



Integrity of the Judiciary and its Decision-Making Processes

EDITORIAL

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In the first issue of 2023, there is an underlying theme of judicial integrity running through the articles, whilst we travel from Kazakhstan and Ukraine in Eastern Europe, to Kenya in Africa and to the United States of America.

In Ukraine, Maryna Utkina et al, in their article, “Anticorruption Transformation Processed in the Conditions of the Judicial Reform in Ukraine Implementation”, analyse the extent to which Ukraine’s recent judicial reforms, as mandated in new legislation, successfully targeted the country’s ongoing efforts to combat corruption in its judicial system. Elements discussed include (i) judicial reform measures; (ii) Constitutional Court of Ukraine efforts to inhibit judicial reform, and (iii) the creation of new High Anti-Corruption Court. Successful judicial reform requires (i) sufficient political will and cooperation of Ukraine’s President and parliament, the *Verkhovna Rada*, and (ii) active public participation in initiating and monitoring implementation of the reforms.

In Kazakhstan, Zhanna Khamzina, examines the “Benefits and Risks of the Specialization of Courts in social and labor disputes”. The author focuses on Kazakhstan where judicial reforms anticipate new specialized courts. She concludes that while specialization can refine the country’s judicial system and enhance its development, it must be approached cautiously, and its implementation carefully monitored. She reviews arguments for creating new social and labor courts, asking whether the initiative entails more than just increasing the competence and efficiency of the judiciary. She cautions that the initiative may lead to crafting decisions focused on the qualitative resolution of social and labor conflicts that have the potential to adversely affect social peace and stability.

Mercy Deche assesses the “Recruitment of Judges in Kenya: The Intricacies of Gauging a Candidate’s Integrity.” She analyses the substantive and procedural legal framework, highlighting the Judicial Service Commission’s challenges when inquiring

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into candidate integrity. The article comprises five sections: (i) The concept of integrity; (ii) the historical significance of judicial integrity in Kenya; (iii) the international, constitutional, statutory and jurisprudential framework for judicial integrity; (iv) the Commission's statutory responsibility to review judicial candidate integrity, and (v) what challenges the Commission confronts in its efforts to assess integrity. The paper concludes with a call for more interventions beyond the legal framework.

In "The Role of Judges in Eliminating Implicit Bias and Discrimination, for Diversity and Inclusion in New York State Courts: A Judicial Dilemma", Ari Niki-Tobi looks at the role of New York State Court System judges in dealing with difficult issues regarding race, bias, diversity, and inclusion, topics they sometimes interpret differently when dispensing justice than society at large, leaving gaps that some may find difficult to bridge. The reactions to George Floyd's death reflected such gaps, some perceiving him as a brutality victim, others as a career criminal with a long rap sheet. Such perceptual differences may raise popular misconceptions about courts and judges, leading to diminished confidence in them and their work. Judges and courts must ensure not only that justice is done but that justice is widely perceived as having been done to eliminate bias and discrimination.

Integrity of the judiciary is very much reflected in their decisions, whether individually or in panels. Brian Barry examines the psychological factors that affect group decision making and how such factors affect panel decision making in the courts in his article "Judging better Together: Understanding the Psychology of Group Decision-making on Panel Courts and Tribunals". This article reviews the primary psychological dynamics of group decision-making, both positive and negative, and considers their implications for panel courts and other groups of professional legal decision-makers such as adjudicators who, serving on tribunals, work together to decide legal disputes. This article argues that controlled experimental studies of judges and adjudicators testing the effects of these dynamics would help to better understand their legal decision-making and inform proposals for improving such decision-making processes to reach better quality decisions. Some ideas and outlines for experimental studies are presented.

Finally, in the "Book Review of Courthouse Confidential – Unveiling Lessons Learned in Leading and Managing Trial Court Organizations" Norman Meyer, Jr describes how this new book is packed with practical information and the application of organizational theory. Based on the author's real-world and academic experience, the book uses a series of case studies and corresponding "lessons learned" to review a range of critical topics and issues that confront court administrators and judges in today's courts. These areas include leadership, caseload, information technology, community and stakeholder engagement, human resources, operations, budget, and strategic management. The lessons learned are practical, actionable and bridge the gap between theory and the real world. Practitioners and academics will both benefit from the book.

We hope you enjoy this issue.

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COMPETING INTERESTS

The authors have no competing interests to declare.

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