic needs for food, education, healthcare among others. As minors children primarily lack capacity to make their own decisions, in other words, they lack autonomous rights. Parents or guardians are vested with such authority on their behalf, however, this depends on the circumstances involved. These to some extent leaves them vulnerable. Hence, the society through the state is presumed to take responsibility of such individuals.

History and development of International Children's Right

Consensus on defining children's rights became evident in the last fifty years. Hillary Clinton, then an attorney, stated that children's rights were "a slogan in need of definition." Children's rights law can be viewed as the focal point where the law intersects with a child's life. The rights range from allowing children the capacity for independent actions to the enforcement of children's interests to ensure they are physically, mentally and emotionally free from abuse, that is, the right to care and nurturing. It includes: juvenile delinquency and due process for children involved in criminal justice system.

Appropriate representation and effective rehabilitation; care and protection for the children by the state regardless of their origin,

race, gender, disabilities or abilities.

Internationally, a child is any human being below the age of eighteen years. International law has no specific reference term to the description of young individuals, that is, terms such as ; adolescents, teenagers or youth. However, children's rights movement is considered separate from the youth rights movements. In the Constitution of Kenya, under the Bill of Rights, youths are also identified separately from children.

Child labor.

Child labor refers to the employment of children at both regular and sustained labor. It is internationally considered exploitative and illegal in many countries. After the industrial revolution, there emerged the concepts of worker's and children's rights. In many developed countries, child labor is considered as an 'abuse' of a child, who is below a certain age limit. However, the scope of the work that is considered exploitative excludes household chores and school assignments.

There are restrictions as to the age which one should hire. This age limit varies in many countries. States which ratified the Minimum Age Convention, adopted by the International Labor Organization (ILO) in 1973, put the age bracket of 14-16 years, as their age limit.

General overview of the law affecting children in Kenya.

Perhaps the questions one ought to ask are:

- How should children's rights be enforced?
- To what extent should customary law

affecting children be directly or indirectly incorporated in legislation?

- And if legislations incorporate detailed customary law provisions in statutes, to what extent should the fundamental principles underpinning such statutes be sensitive to compatible with existing principles of customary law?

The Constitution of Kenya, 2010, in the preamble recognizes the right of indigenous populations to practice their own culture. However, under *Article 2(4)*, any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission on contravention of the supreme law is invalid. The repugnancy clause in the Constitution shows that the recognition of customary law does not derogate for the fundamental rights enshrined under the Bill of Rights. Customary law will therefore have to be measured against norms laid down in both the legislations and the Constitution.

Human rights, inclusive of rights of a child are not entirely universal, to some extent they can be interpreted in the context of different cultural perspectives. In law, a child is treated as an individual with enforceable rights against the state, community and even family. How then can the best interests of the individual child, as set out in the Constitution and legislations, best be rendered compatible with traditional African values bearing in mind the increasing impact of the ideology of individualism on traditional societies?

The concept of a child in African customary law, have neither a clear definition nor precise rules as to when childhood ends and where adulthood commence. Customarily age is not dependent on chronology, but rather determined in phases. It is not only determined

by physical and intellectual maturity but also by initiation, marriage and the formation of a separate house-hold. Under *Article 5*, of the Kenyan Constitution, the age limit of commencement of adulthood is as per internationally recognized standards, that is, eighteen years.

Rites of passage differ from one African communities vary from one society to another. The practices and ceremonies involved include: circumcision, clitoridectomy, removal of specific teeth, tattoos among others. Of late, the Kenyan government through various policies and initiatives has and is still regulating the practice of the above practices.

A good example is the campaign against clitoridectomy as it leads to female genital mutilation. In Kenya, maturity of a child is regulated by law, therefore, customs and practices which incorporate customary law are allowed so far as they do not have harmful effects on children. Particularly as insofar as such effects do not violate children's rights.

Child marriages.

Child marriages occur whereby children are given in matrimony before marriageable age and often before puberty. These customs are still fairly widespread in parts of Africa, Asia, Oceania and South America. The marriages are often arranged. In some cases, only one marriage-partner is a child, usually the female. This is due to the importance placed upon female virginity, the inability of women to work for money and to women's shorter reproductive period relative to men's.

The practice of child marriages can be dated back to the feudal era in Europe whereby such customs were used to strengthen socio-economic of communities and even kingdoms. It was also considered in

cementing financial ties between families of the betrothed. Elsewhere, daughters are considered a liability; it may be poorer people who tend to marry early.

Internationally, child marriages are considered as an abuse of human rights, most specifically internationally recognized children's rights. **Article 16(1)**, Universal Declaration of Human Rights is to the effect that, "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family..." The age of maturity as per the international standards is eighteen years. In African customary law marriage is consensual. It is considered a nullity to conduct a marriage ceremony, which occurs without consent of the parties involved. Customarily age is also of vital importance.

Article 45(2), of the harmonized Kenyan

Constitution is to the effect that, "Every adult has the right to marry a person of the opposite sex; based on free consent of the parties."

There exist as per now, an inconsistency between the Constitution and other statutes on the age of commencement of adulthood. This statutes include; the Children's Act which sets out the age of sixteen to be the age of maturity, the **African Christian Marriage and Divorce Act** which recommends twenty one years as the age of marriage.

Kenya is however eager to uphold the respect of children's rights. Through the **Commission for Implementation of the Constitution (CIC)**, the **Kenya Law Reform Commission, (KLRC)** and other stakeholders, efforts are being made to ensure children rights as fully implemented in the Kenyan society.

by Kevin Kinuthia

TIPS ON HOW TO CHOOSE ELECTIVE UNITS WISELY.

Ever wondered why there are elective units in almost every academic course one pursues? Well many reasons have been advanced in order to answer the above question. Nonetheless one important factor stands out as to why there are elective units in a course. This is to broaden the student's understanding of the course and hence be equipped with knowledge from vast areas and deepens their analytical and practical skills.

Being in the 21st century, various developments have been and are continuing to be witnessed in various sectors and Law is no exception. Thus with elective units it elevates a student to a higher standard in terms of him or her being equipped, with not only basic knowledge but also goes an extra mile in learning and acquiring skills in other fields in which are best provided for through elective units.

Having this in mind, it is of crucial essence that a student is able to choose his or her electives wisely bearing in mind that at the end of his or her course, he or she will go out there and serve the community.

However, choosing of elective units has been proven to be one of the most hard and tricky decisions a student can make especially when one is in third year first semester (where one begins to choose elective units).

As always said that 'the higher you go the cooler it becomes' implying that a lot is expected as one climbs up the ladder hence one is required to make critical and sound decisions pertaining to what one want to pursue in life.

An elective unit refers to a unit or course which

is chosen by the student from a range of units which are in the optional category. Thus this implies that students make the choices of the units themselves and which they are willing to pursue. Consequently, a lot of expectations are placed on the student for instance one is expected to excel well in a unit one has chosen as its dependent on one's choice.

Several factors thus are called to be put into consideration when choosing the units one wants to pursue, as this defines the career path one wants to take as they come in handy. However it's also important to appreciate the fact that as a student one may not be fully clear on what one wants to pursue let alone choose units. Thus with the help of this article it offers certain guidelines that one should consider before deciding on which unit or subject to pursue. They include:

- One, choosing a unit that you are passionate about or which interests you. This is the most important factor as this determines one's performance in the unit at the end. It's important to set out in clear terms what interests one has for instance if one is passionate about human rights then it would be essential that one choose a unit or two that lies on human rights or which applies more on human rights.
- Two, choosing a unit that can be of a great aid or assistance especially when one proceeds to do their clinical externship in fourth year and when they pursue their career in the long run. This is essential as it also determines the places one may wish to apply for their clinical externships and hence able to understand the nature of work carried

out in the organization, company or corporation attached to as an intern.

- Three, choosing a unit that can help one boosts their grades i.e. one that you find easier to do depending on your schedule and demand of the core units. However, this does not imply that one should sit back and relax and wait for 'A's and 'B's to appear in your transcripts hard work is crucial if one is to succeed in life.
- However, as a note of caution it's never wise for a student to choose a unit on the basis of which lecturer is likely to instruct the course. This only leads one to choose a unit to please a lecturer or

one that you are not passionate about and in the end regret doing it as it does not meet your expectations.

In addition, being law students a lot is expected in that hard work must be employed in ones studies if one is to excel in this jealously guarded profession. This defines who a lawyer is and one must be in a position not only to perform well in their studies but also again better practical skills and this stems all the way from the subjects or units one decides to do.

Thus as you choose your units select them wisely and define your career path as early as possible.

By Martha Mwema

EVOLUTION

It has always and it will always beat me why this obsession with 'artificialism' had to be. So much that, upon certain deep thought, it occurs to me that I happened at the wrong era of music. And place. If it were not at nature's bidding (or forbidding), I would seek to travel back in time. Back to Bach, Handel, Vivaldi and Haydn back to Mozart.

But now that nature renders such venture unachievable, no option visits me but to repeat history. To bring back Bach, Handel, Vivaldi, Haydn and Mozart, as it were. No quantum of verbosity would sufficiently elucidate my

peculiar stance. Accordingly, I have no intention of wasting my hard-earned energy on such a vain endeavor.

My greatest confront is in making ancient ideas vogue. It is just about as easy as swimming – hoping that is the easiest thing in the world. However, in the utmost faith that someone or other will grant me an audience, and a fair one for that matter, I choose to proceed with my not-too-enticing blabbering.

I commence by expressing my deepest discontent in/ with anything that must be introduced by the term synthetic. Or as such, that

must be explained by that word. Talk of synthesizers, synthesized beats, lip syncing, name them. They leave a bilious feeling in me. They stink of superficiality and a certain incompleteness, a feeling of adulteration and impurity. At best, it is a manifestation of evasiveness. Evading the trouble of being original. Evading the technicality of sublimity.

As an illustration, put to comparison a live concert at carnivore in 2011 and a live concert at a little theatre in Vienna in 1760. The gulf is so huge that it is actually embarrassing. One is filled

with impure nonsensical noise. Crazy jumping up and down. Crazy waving of hands and pieces of clothe. Crazy everything. And to make matters worse, it is this craziness that makes it popular. Forgive my prejudice.

In the latter, calm rules. The pure sound of the violins steals in so stealthily you hardly know the piece has begun, as the sonorous celli build up to a deafening crescendo as a composed basso profundo takes his solo. As the chorus exclaims the first syllable, the theatre is filled with heavenly harmony that is only frequent with nature. A thousand trills and acciaccaturas later a standing ovation is deservedly given, amid tears of awe and amazement. A conductor bows respectfully before his audience and departs from stage.

The last time sought a justification, or at least a pretentious explanation to this retrogressive trend, a little voice answered me from within:

The very humans that Darwin sought to exalt through the evolution theory are now proving him wrong. They live as though they are evolving backwards.

By Kennedy Mulwa
1st year

WANT TO OPEN A BANK ACCOUNT? TRY ISLAMIC BANKING.

Islamic banking is one of the evolving sectors of the Kenyan banking sector. With Barclays bank being the first bank to offer Islamic finance options through its La Riba current account in 2005, Islamic banking in Kenya has never looked back. Based on Shari'ah compliance, Islamic finance entails ethical and equitable ways of financing.

Currently there are two fully Shari'ah complaint banks: Gulf African Bank and First Community Bank. Other conventional banks also offer Islamic financing windows such as Chase Bank, Kenya Commercial Bank and Barclays Bank of Kenya. This penetration of Islamic finance into Kenya has led to a number of people opening accounts that are Shari'ah compliant. It has also helped a number of Muslim brethren who earlier could not access banking services because of their religious inclinations to access banks. By March 2011, Islamic banks controlled an estimated 0.9% of the total accounts in Kenya. Due to this, the central Bank of Kenya made a move to have the Finance Act changed so as to allow no interest to be charged or given on accounts that have attained the minimum balance required. It is also planning on launching investment products such as unit trusts and Shari'ah complaint treasury bills or Sukuks.

So, what is Islamic banking? Islamic banking or finance is a system of finance that is based on Shari'ah. It is governed by Islamic principles of finance which are trade, partnership, sharing of profits and losses and prohibition of reckless risks. The distinguishing feature of Islamic banking is that it does not charge interest or Riba on its products.

For young entrepreneurs, Islamic banking offers the best option yet! They are very friendly for starting, expanding and even well established businesses. The options offered

by Islamic banking are:

1. Muraba: where the client identifies goods he/she wants to buy and informs the bank. The bank then buys the goods and sells them to the client for an agreed profit margin and the clients pays for them over an agreed period of time.
2. Musharika: here the client and bank go into a joint venture, both producing capital. Profits or losses accruing from the venture are shared in accordance to ratio of capital contribution.
3. Mudariba: the bank offers 100% of the capital for the business and the client provides the know-how. Profit is shared on an agreed basis while losses are fully absorbed by the bank.
4. Diminishing Mudariba/ Musharika: the agreement between the bank and the client is made in such a manner that the client buys out the shares of the bank in their joint venture.
5. Ijara: the bank buys an asset for the client and is registered under joint ownership between the bank and client. The client rents out the asset from the bank. The rental payments are considered to be repayment for the asset and this is done till the client has 100% ownership of the asset.

Unlike conventional banks, Islamic banks are equitable and its lending options convenient. Islamic banks also run current and saving accounts. The best part about Islamic banking is that all these good products are open to all people: Muslims and non-Muslims alike. So if you are thinking of opening an account or looking for a convenient financial partner, try Islamic banking!

by Dzendere Kahindi



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