

# TGCL

Tanzanian-German Centre for  
Eastern African Legal Studies

at the University of Dar es Salaam School of Law  
in cooperation with the University of Bayreuth

TGCL bulletin 2012



*BULLETIN 2012*

## *TANZANIAN-GERMAN CENTRE FOR EASTERN AFRICAN LEGAL STUDIES (TGCL)*

*AT THE UNIVERSITY OF DAR ES SALAAM SCHOOL OF LAW  
IN COOPERATION WITH THE UNIVERSITY OF BAYREUTH*



## CREDITS

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## EDITORIAL

### DEAR READER,

This issue of the TGCL bulletin marks the fourth year of the Tanzanian-German Centre for Postgraduate Studies in Law, recently renamed as Tanzanian-German Centre for Eastern African Legal Studies (TGCL), to reflect the growing regional focus of the content of teaching and research as well as the region of origin of its students.

The TGCL is part of the "African excellence" programme financed by the German Academic Exchange Service (DAAD) and the German Foreign Office. Despite stiff competition, it was selected in 2008, together with other projects, to form part of the group of African centres of excellence. This selection and sponsoring of the TGCL within the above programme shows that the two collaborating universities of Dar es Salaam and Bayreuth possess the potential to achieve excellent results in postgraduate education. It continues to be our task to achieve and maintain the high standards we have set ourselves.

You, our students, must prove that you are able and ready to fulfil the expectations that accompany admittance to our programme. Far from leaning back proudly after your successful application to our centre of excellence, you must now strive to live up to this excellence which our name contains, and to justify the trust and confidence put in you through dedicated work and continuous effort.

Similarly, it is our task as the staff of the Centre – management, lecturers, supervisors and advisers – to do our best to assist our students in their endeavours to achieve excellent results by providing top conditions for their studies, both in the content and quality of our teaching and in personal supervision.

Our quest to find and foster talented students who have the potential to produce outstanding results in their studies and research continues. We are proud to be able to welcome our fifth group of TGCL students and we look forward to another fruitful and mutually enriching academic year.

Bayreuth, 21 December 2012



Prof. Ulrike Wanitzek  
TGCL Project Leader



## 50 LLM STUDENTS AND 18 PhD STUDENTS TRAINED AT THE TGCL

50 LLM students and 18 PhD students have been or are being trained at the TGCL, and 29 of them have already graduated. From the beginning, the TGCL has put strong emphasis on gender balance. More than 50 per cent of the centre's students and alumni are female. Moreover, the TGCL students' groups are increasingly international. Out of the total number of students so far, four came from Burundi, eight from Kenya,

four from Rwanda and seven from Uganda. This means that about one third of all current and former students came from abroad. This reflects a high level of internationalisation as well as the excellent reputation of the TGCL in the East African region.

The following pictures show all the LLM student groups since the inauguration of the TGCL in 2008. ■

## 2012 LLM STUDENTS



From left to right: Nina E. Sokoine (TZ), Hannah W. Wanderi (KE), Victoria M. Lihuru (TZ), Magdalena Syllister (TZ), Désiré Bigirimana (BI), Naomi N. Gichuki (KE), Goodluck A. Mwangomango (TZ), Jackline Asiimwe (UG), Madinah Nyende (UG), Aderickson H. Njunwa (TZ)



## 2011 LLM STUDENTS



Front row, from left to right: Betina Muhimpundu (BI), Matilda Lameck Ngoje (TZ), Domina D. Madeli (TZ), Stephano Seba Mbutu (TZ), Desderia P. Haule (TZ)  
Back row, from left to right: John B. Seka (TZ), Kamru Habibu Msonde (TZ), Bethy Sanare (TZ), Amos Kiiza (RW), Mathias Sylvester Nkuhi (TZ)

## 2010 LLM STUDENTS



From left to right: Milka W. Kuria (KE), Jolly Ntungire (RW), Agatha Leandy (TZ), Lucy Peace Nantume (UG), Dieudonné Mweru (BI), Amalia Lui Shio (TZ), Bahati S. Haule (TZ), Rhoda Cherotich. Rutto (KE), Stephen Wilbard Msechu (TZ), Sheillah B. Nyanzi (UG)

## 2009 LLM STUDENTS



From left to right: Omondi Robert Owino (KE), Annet Ttendo (UG), Josephat T. Mkizungo (TZ), Irene D. Mallonga, Alexander Martin Saba (TZ), Kalekwa Kasanga (TZ), Mustapher M. Siyani (TZ), Janeth N. Machulya (TZ), Tasco Luambano (TZ), Aisha Nabukeera (UG)

## 2008 LLM STUDENTS



From left to right: Judith M. Kakongwe (TZ), Thomas M. Sipemba (TZ), Bahati M. Ndeserua (TZ), Hawa Juma Mushi (TZ), Juliana Kimwaga (TZ), Bakari George Zubeiri (TZ), Francis R. Kamuzora (TZ), Hamza Ismail Abdulrahman (TZ), Goodluck T. Kiwory (TZ), Angela K. Lushagara (TZ)



## THE ACADEMIC YEAR 2011/2012 AT THE TGCL

The coursework for LLM students in the academic year 2011/12 began in October 2011 with the course on "Constitutional Law" held by Dr Edmund Sengondo Mvungi, followed by the course on "East African Community Law" by Dr Kennedy Gastorn. From June 2012, Mr James Jesse taught the course on "Human Rights Law". All the three courses shared a comparative legal perspective, looking at the laws of all the five Partner States of the EAC as well as at the relevant law of the EAC.

Also right from the beginning of the academic year, the students were acquainted with the 'milestones' for their LLM and PhD research projects in Prof. Bart Rwezaura's seminar on "Transferable Academic Skills". These 'milestones' include preparing a research proposal, preparing for fieldwork, dealing with the challenges of data collection, organising the data, analysing the data after fieldwork, structuring the dissertation/thesis, and coping with the writing process. Complementing this course, Prof. Julie Stewart, University of Zimbabwe, held a seminar on "Research Methodology" to improve the students' methodological skills. The seminars were followed by several Research Workshops chaired by Prof. Rwezaura during which the students discussed the progress of their research projects.

During a series of seminars chaired by TGCL Student Adviser, Hon. Justice Dr Steven Bwana,

the students reflected on "Professional Leadership Skills". Business administration, especially "Personnel Management", was taught in a short course by Prof. Andreas Remer, University of Bayreuth. A short course held by Prof. John E. Ruhangisa, Registrar of the East African Court of Justice (EACJ), introduced the students to "Dispute Settlement in the East African Community". Prof. Hartmut Hamann, Advocate from Stuttgart, dealt with the topic "Economic Law and Regional Integration". An "Introduction to German Law and European Union Law" was given to the students by Mr Florian Gonsior, University of Bayreuth.

Hon. Justice Ms Tujilane Chizumila (retired), Ombudswoman, Republic of Malawi, gave a public lecture on "Functions and Role of an Ombudsman in Malawi", and "The Role of the African Union Commission on International Law (AUCIL)" was the subject of a public lecture by Mr Adelardus Kilangi, AUCIL. The students also visited the Prevention and Combating of Corruption Bureau (PCCB) in Dar es Salaam.

Basic knowledge of the German language was acquired by the students in Ms Monika E. Spohr's German language class to prepare them for their stay in Germany to attend the Summer University in Bayreuth. For the same purpose, Dr Christian Kirchen, University of Bayreuth, introduced them to "European and German History and Culture". ■

### TANZANIA CONSTITUTIONAL REVIEW COMMISSION

Prof. Palamagamba J. Kabudi and Dr E. Sengondo Mvungi (Deputy Vice Chancellor, University of Bagamoyo), both of them TGCL lecturers and supervisors, have been appointed members of the Constitutional Review Commission of the United Republic of Tanzania. The Commission was established on the basis of the Constitutional Review Act, 2011.

Two PhD students of the TGCL, Ms Nenelewa Joyce Mwihambi and Mr Adam Juma Mambi, have been appointed members of the secretariat of the Constitutional Review Commission. The TGCL congratulates all of them on their appointments.

## KNOWLEDGE AND LEADERSHIP

A Seminar on Professional Leadership Skills with Hon. Justice Dr Steven Bwana

"It is obvious that we know how to efficiently handle legal issues, we know how to find the way through our legal jungles, we know exactly how to communicate our case." These are the words most lawyers would say. Lawyers and law students may often think that social studies are irrelevant to their profession.

"Lawyers are trusted people in this country. But currently lawyers have lost that trust. We are a special group – we should not be generalised." This was the first statement made by his Lordship Justice of Appeal Dr Steven Bwana when he met the LLM students at the beginning of the academic year 2011/2012. He introduced ten exciting topics for presentations by students, each of them to be followed by a group discussion. One of the topics was "Communication skills". This was presented by Betina Muhimpundu. The presenter aimed at explaining to the group that communication is a process by which people exchange information or express their thoughts, ideas, feelings and emotions. Communication skills refers to the way people express themselves through language so that other people can understand. The objective of this topic was to learn as lawyers how to communicate, how to give messages to other people and how we receive messages from others.

Domina Madeli presented the topic "Time management and organisation skills". She defined these skills as the skills required by a person in order to achieve his or her goals within a reasonable time. The topic was concerned with how to keep time and organise our activities.

The presentation on "Team work" was made by Amos Kiiza. He defined team work in various ways as indicated in the literature, explained the characteristics of effective teams, the stages of team growth, the challenges associated with each stage, the advantages and disadvantages

of working in a team, and the demerits of working in isolation. He discussed the factors necessary for group success, and finally he reviewed team work as discussed by some famous personalities.

Desderia Haule presented the topic "Leadership and management skills". She presented the leadership concept as a process by which a person influences others to accomplish an objective and directs the organisation in a way that makes it more cohesive and coherent. With regard to management skills, she defined a manager as the person responsible for planning and directing the work of a group of individuals and for monitoring their work. While the manager's job is to plan, organise and coordinate, the leader's job is to inspire and motivate. Both leadership and management involve influence, working with people, and concern for effective goal accomplishment and other shared characteristics.

John Seka presented the topic "The lawyer, family and society". The objective of the presentation was to show how a professional lawyer manages his/her professional life. For example, he or she may be a company secretary, a consultant with various organisations, father/mother of several children, and meet all social commitments. The aim was to show how to balance the above.

"Setting priorities in life" was presented by Stephano Seba. The presentation aimed at showing a continuous process of being flexible in responding to issues as they arise and learning how to set priorities. This is because personal priorities affect other people. This applies to being a professional lawyer, a leader, a



TGCL Student Adviser  
Hon. Justice Dr Steven  
Bwana

family member and a member of society. Kamru Habibu presented the topic "Professional and ethical conduct for lawyers". He defined the legal profession as a body of men and women trained in the field of law and working in different capacities. He said that lawyers are bound to work according to the lawyer's code of conduct and ethics. However, he pointed out the challenges to professional conduct and ethics of the magistrate cadre. He noted corruption and bribery as one of the greatest challenges, due to poor working conditions, low salaries, poor housing, transport, dilapidated court premises, poor supervisory mechanisms, and inadequate machinery for dealing with misconduct under the Judicial Service Act. Matilda Lameck presented the topic "Corruption and the legal sector". She pointed out that corruption is a wide concept that has no single agreed meaning. She argued that corruption is a deviation from the normal or, in the case of official corruption, it refers to deviation from the

duties and rules of public service in order to obtain certain advantages, pecuniary or otherwise. Finally, Betty Sanare presented the topic "Impact of technology in the legal profession" and Mathias Sylvester Nkuhi discussed the topic "Service before and above oneself". All the ten topics broadened our mental horizons and the knowledge we shared was very important. We came to realise that one of the wonderful things about learning is that knowledge not only translates from one area to another but is also an avenue that leads to understanding and insight. The leadership and management skills presentations broadened our knowledge. And I am convinced that knowledge is power. Knowledge makes people special. Knowledge helps us to overcome the past, to change our own situation, helps us to fight new obstacles and make better decisions. The discussion was very significant, not only for our one year of LLM studies but for the rest of our life.

(Desderia P. Haule) ■

## DISPUTE SETTLEMENT IN THE EAST AFRICAN COMMUNITY

*A Short Course held by Prof. John E. Ruhangisa in January 2012*

LLM students at the TGCL in the academic year 2011/12 had the opportunity to attend various extraordinary short courses besides their core courses. The Registrar of the East African Court of Justice in Arusha, Prof. John E. Ruhangisa, was among the facilitators of these courses. He delivered a course on "Dispute settlement in the East African Community: The role of the East African Court of Justice" which took place on 16-18 January 2012.

Prof. Ruhangisa commented on the success of the Court since its inception: easily accessible, independent and rendering expeditious justice. Yet these achievements come with challenges.

He mentioned the perceived weaknesses of the East African Court of Justice, such as working on an ad hoc basis, the slow process of adopting the Protocol extending the Court's human rights jurisdiction, and above all, the substantial limit to the Court's jurisdiction on disputes emanating from the Customs Union Protocol and Common Market Protocol.

He concluded with a call for more recognition by the Community institutions and the Partner States. They should appreciate the role of the Court in the regional integration process if it is to have any meaning for the very people who should be the beneficiaries of the integration process.

(Matilda Lameck) ■

## NETWORK MEETING OF DAAD AFRICAN CENTRES OF EXCELLENCE IN WINDHOEK

The TGCL management team, consisting of Project Leader Prof. Ulrike Wanitzek, Coordinator Dr Kennedy Gastorn and Manager Dr. Christian Kirchen, was invited to attend the fourth network meeting of DAAD African Centres of Excellence. After previous meetings in Bonn (2008), Kinshasa (2009) and Cape Town (2010), the Namibian-German Centre for Logistics hosted this year's network meeting from 14 to 17 March 2012 at the Polytechnic of Namibia in Windhoek.

During the opening ceremony, the Deputy Director of the Namibian-German Centre, Prof. Chris Savage, gave vivid insights into the importance of logistics in his keynote speech on "Potential contributions of logistics to the development of the Southern African region". To begin the ceremony, Prof. Tjama Tjivikua, Rector of the Polytechnic of Namibia, Prof. Thomas Schmidt, Project Director of the Namibian-German Centre for Logistics, Mr André Scholz, Deputy Head

of Mission of the German Embassy, and Master of Ceremonies Dr Albin Jacobs all welcomed the participants warmly in the beautiful facilities of the Polytechnic Hotel School.

In the course of the workshop which was chaired by Dr Dorothee Weyler (DAAD, Bonn) and moderated by Dr Sandra Fowkes (Cape Town), each centre described its own experience of African-German institutional cooperation. Further matters that were dealt with during the workshop were future curricula and the visibility and sustainability of the centres. On behalf of the TGCL, Dr Kennedy Gastorn gave a presentation titled "From African brain drain to 'Brain Trust' and circulation: TGCL and trends from Tanzania". ■



TGCL Coordinator  
Dr Kennedy Gastorn

## VISIT BY DR ASHA-ROSE MIGIRO

Former UN Deputy Secretary General Dr Asha-Rose Migiro (left) visited the TGCL on 23 July 2012. Dr Migiro is a DAAD alumna herself, having been a DAAD scholarship holder when she worked on her doctoral thesis at the University of Konstanz, Germany.

2011 LLM Student Representative Mathias Sylvester Nkuhi (right) welcomes Dr Migiro in the TGCL library.





## REGIONAL CONFERENCE ON CONSTITUTIONAL REFORM PROCESSES AND INTEGRATION IN EAST AFRICA

Hon. Justice Mr James Ogoola, Prof. Patrick Lock Otieno Lumumba, Prof. Palamagamba John Kabudi, Mr Benson Tusasirwe (from left to right) were the speakers at the conference.



On 18 May 2012, Nkrumah Hall on the campus of the University of Dar es Salaam hosted a joint regional conference organised by TGCL and Konrad Adenauer Foundation (KAS) on "Constitutional reform processes and integration in East Africa". The Deputy Vice Chancellor of the University of Dar es Salaam, Prof. Yunus Mgaya, the Dean of the School of Law, Prof. Bonaventure Rutinwa, the Country Representative of Konrad Adenauer Foundation, Mr Stefan Reith, and TGCL Project Leader Prof. Ulrike Wanitzek were happy to welcome an audience of 200 participants to discuss the recent constitutional reform processes in the East African region. In his opening remarks, H. E. the German Ambassador to Tanzania Mr Klaus-Peter Brandes stressed that any constitutional reform process, wherever it takes place, should have the objective of creating "a constitution for the people and by the people". During the first session, which was chaired by Prof. Gamaliel Mgongo Fimbo, Hon. Justice Mr James Ogoola, Judge at the East African Court of Justice, gave a speech entitled "Where treaty law meets constitutional law – national constitutions in the light of the East African Community Treaty". The speaker dealt with the interface between the EAC Treaty and the national constitutions of the EAC Partner States. National experiences with constitutional reform processes, exemplarily shown by the special

cases of Kenya and Tanzania, were the subject of the next session chaired by Prof. Hartmut Hamann (Stuttgart). Prof. Patrick Lock Otieno Lumumba (Nairobi) spoke on "Constitutional reform processes and integration – The Kenyan experience". He went into the details of "Kenya's long Constitution-making journey" which finally led to the promulgation of the new Constitution on 27 August 2010. The second speaker in this panel, Prof. Palamagamba John Kabudi of the University of Dar es Salaam School of Law, gave a report on the Tanzanian experience. He emphasised the complex structure of the Union between Tanzania Mainland and Zanzibar which is an important feature in the constitutional reform process.

Mr Benson Tusasirwe of Kituo cha Katiba Uganda gave an overview of "Constitutional developments in the East African region". He observed that despite the constitutional reforms which have taken place in East African countries at the formal level, little substantive change on the ground can be seen.

The presentations were followed by a fruitful general discussion chaired by Prof. Christian Roschmann, Rule of Law Programme for Sub-Saharan Africa, KAS Nairobi. Closing remarks by Dean Prof. Rutinwa marked the end of the conference.

(Christian Kirchen and Ulrike Wanitzek) ■

## THIRD TGCL SUMMER UNIVERSITY IN BAYREUTH

From 3 to 31 August 2012, eight East African LLM students and one PhD student visited Germany to attend the TGCL Summer University in Bayreuth.

The curriculum comprised lectures on European Union law and harmonisation of the national laws (held by PD Claas Friedrich Germelmann, Mr Florian Gonsior, Prof. Jörg Gundel, Ms Jana Härtling and Prof. Martin Schmidt-Kessel) as well as interdisciplinary lectures in the fields of East African history and development sociology (Prof. Achim von Oppen and Ms Antje Daniel, MA). To gain some insights into legal practice in Germany, the student group visited a criminal court session at the High Court of Bayreuth (*Landgericht Bayreuth*) presided over by Judge Eckstein. In addition, they made a visit to the Bayreuth Prison (*Justizvollzugsanstalt*).

The students were also able to deepen the German language skills they had gained in Dar es Salaam through German language classes held by experts from the Institute for Intercultural Communication (IIC).

Two public lectures were part of the programme. Prof. Josaphat L. Kanywanyi from the University of Dar es Salaam School of Law spoke on "Open-ended constitutionalism and cultural attitudes in East Africa". He looked at the historical and cultural basis for the predominance of open-ended features of constitutionalism and cultural attitudes which may explain poor public servants' responsibility and accountability. Prof. Ulrich Spellenberg from the University of Bayreuth dealt with the topic "From individualism to balancing of interests in German Law?" He argued that since 1900, the principle of good faith has served as a guideline to the courts, enabling them to apply the Civil Code in accordance with changes in German society. Yet German legal history has shown that the interpretation of private law based on such a wide general principle can be abused. The speaker therefore concluded that the standard of good



faith must be determined on the basis of fundamental rights.

Some of the TGCL supervisors also paid a visit to Bayreuth in the course of the Summer University. They chaired an LLM Postgraduate Seminar (Prof. Josaphat L. Kanywanyi and Dr Khoti Kamanga) and a PhD Workshop (Dr Benedict T. Mapunda and Dr Rita A. Mwaipopo). The PhD Workshop brought together PhD students from the TGCL and from the South African-German Centre, Criminal Justice Division, which is a joint project of the University of the Western Cape in Cape Town and the Humboldt-Universität in Berlin. Furthermore, doctoral students from the Bayreuth International Graduate School of African Studies (BIGSAS) also participated with both legal and interdisciplinary contributions.

A study trip led the TGCL group, together with the visitors from the South African-German Centre and from BIGSAS, to Nuremberg where they visited the Documentation Centre Nazi Party Rally Grounds (*Reichsparteitagsgelände*) and the court room of the Nuremberg Trials (*Memorium Nürnberger Prozesse*). ■

Participants of the TGCL Summer University with Presiding Judge Eckstein in the Schwurgerichtssaal, Landgericht Bayreuth



## INTERVIEW WITH PROF. JOSAPHAT L. KANYWANYI

*Professor emeritus Josaphat Laurean Kanywanyi, a member of the University of Dar es Salaam School of Law from its foundation in 1962 and long-time Dean of the same institution, was interviewed during his visit to Bayreuth in August 2012 by TGCL alumnus Omondi Robert Owino, now a PhD Student at the Bayreuth International Graduate School of African Studies, University of Bayreuth.*

**Owino:** *I must reiterate that it is a privilege to have you at the TGCL Summer University here in Bayreuth, given your vast and extensive experience at the University of Dar es Salaam School of Law which spans more than four decades. The Faculty of Law at the University of Dar es Salaam was the first law faculty in East Africa to have a special East African focus. How does this compare with the current East African focus of the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL)?*

**Prof. Kanywanyi:** Thank you very much for inviting me to this interview to discuss the study of law in an East African context. The original initiative commenced with the colonial administration and the colonial processes in Kenya, Uganda, and Tanganyika, and also included the colonial Residency of Zanzibar. The colonialists were looking at East Africa as a unit, and they visualised a common set-up when all the territories would become independent. It was considered that the University College to be established in Tanganyika should start offering law because this discipline was not offered in the other two University Colleges already established in Kenya and Uganda. This would give Tanganyika some kind of leverage or set it at par with Kenya and Uganda. So the University College Dar es Salaam, Faculty of Law, was established in 1961, and since the original initiative came from the colonial period,

the administration of the East African University College Dar es Salaam, Faculty of Law, was sponsored by the Colonial Office in London. This was part of the general policy towards federation in the political and economic spheres which, however, did not go beyond the establishment of the first East African Community (EAC) in 1967 under the Treaty for the Establishment of the East African Community.

The first EAC broke down in 1977 and I guess the catalyst was the coup in Uganda as well as inequitable resource distribution, among other reasons.

What remained of the first EAC was the Inter-University Council of East Africa (IUCEA). This council kept certain aspects of unity which encouraged meetings of faculties and subject heads as well as exchange of materials, students and staff. There was, however, one problem with cooperation within the IUCEA. While Tanzania and Uganda continued to contribute to the council and engage in exchange of students and staff, Kenya did not contribute but still wanted to send students, as well as staff, and even have a say in the IUCEA meetings. All in all, the IUCEA was a good initiative and particularly so in facilitating the exchange of external examiners among the sub-regional universities. Our courses at the Faculty of Law have retained features of an East African perspective – and, therefore, Dar es Salaam has remained attractive to the whole sub-region.

**“LAW IS NOT THERE FOR ITS OWN SAKE. LAW MUST RESPOND TO THE ACTUAL NEEDS OF SOCIETY.”**



*Prof. Josaphat L. Kanywanyi*

Until today, students want to come to Dar es Salaam, but over time the citing of East African precedents, particularly regarding legislation, has declined, while the frame of mind has more or less remained.

The exchange of students has been strengthened by the new Inter-University Council. The IUCEA leadership comes not only from Kenya, Tanzania and Uganda, but it now extends also to Rwanda and Burundi. We currently continue with the exchange of external examiners, and the revival of IUCEA was on the basis of what existed previously, since cooperation and the relations among the Universities did not break up.

**Would I be right to conclude that the TGCL is now consolidating what existed previously?**

TGCL makes the exchange programme that existed in the past more concrete, and advances the study of law at a postgraduate level by formalising admission of students from the EAC who can now come to TGCL and specialise in constitutional law, human rights or other fields with an EAC bias.

**Professor Kanywanyi, when you compared the previous and present East African foci, you**

**spoke about teaching approaches. Dar es Salaam Faculty of Law has been famous for its law-in-context approach as opposed to the black letter approach. Is this still true of Dar es Salaam School of Law today?**

Well, the law-in-context approach is still there but it is weaker in a way than it previously was – weaker in the sense that fewer and fewer people consciously apply it. In the past, most students in the University were exposed to an interdisciplinary approach, through the common course of Development Studies that was supposed to enable students to broaden their perspective as well as develop skills enabling them to link their respective disciplines' focus with the economic sphere. Law, for instance, is inevitably connected with socio-economic development and culture. How can one speak of law reform without society? Law is not there for its own sake. Law must respond to the actual needs of society. In that sense, it guides society. But if it becomes a hindrance, society must guide law and change or amend it.

Those of us who believe law to be an instrument of change assert that law should be in the hands of the people, and not that the people should be in the hands of the law. When the law becomes

oppressive, people should resist and oppose it, not necessarily by revolution but by exposing the oppressiveness of the law, for instance by showing that it is out of date or by presenting suggested reforms to parliament. We have to make students aware that law needs to be reviewed from time to time, to be the subject of discussion and reform.

***Comparatively, between research and teaching which approach is now dominant at the Dar es Salaam School of Law?***

Research is for us part and parcel of teaching. First of all, in terms of the approach, we want students to be able to think and to reason. We give them some facts and make them think, through research. Unfortunately, the levels of knowledge among students have gone down with reference to what they get from primary and secondary school education. This is the case in Tanzania but not so much in Kenya and Uganda. At Dar es Salaam School of Law, we insist that students go out, do research, and develop writing skills by writing a long paper or a dissertation. Since the year 2000, law degree programmes take four years while previously they took three years only. Research begins with tuition in research methodologies in the Third Year and culminates in dissertation writing and submission in the final Fourth Year: all that is done under academic staff supervision.

***Is it right to assume therefore that the research component of studying law is adequately addressed through the programme you have highlighted?***

Research includes both archival or library and field aspects of research skills. The research products are very rich, based on literary and

field data analysed by the students. Some of them are brilliant, and are published, for example in the Nyerere Law Journal.

***What is the specific goal of postgraduate studies at the University of Dar es Salaam School of Law?***

The general objective is to produce students who have a mastery of law in the sense that they become authorities, and who can then be more useful in further development of the law not only as teaching staff, but also as experts in legal administration as well as administration of justice. Postgraduate studies will also enable the universities that have faculties of law to get opportunities to train their young teachers by hiring them at degree levels to man the academic positions within such universities, instead of sending them abroad, since such opportunities are not always available. We have the resources to do so, University of Dar es Salaam School of Law is in a University of PhDs and is itself a Faculty/School of PhDs. The policy of the University since the 1980s and 1990s has been

***“TGCL CAN IMPACT A MUCH BIGGER REGION THAN THE EAC.”***

that in order for one to advance in one's career at the University, one must obtain a PhD, otherwise one remains an assistant lecturer or a lecturer. It is also impossible to become a professor without a PhD and this, therefore, makes it mandatory for staff at the University of Dar es Salaam School of Law to obtain a PhD.

With so many PhD holders at the University of Dar es Salaam School of Law, we now have the capacity to train others. The Tanzania Commission for Universities also made a PhD degree a prerequisite for holders of higher-level offices in teaching, administration and other academic positions in the universities, like deanship. All these avenues create a nation-wide demand for PhD studies, which we have the capacity to meet.

We, however, become overwhelmed when other universities and institutions poach fully trained staff with PhDs in law from the University and the School.

***Would you attribute the poaching of staff from the University to a general dearth of PhDs in the country?***

This is a challenge because the Government also requires specialised skills in some areas, like the police, magistracy, judiciary, and it wants their lawyers to advance by acquiring specialised skills. The judiciary is now more specialised and departmentalised than previously; for example, the High Court now has a Land Division and a Commercial Division.

TGCL which now offers East African Community Law, Constitutional Law, as well as Human Rights Law, will be an important source of specialists for the Ministry of East African Cooperation. I can, therefore, conclude that the University of Dar es Salaam School of Law is not only demand driven, but that the high demand for professionals also contributes to the dearth.

***The University of Dar es Salaam School of Law has been in existence for 50 years now and you have been there for almost the full life of the faculty. What are some of the milestones that you remember?***

Well, we started as a monolithic faculty, we were not subdivided. In the late 1970s we became departmentalised since we wanted to teach law on a specialised basis. There were five departments, namely legal theory, economic law, international law, civil law and criminal law. However, under the new University of Dar es Salaam Charter we were required to re-cluster the departments and now we are clustered under only three departments, Economic Law, Public Law, and Private Law.

***What do you think is the impact of the TGCL initiative on the EAC region in terms of training qualified lawyers who are able to take up leading positions in the region?***

We have now had four LLM groups within the TGCL, distributed in Tanzania, Kenya, Uganda, Rwanda and Burundi. I think the beginning is very good and maybe what we want to see is link-ups and networking within the EAC, and the TGCL should be the mechanism or agency for enabling this networking. TGCL alumni should not disappear into oblivion but rather maintain contacts with each other and the institution itself. With a healthy exchange of ideas from different sources, TGCL can impact a much bigger region than the EAC. Networking will ensure that alumni do not fly away and whoever graduates remains within that network.

***What would be your parting shot to the present and future PhD and LLM beneficiaries of the TGCL scholarship?***

I would advise the TGCL scholarship beneficiaries to make the most out of this scholarship and not take it for granted. Students should show merit throughout since merit does not lie in the past but the present and it is only through doing their best that their past record will be a reflection of the truth. As for the TGCL, I wish it long life and progressive growth for the continued benefit of the EAC legal system and its national sub-systems.

***This has been a very insightful discussion into the past, present and future of the University of Dar es Salaam School of Law which has served to link the pillars of the University of Dar es Salaam School of Law with some of its new and very recent components. On behalf of the TGCL I thank you for the opportunity you have accorded us and the time you spared to attend this interview.***



## TGCL STUDENTS VISIT BERLIN

*On 16 August 2012, LLM and PhD students from the TGCL in Dar es Salaam who were stationed at Bayreuth University during the TGCL Summer University travelled to Berlin on what would later be recalled as the best trip of their entire stay in Germany.*

On the agenda for the three day stay were a visit to the German Ministry of Foreign Affairs, a courtesy call to the DAAD Berlin Office, a visit to the



*The TGCL Summer University participants visited the German Parliament.*

Bundestag, a reunion with Prof. Hartmut Hamann of CMS Hasche Sigle Advocates who had earlier visited the group in Dar es Salaam, a special dinner at the Tanzanian Ambassador's Residence in Berlin and a boat trip on the river Spree.

The student group, accompanied by two of their lecturers and supervisors, Prof. Josaphat L. Kanywanyi and Dr Khoti Kamanga, boarded a bus from Bayreuth to Berlin on 16 August, a journey which took about four hours. On arrival in Berlin, they were joined by their supervisors Dr Rita A. Mwaipopo and Dr Benedict T. Mapunda who had come straight from Dar es Salaam. In the morning, refreshed after a peaceful night, the students woke up with their usual enthusiasm. After a very friendly breakfast they began

their day trips with a visit to the German Ministry of Foreign Affairs.

At the Ministry the students were received by several officials including Ms Elke Tiedt, Ms Nielsen, Mr Felix Kroll and Mr Hartig. Following this, they were informed about the role of the German Federal Republic in spearheading socio-economic development in Africa. Being very inquisitive students, they asked a lot of questions and these were ably answered. Following this presentation and the questions and

answers session, the students had the benefit of a lecture by Dr Oliver Meinecke on integration measures being taken by the EU in order to overcome the current Euro crisis. Furthermore, insight was given into the EU law-making process from the perspective of German Ministries. This lecture was also followed by a questions and answers session.

Immediately thereafter, a courtesy call to the DAAD Berlin Office followed. The students were received by Mr Michaël Hörig, the head of the Centres of Excellence Section of the DAAD. They had the benefit of being informed about the various activities of the DAAD in Africa and the many educational opportunities offered. The students were encouraged to exploit these op-

portunities. This presentation, as is the custom, was followed by questions from students keen to obtain as much information as possible about the available opportunities.

The reunion with Professor Hamann was the next trip for the students after the DAAD. They were kindly received by the professor himself before he engaged them in critical legal studies. On that particular day the students were treated to a lecture on the "Necessary constitutional limits on economic activities – The rule of law and market-driven economies". After the lecture a group exercise was held and the results compared. As a surprise after the exercise, Prof. Hamann treated the students to delightful refreshments. In the evening, another surprise awaited the students. This time it was a visit to the residence of Tanzania's Ambassador to Germany, H. E. Ahmada R. Ngemera. As is the custom in Tanzania, the students were greeted by warm embraces at the door of the Ambassador's residence, before they were welcomed inside. With the free flow of Swahili which took precedence over the German language now, the residence of the Ambassador sounded like a Tanzanian home from



*Prof. Josaphat L. Kanywanyi in the Reichstag*

home. More importantly, and in the spirit of East African cooperation, the Ambassador had taken the initiative to invite the Burundian and Rwandan Ambassadors, H. E. Bacanamwo Anatole and H. E. Christine Nkulikiyinka, so that the students from Rwanda and Burundi also felt at home. After a fruitful exchange of information, the students were invited to a well prepared and very tasty dinner. Following the dinner and the ensuing discussion on issues relating to East African integration and relations with Germany, the students bid goodbye to the Tanzanian Ambassador and departed to their hotel. (John B. Seka) ■



*The TGCL group also paid a visit to the German Federal Foreign Office.*



## PREPARING THE GROUND FOR THE FUTURE OF THE TGCL

*The East African Community, founded in 2000 by Kenya, Tanzania and Uganda, and extended in 2007 to include Burundi and Rwanda, plays a growing role in the region both in the economic and the political spheres. Consequently, legal expertise on the law of regional integration is increasingly required by lawyers in Eastern Africa. The TGCL fills a gap by providing legal training specifically in regional integration law in Eastern Africa.*

During its four and a half years of operation, the TGCL has acquired the reputation of being an expert institution in the field of regional integration law, with special regard to the law of the East African Community (EAC). Several TGCL planning workshops were held in 2012 to explore ways of ensuring that the TGCL will become the leading institution for regional integration law in Eastern Africa with respect to both research and teaching. As the TGCL is a joint project of the two partner Universities of Bayreuth and Dar es Salaam, the workshops were devoted to an intensive exchange of ideas and plans for the future of the TGCL between members of the two Universities. The workshops were hosted by TGCL Project Leader Prof. Ulrike Wanitzek and the Managers of the TGCL in Germany, Dr Christian Kirchen (till October 2012) and Johannes Döveling LLM (from November 2012). The TGCL Coordinator in Tanzania, Dr Kennedy Gastorn, participated in all these workshops.

During the first planning workshop in January 2012, Prof. Gordon R. Woodman, the TGCL Programme Adviser from the University of Birmingham School of Law, joined the TGCL team and contributed to the deliberations. The agenda consisted mainly of an analysis of the evaluation results, after the TGCL had been evaluated at the end of 2011, and action to be taken in the light of these results.

The second round of planning discussions took place in August 2012 with Prof. Josaphat L. Kanywanyi, Professor emeritus of the University

of Dar es Salaam School of Law, and Dr Khoti C. Kamanga, Coordinator of the Centre for the Study of Forced Migration at the School of Law; Dr Benedict T. Mapunda, and Dr Rita A. Mwapopo, then Coordinator Postgraduate Studies of the School of Law. The discussions centred around measures to make the TGCL self-sustaining after the end of the current period of funding by the German Foreign Office through the German Academic Exchange Service (DAAD). In November 2012, Prof. Michael B. Wambali, Head of the Department of Public Law, Prof. Luitfried X. Mbunda, and Prof. Hamudi I. Majamba, Head of the Department of Private Law, visited Bayreuth for the final workshop of the year. The major topics of the discussions included the future organisational structure of the TGCL and its position as an autonomous unit within the University of Dar es Salaam School of Law. During these visits, academic contacts with staff members of the Faculty of Law, Business Administration and Economics of the University of Bayreuth were established and deepened. Prof. Torsten Kühmann and Prof. Andreas Remer looked into the possibility of adding an interdisciplinary component in the area of business administration and economics to the TGCL study programme. Proposals for teaching and research on the harmonisation of national laws in the fields of consumer protection law and intellectual property law were discussed with Prof. Martin Schmidt-Kessel and Prof. Michael Grünberger. ■

## TGCL STUDY TRIP TO KIGALI

*A group of TGCL LLM students, accompanied by their student adviser and by the TGCL managers, visited the capital of Rwanda to get to know the leading Rwandan legal institutions.*



*The TGCL group was received by a delegation of the Supreme Court of Rwanda.*

"I am deeply impressed by the achievements of Rwanda, as this small country had to recover from a dark past", summarised Hon. Justice Dr Steven Bwana after the TGCL study trip to Kigali. Together with TGCL Manager Dr Christian Kirchen and incoming Manager Johannes Döveling LLM, the Student Adviser accompanied eight 2011 LLM students to the Rwandan Capital. The group participated in a broad programme that was perfectly coordinated by TGCL Alumna Jolly Ntungire LLM. The programme started with a visit to the High Commission of the United Republic of Tanzania to Rwanda. H. E. the High Commissioner Dr M. M. Matiko presented the current political and judicial situation in Rwanda from an observer's perspective. He lauded the current government for its strict fight against corruption. Once charged with bribery, a politician or government official could never return to his

or her position. Furthermore, the law and order concept implemented by the government was successful, from the Ambassador's perspective, as the people were eager to obey and respect laws. He called the achievements of Rwanda since 2004 remarkable but kept on warning that some problems related to the past that were presently hidden under the bright surface were yet to be solved.

The group also visited the impressive, but shocking, Gisozi Genocide Memorial Site. During the tour through the exhibition the group learnt facts about the horrible Rwandan genocide that involved approximately one million victims and saw its peak in April 1994.

The TGCL group also visited the Supreme Court of the Republic of Rwanda, the highest court in the country. Judge Charles Kaliwabo Munyantore and Judge Mutabaze Harrison welcomed the



TGCL students. First they gave a short outline of the judicial system. They highlighted that Rwandan law now forms a hybrid system, as common law elements were integrated into the civil law system from 2004 on. Justice Charles pointed out that it is the target of the courts to close a case within six months after it has been filed. For transparency reasons Rwandan courts publish reports to the public containing a self-evaluation at the beginning of every judicial year. As the TGCL study group was particularly interested in the Gacaca Courts, the second part of the discussions referred to these specific courts, which were established to deal with crimes relating to the genocide.

Afterwards the group was privileged to meet Prosecutor General Martin Ngoga who provided an insight into the work of the National Prosecution Authority. Ngoga informed the group about the set target of handling 24 cases a month per prosecutor, and further measures to reduce the backlog of 35,000 cases. Close supervision and evaluation of prosecutors had helped to improve the work of the Authority. As an example, Mr Ngoga proudly presented the electronic filing system of the National Prosecution Authority. According to Ngoga, many of the serious international cases were connected to white-collar crimes and fugitive criminals connected with the genocide.

At the Office of the Ombudsman of Rwanda, Permanent Secretary Xavier Mbarubukeye warmly welcomed the group and gave an overview of an Ombudsman's responsibilities. Beyond fighting against corruption, it is also the task of the Office of the Ombudsman to take up cases of injustice

that have been filed by any person involved in the case. The TGCL group also paid a visit to the Faculty of Law of the Independent Institute of Lay Adventists of Kigali, which was established in 1997. Dean Robert Turyahebwa presented the LLB and LLM programmes. Most of the lectures are held in Kinyarwanda. He emphasised Rwanda's lack of well-trained lawyers. Therefore he was particularly eager to learn about the TGCL programme, which is also open to Rwandan law graduates.

Finally, the study group was welcomed at the Rwandan Ministry of East African Community (MINEAC) by the Permanent Secretary H. E. Ambassador George William Kayonga and Ms Gertrude Kayitesi, Ag Director of Legal and Judicial Affairs. The ministry coordinates Rwanda's EAC-related activities. It is furthermore involved in the engagement with other intergovernmental organisations and countries, such as SADC, EU and the USA, India, Germany and Turkey. Kayonga claimed that legal integration within the EAC still depends on the good will of the Partner States as they were so far "still very sovereign states". In comparison to the other Partner States he stressed the geo-political position of Rwanda. Rwanda is a landlocked country situated in a volatile region. Therefore, the enhancement of transport infrastructure and access to markets were central aims of the small country, said Kayonga.

The fruitful study trip to Kigali is only the starting point for further trips to the capitals of the EAC Partner States. Visits to Kampala, Bujumbura, and Nairobi will follow.

(Johannes Döveling and Christian Kirchen) ■

## TGCL ALUMNI MEETINGS IN RWANDA AND TANZANIA



*TGCL Alumni Association Chair Person Dr Grace K. Kamugisha led through the Alumni meeting.*

Since the beginning of the TGCL study programme, 29 LLM students have graduated. These graduates, who are now living and working in all Partner States of the EAC, form the alumni of the TGCL. They have founded a TGCL Alumni Association, which aims at maintaining and extending the network of former TGCL students. Among others, regular alumni meetings are an integral part of the alumni activities.

Within a few days, two TGCL Alumni Meetings were held, one in Kigali and one in Dar es Salaam. In the course of the TGCL study trip to Kigali, current TGCL LLM students and alumni got together for a dinner on 25 September 2012. This meeting was chaired by Alumni Country Representative for Uganda, Lucy Peace Nantume LLM, together with TGCL Alumni Country Representative for Rwanda, Jolly Ntungire LLM. Lucy Nantume informed the outgoing 2011 LLM students about the aims of the TGCL Alumni Association and invited them to become members. Besides the TGCL study group, including TGCL Student Adviser Hon. Justice Dr Steven Bwana, TGCL Manager Dr Christian Kirchen, incoming Manager Johannes Döveling LLM and eight 2011 LLM students, the meeting was also

attended by one former and one new Rwandan TGCL PhD student, Jean Bosco Ngendahimana (2009 PhD) and Denis Bikesha (2012 PhD). Furthermore, Pauline Jeanne Gashumba LLM, an alumna of the South African-German Centre, Criminal Justice Division, took part in the meeting.

The official annual meeting of the TGCL Alumni Association took place on 5 October 2012 in Dar es Salaam. Chair Person Dr Grace Kazoba Kamugisha and Deputy Chair Person Stephen Wilbard Msechu were happy to welcome a total of 29 participants, among them TGCL Student Adviser Hon. Justice Dr Steven Bwana, TGCL Project Leader Prof. Ulrike Wanitzek, TGCL Coordinator Dr Kennedy Gastorn, the TGCL Managers Dr Christian Kirchen and Johannes Döveling LLM, TGCL alumni from all years and the majority of the new 2012 LLM students. Hannah Wamuyu Wanderi was elected to fill the post of Country Representative for Kenya. The alumni discussed how to establish a TGCL Alumni Journal. They also dealt with the finalisation of the constitution of the TGCL Alumni Association. The alumni meeting was concluded with a dinner.

(Christian Kirchen) ■



## 2012 LLM STUDENTS, DISSERTATIONS AND SUPERVISORS

### JACKLINE ASIMWE (UGANDA)



Good Governance in the EAC: An Analysis of the Role of the Judiciary in Promoting the Rule of Law from a Ugandan Constitutional Perspective

Supervisor: Dr R. Mwaipopo

### DÉSIRÉ BIGIRIMANA (BURUNDI)



The Peace and Security Legal Framework in the East African Community

Supervisor: Dr K. Gastorn

### NAOMI N. GICHUKI (KENYA)



Dispute Resolution in Customs Unions; A Critical Overview of the East African Community Legal Framework

Supervisor: Dr C. K. Mtaki

### VICTORIA M. LIHIRU (TANZANIA)



Women and Electoral Rights in East Africa: The Perspective of Tanzanian Electoral Laws

Supervisor: Prof. M. B. Wambali

### GOODLUCK A. MWANGOMANGO (TANZANIA)



Land Rights as a Constitutional Category for a New Constitution: A Comparative Study of the Tanzanian and Ugandan Constitutions

Supervisor: Prof. G. M. Fimbo

### ADERICKSON H. NJUNWA (TANZANIA)



Human Rights through Commercial Court Disputes Settlement in Tanzania

Supervisor: Dr A. M. Mapunda

### MADINAH NYENDE (UGANDA)



Petroleum Production in Uganda: A Review of the Legal, Regulatory and Policy Framework

Supervisor: Prof. G. M. Fimbo

### NINA E. SOKOINE (TANZANIA)



The East African Community Common Market and Harmonisation of Labour Laws in Tanzania: Policy Challenges and Opportunities

Supervisor: Dr K. Kamanga

### MAGDALENA SYLISTER (TANZANIA)



Legal Challenges to Effective Realisation of the Free Movement of Capital under the East African Community Common Market Protocol

Supervisor: Prof. L. X. Mbunda

### HANNAH W. WANDERI (KENYA)



Enforcement Law on Conservation and Management of Forests in Kenya: A Case Study of Mau Forest

Supervisor: Prof. H. I. Majamba

## 2011 LLM STUDENTS, DISSERTATIONS AND SUPERVISORS

### DESDERIA P. HAULE (TANZANIA)



Combating Gender-Based Violence in Tanzania: An Examination of Laws for Prevention of the Killing of Elderly Women due to Witchcraft Beliefs

Supervisor: Dr R. A. Mwaipopo

### AMOS KIIZA (RWANDA)



The Practical Application of the Principle of Separation of Powers in Rwanda in the Light of Article 7 (2) of the EAC Treaty

Supervisor: Dr A. M. Mapunda

### DOMINA D. MADELI (TANZANIA)



The Efficacy of the EAC Treaty on Rights to a Clean Environment as Human Rights: The Study of Waste Treatment in Tanzania

Supervisor: Dr B. T. Mapunda

### STEPHANO SEBA MBUTU (TANZANIA)



An Investigation of the Right to Adequate Housing in Urban Tanzania in the Light of the EAC Treaty

Supervisor: Prof. G. M. Fimbo

### KAMRU HABIBU MSONDE (TANZANIA)



Realisation of Socio-Economic and Cultural Rights in the Light of the EAC Treaty

Supervisor: Prof. L. X. Mbunda

### BETINA MUHIMPUNDU (BURUNDI)



The Viability of the EAC Treaty in Peace Making and Peace Keeping in Violent Conflict: A Case Study from Burundi

Supervisor: Dr K. Gastorn

### MATILDA LAMECK NGOJE (TANZANIA)



Free Movement of Workers in the EAC vis-à-vis the Labour Law Regime in Tanzania Mainland

Supervisor: Prof. B. Rutinwa

### MATHIAS SYLVESTER NUKHI (TANZANIA)



Free Movement of Workers and the Legal Implications of the Right to Equal Treatment in the EAC Common Market

Supervisor: Dr K. Kamanga

### BETHY SANARE (TANZANIA)



Legal Protection of Migrants in the EAC: The Case of Children

Supervisor: Dr B. T. Mapunda

### JOHN B. SEKA (TANZANIA)



The Legal Framework for Cross-Border Practice in the EAC: The Case of Tanzania

Supervisor: Dr A. M. Mapunda



## 2012 PhD STUDENTS, THESES AND SUPERVISORS

### DENIS BIKESHA (RWANDA)



Gacaca Courts as a Means towards Dispensing the Rule of Law

Supervisors: Prof. J. L. Kanywanyi,  
Prof. M. K. B. Wambali

### SHEILLAH NYANZI (UGANDA)



An Appraisal of the Legal Regulatory Challenges to Protection of Mobile Money Consumers in East Africa

Supervisors: Prof. N. Nditti,  
Prof. H. I. Majamba

### MERCY K. MULI (KENYA)



The Management of Elections in Africa: A Case Study from East Africa

Supervisors: Prof. C. M. Peter,  
Prof. P. J. Kabudi

## 2011 PhD STUDENTS, THESES AND SUPERVISORS

### HAMZA ISMAIL ABDULRAHMAN (TANZANIA)



Constitutional and Human Rights Dimensions of Real Property Taxation in Tanzania

Supervisors: Prof. G. M. Fimbo,  
Prof. M. K. Wambali

### TASCO R. LUAMBANO (TANZANIA)



Efficacy of Domestic and Regional Courts in Protecting Human Rights in East Africa: A Case from Tanzania

Supervisors: Prof. B. Rutinwa,  
Prof. L. Shaidi

### BAKARI GEORGE ZUBEIRI (TANZANIA)



The Relation between East African Law and National Law and Its Implication for Human Rights: The European Law Experience

Supervisors: Prof. L. X. Mbunda,  
Dr K. Kamanga

### DAVID C. NZALIGO (TANZANIA)



Privacy, Freedom of Expression and Human Rights: A Comparative Study of the Impact of Information Communication Technology (I.C.T.) in East Africa

Supervisors: Prof. P. J. Kabudi,  
Dr A. Mapunda

### KALEKWA KASANGA (TANZANIA)



The Efficacy of Human Rights Commissions in Protecting Human Rights in East African Countries with Special Reference to Tanzania

Supervisors: Prof. N. Nditti,  
Prof. M. K. B. Wambali

## INTERNSHIP AT THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

In 2012, four TGCL students participated in the internship programme at the African Court on Human and Peoples' Rights at its headquarters in Arusha, Tanzania: Betina Muhimpundu, Mathias S. Nkuhi, Bethy Sanare and Amos Kiiza. Bethy Sanare reports here on her experiences during the internship.

### THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Court on Human and Peoples' Rights (AfCHPR) was established by virtue of Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, to complement the protective mandate of the African Commission on Human and Peoples' Rights. In reality the court plays a great role in human rights protection since it is the supreme institution on the African continent to oversee the adherence to and implementation of human rights instruments to which African states are parties and of those which have gained *jus cogens* (binding) force, for instance the Convention Against Torture.

The operation of the court has become a cornerstone in the field of human rights in Africa because it is the first judicial body whose findings are final and binding on the parties as opposed to the practice of the commission whose findings are mere recommendations.

Since its establishment in 2006 the court has been receiving various complaints from entities empowered under the law to access it and it has been playing a great role in human rights protection on the continent. This is evident from the protocol which empowers the court to hear all cases or disputes concerning, for example, the interpretation or application of the very protective provisions of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which virtually all African states are

parties. Thus the protocol broadens the protective function of the court as it can apply any human rights instrument provided that the concerned states are parties to it. The court thus has wide powers to ensure that it fulfils its purpose. The major weakness of the protocol is the fact that the states' declaration of acceptance of the competence of the court is necessary in order for it to be able to entertain complaints from individuals and NGOs. So far, very few states in Africa have made such a declaration; as a result, the AfCHPR, the highest court on the continent in respect of human rights issues, has had to strike out several cases brought by individuals for lack of jurisdiction.

It is urged that this cumbersome technicality should be removed. It is surprising that the same state which is being condemned for human rights violations is required to give consent to be sued before the court. In most cases it is individuals who are victims of human rights violations and they should be granted direct access to the AfCHPR.

### THE INTERNSHIP PROGRAMME

I started my internship programme on 2 October 2012 under the supervision of Mr Nzamwita Gakumba, a senior legal officer at the Court. On the first day, during the first meeting with my supervisor, I was given the task of refreshing myself on the state of human rights in the world and in particular in Africa by reading a book entitled International Human Rights Law in Africa by Frans Viljoen, who is a prominent author of human rights materials in Africa.



I was given a sitting chamber in the Court's library. A desk and a computer were allocated to me with unlimited access to books, journals and other available human rights materials relevant to my assignments. Access to online legal materials was quick and reliable. The library is an appropriate environment to undertake all tasks assigned by the supervisor as books were readily available, and whenever I had any query, the librarian or his assistants were ready to assist me. The court library was a proper and a comfortable place for studying purposes because it was a calm environment that encouraged me to

concentrate on my assignments.

During my time at the Court, I undertook varied assignments. On the first day I was given three written assignments: general information about the court, advisory opinion of the court, and contentious jurisdiction of the court.

In addition to the above assignments, I was given another task: to investigate the role of the African Court on Human and Peoples' Rights in the protection of human rights in Africa. In the assignment promotional work was not to be ignored. All in all, the one-month internship felt like a one-week programme. (Bethy Sanare) ■

## 2012 GRADUATION OF TGCL STUDENTS

The following LLM students graduated from the TGCL on 27 October 2012: Ms Irene D. Mallonga (now Ipasa Orphanages, Mbeya), Mr Stephen Wilbard Msechu (now International Organisation for Migration, Dar es Salaam), Mr Alexander Martin Saba (now Institute of Judicial Administration, Lushoto) and Ms Amalia Lui Shio (now FB Attorneys, Dar es Salaam). The TGCL family congratulates all of them warmly on their graduation.

The very first PhD student of the TGCL to have graduated is Dr Grace Kazoba Kamugisha (now Institute of Finance Management, Dar es Salaam). Her successful viva voce took place on 2 July 2012 and she graduated on 27 October 2012. The TGCL is proud of its first PhD holder and expresses its warm congratulations.



Dr Grace K. Kamugisha

## UNIVERSITY OF DAR ES SALAAM SCHOOL OF LAW

The following TGCL supervisors have been appointed Heads of Department of the School of Law: Prof. Michael B. Wambali (Public Law), Dr Rita A. Mwaipopo (Economic Law) and Prof. Hamudi I. Majamba (Private Law).

TGCL lecturer and supervisor Dr Khoti C. Kamanga is the new Coordinator Postgraduate Studies of the School of Law.

## INSIDE THE TGCL

**Prof. Bonaventure I. Rutinwa**, TGCL supervisor, took over the Dean's office at the University of Dar es Salaam School of Law in May 2012. The TGCL management looks forward to fruitful cooperation with him. **Prof. Palamagamba J. Kabudi** finished the triennium of his Deanship in April 2012. The TGCL thanks him for his support of the TGCL during his deanship.

**Dr Tulia Ackson**, TGCL supervisor, is the Deputy Dean of the University of Dar es Salaam School of Law. In the previous triennium 2009-2012, Dr Tulia Ackson was Associate Dean (Academics and Students' Affairs) and **Dr Kennedy Gastorn** was Associate Dean (Administration and Public Affairs).

**Mr Johannes Döveling**, Wirtschaftsjurist (Univ. Bayreuth), LLM (Cape Town), is now the Manager of the TGCL. He took over this post from **Dr Christian Kirchen** in November 2012. His research interests lie in the fields of regional integration law, especially concerning the East African Community, administrative law, and environmental law. The TGCL thanks Dr Christian Kirchen for his commitment and wishes him all the best, and welcomes Mr Johannes Döveling.

Since October 2012 the TGCL has a new office manager. **Ms Mary Mgaya** is welcomed warmly at the TGCL. **Ms Brigitte Lauth** ended her administrative support of the TGCL in November 2011. Many thanks and best wishes to Ms Brigitte Lauth!

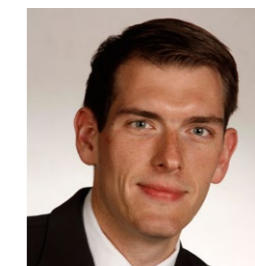
The TGCL Student Representative for the LLM students in the academic year 2012/13 is **Ms Naomi N. Gichuki**. A warm welcome! The LLM Student Representative during the academic year 2011/12 was **Mr Mathias Sylvester Nkuhi**. Many thanks for his contributions!



Prof. Bonaventure I. Rutinwa



Dr Tulia Ackson



Johannes Döveling  
LLM



Ms Mary Mgaya



Ms Naomi N. Gichuki





UNIVERSITY OF  
DAR ES SALAAM

The Tanzanian-German Centre for Eastern African Legal Studies (TGCL) offers aspiring lawyers and law students a structured LLM and PhD study programme in the field of regional integration law. TGCL's goal is to qualify them for leading positions in East Africa.

The programme is conducted at the University of Dar es Salaam School of Law, in close cooperation with the Institute of African Studies and the Faculty of Law, Business Administration and Economics, University of Bayreuth.

TGCL is one among five centres established in Africa within the programme "African Excellence – Fachzentren zur Eliteförderung" which is funded by the German Foreign Office ("Aktion Afrika") and the German Academic Exchange Service (DAAD).

[www.tgcl.uni-bayreuth.de](http://www.tgcl.uni-bayreuth.de)



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