EDITORIAL

Twenty years ago it would have seemed almost inconceivable that we could bear witness to the formation and reformation of so many nations on one continent virtually simultaneously. Nations bursting with population, opportunity and burgeoning complexities that stretch, test and collide with existing and incumbent legal frameworks. As Africa continues its unstoppable march, how will its formal and indigenous legal systems evolve? What lessons can be learned and what systems adopted from those nations that have previously navigated the rapids of change? The fourteenth edition of the Journal Jurisprudence brings together a collection of important authors as diverse as the subjects they have written on.

The fourteenth edition of *The Journal Jurisprudence* begins with a discussion of the twin concepts of the "political questions" doctrine and the justiciability principle. Professor Egbewole and Mr Olatunji revisit this often discussed question with fresh ideas and a practical "walk through" analysis of the origins, present day workings and future of the discourse in contemporary Nigeria in *Justiciability Theory Versus Political Question Doctrine*. Inconsistency in the interpretation of statute across time leads to uncertainty, which in turn has a direct and negative impact on potential investors. At a time when confidence in the rule of law is most needed in Africa, we are honored to publish for the first time this insightful work.

The Rise of TAQLĪD as the Secondary Judicial Approach in Islamic Jurisprudence, our second article in the fourteenth edition provides an engaging read for the most learned scholars of Islamic Law as well as interested novices such as myself. Though initially some of the terminology and phraseology will be new, all readers will quickly find some "common ground" upon which they might use to draw comparisons with more familiar jurisprudential frameworks. Readers may be tempted to note parallels between the principals of *taqlīd* and the doctrine of *stare decisis* however, to do so prematurely would, in actuality, be shackling oneself precisely in the same way that the evolution of the two systems are trying to avoid. One is encouraged to read the full text of the article by Professor Abdelaal to gain a full and comprehensive overview of this exciting and evolving area of jurisprudence.

It is a treat that *The Journal Jurisprudence* includes the piece written Dr Edwin Egede of Cardiff University on the *Law of the Sea Convention (LOSC) 1982*. No doubt there is agreement among all the proponents that there is a need to achieve stable legal regime in the extended Continental Shelf (CS) especially with regard to prospective

mining however, with the prospects of new found riches comes responsibilities and obligations, many of which impose high costs on poorer African states, which in some cases can ill afford it. Dr Egede not only provides us with an in depth understanding *(no pun intended)* of the requirements and challenges faced by each nation but also provides an excellent overview in table form which I believe illustrates clearly that many states are struggling to fulfil their obligations. Rather than end the discussion there however, Dr Egede presents a number of practical and achievable solutions including provision of technical expertise, bilateral cooperation and financial assistance which offer a way forward. I have no doubt readers will enjoy this piece immensely.

How to best help Africans reverse their continent's decline has been the topic of discussion among scholars for many years. Dambisa Moyo's book *Dead Aid*[1] stated very publicly that despite the best intentions, not all assistance provided to Africa is useful. Dr Onazi's wonderfully written piece *Legal Empowerment of the poor: Does Political Participation Matter?* highlights the misunderstandings around the value of political participation, which has led to the failure of the legal empowerment initiative of the UNDP. He does this by asking us to recognise that the majority of the poor survive in the informal economy and these informal systems are the backbone of existence in some cases and cannot be simply marginalised, formalised or regulated in the pursuit of an ideal of "full political participation for the very poor." As such Dr. Onazi shows how informal political participation allows those who would seek to help to think more carefully about what it means to participate politically. We thank Dr. Onazi for the privilege to publish this academic work which shows tremendous understanding of how things really work at the grassroots level.

A topic that always receives a great deal of attention is the literal interpretation of the written law. Notwithstanding that dozens of scholars have attempted to master this topic, every now and then an academic discourse stands above the crowd and I believe the article presented by *The Journal Jurisprudence* written by Mr Etudaiye is just such an outstanding piece. As with our first two pieces, dealing with *The Political Question Doctrine* and the *The Rise of TAQLĪD*, it is the interpretation of law that seems to generate no end of scholarly pursuit. And, just as within the content of those articles, so to is the need for clarity and consistency a worthy goal for the African judiciary today. It is with pleasure that we publish this comprehensive yet easily navigable piece on this ever-interesting area of jurisprudence.

Our final article in the fourteenth edition of the Journal Jurisprudence comes from Ms Adeola Aderomola at the University of Pretoria. That a previously unpublished

[1] Published in 2009 by Farrar, Strauss and Giroux

author has produced such a discerning piece of writing is quite incredible and moreover that Ms. Aderomola honours us to present this wonderful and engaging article is greatly appreciated. Topics rooted deeply in jurisprudence can be difficult even for the most experienced writer; taking on a topic therefore that sits somewhere between high philosophy and jurisprudence is a particularly daunting task and we applaud this young scholar for a stunningly written and clever piece which explores the Kelsian grundnorm and the way it both informs and challenges the current Nigerian Constitution.

As I sign off this editorial I would like to sincerely thank Dr Aron Ping D'Souza, Chief Editor of *the Journal Jurisprudence* for inviting me to edit this special African edition. I do hope he is as pleased with the results as I am.

Finally, very special thanks go to all of the authors who have contributed to this edition of the Journal Jurisprudence. I have thoroughly enjoyed our correspondence and appreciated working with each of you on the refinements and final preparations of these superb works. Your knowledge of the subject matter is unsurpassed and your deft abilities with the pen (or keyboard) is astonishing.

I am humbled by every one of you.

Trent Smyth
Honorary Consul of Malawi – Australia
Melbourne
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