

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 2018



BULLETIN 2018

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

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CREDITS

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www.tgcl.uni-bayreuth.de

CONTACT

TGCL

University of Dar es Salaam
School of Law
PO Box 35093
Dar es Salaam, Tanzania
tel +255 22 278 1422
mapundabt@yahoo.com

TGCL

University of Bayreuth
95440 Bayreuth, Germany
tel +49 921 55-4328
carolin.herzog@uni-bayreuth.de

EDITORIAL BOARD

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Yannick Tylle (p. 8)

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EDITORIAL

DEAR READER,

This TGCL bulletin is the tenth in a line of newsletters which have annually reported on persons and activities at, or connected with, the TGCL. To date, a total of 105 TGCL students (96 LLM and 9 PhD) from all the six Partner States of the East African Community (EAC) have graduated. We are proud of these Alumni of ours who are the most important multipliers of the spirit of the TGCL and the content of its study programme. Each of our international student cohorts, after having spent an academic year together at the TGCL, has developed a strong and lasting community across the borders of the EAC Partner States.



Our specialisation in regional integration law, with a specific focus on the East African Community, has made our students experts in these fields.

The central goal to strive for at this point in time is TGCL's sustainability beyond the major DAAD funding period. This concerns all those involved – leaders and members of the TGCL management team, of the University of Dar es Salaam School of Law, of the University of Bayreuth, TGCL students and Alumni, and other stakeholders who are associated with us in various ways and have an interest in the continuation of the TGCL. I am very glad to see the enormous motivation and commitment of everyone involved, and trust that this goal will become a reality.

During our tenth anniversary conference which will be organised by the TGCL Alumni Association on 26 September 2018, we will have a chance both to look back and celebrate what has been achieved, and to discuss the way forward with new goals and exciting activities.

Our sincere thanks go to the German Foreign Office and the DAAD for having supported us so generously, and to all those who have contributed in various ways to the success of the TGCL during this first decade of its existence.

A handwritten signature in black ink that reads "Ulrike Wanitzek".

Prof. Ulrike Wanitzek
TGCL Project Leader

TGCL ALUMNI ASSOCIATION

With regard to the impact of the Tanzanian-German Centre for Eastern African Legal Studies (TGCL) in the region, the TGCL Alumni are playing a key role. In 2011, they founded the TGCL Alumni Association. Dr Lillian Mihayo Mongella is the Chairperson, and Ms Naomi Gichuki is the Secretary of the TGCL Alumni Association.

The TGCL Alumni Association has been growing steadily since the TGCL was established ten years ago. Drawing its members from the six Partner States of the East African Community, the Association is a vibrant community with diverse forums for its members, including online platforms, in-country chapter meetings, and conferences. This September, the Alumni Association plans to host a conference to celebrate ten years of the Tanzanian-German Centre for Eastern African Legal Studies. The theme of the conference will be 'TGCL Alumni Perspectives on the Challenges and Opportunities of Regional Integration in East Africa'. It will give the Alumni an opportunity to discuss the challenges and opportunities they have come across in connection with various aspects of integration within the East African Community. We are all enthusiastically looking forward to this educative event.

The careers followed by the Alumni are something to be proud of. Several members have made tremendous achievements in their legal careers, in line with the TGCL goal of grooming future leaders in the East African Community. Not all can be mentioned here, but a few are worth mentioning. These include Hon. Mustapher Siyani and Hon. Dr Adam Mambi who have been appointed as judges of the High Court of Tanzania, and Dr Mahadhi Juma Maalim who is currently the Ambassador of Tanzania to Kuwait. Dr Denis Bikesha and Dr Lillian Mihayo Mongella have made great strides in academia, and currently hold the positions of acting Dean and Dean at the University of Kigali School of Law and Ruaha Catholic University Faculty of Law respectively. The Association can also boast of having Alumni in the leadership of Law Societies, most notably



Dr Lillian Mihayo Mongella (left), President, TGCL Alumni Association, and Ms Naomi Gichuki (right), Secretary, TGCL Alumni Association

Mr John Seka who served as Chairperson of the Tanganyika Law Society in 2016/2017, and Ms Magdalena Sylister, who was recently elected as a Member of the Governing Council of the Tanganyika Law Society. Ms Nina Sokoine and Dr Anatole Nahayo are flying the TGCL flag high in their respective roles at the East African Court of Justice and the East African Legislative Assembly in Arusha.

We congratulate them and wish them all the best.

(Lillian Mihayo Mongella and Naomi Gichuki) ■

STUDENT STATISTICS FOR TEN YEARS OF TGCL

Out of a total of 145 students admitted to the TGCL between 2008 and 2017,

- 118 were admitted to the LLM programme and 27 to the PhD programme;
- 66 were female and 79 were male;
- 69 were from Tanzania, 27 from Kenya, 21 from Uganda, 11 from Rwanda, 10 from Burundi, and 7 from South Sudan;
- 105 have graduated (96 LLM and 9 PhD students) to date.



TGCL STUDY PROGRAMME 2017/2018

The various components of the study programme for the greater part of the academic year 2017/2018 are shown below. In addition, the TGCL Autumn University will take place later this year in early September.

During the first semester of our LLM programme, we attended three courses offered by the University of Dar es Salaam School of Law. These included two core courses (Graduate Research Seminar, taught by Professor Hamudi I. Majamba and Dr Sosteness Materu; and Law of Economic Integration, taught by Professor Khoti C. Kamanga) as well as one optional course from the Migration and Refugee Law Programme (Labour Migration Law, taught by Dr Juliana Masabo; or Immigration Law, taught by Dr Juliana Masabo).

We also attended three additional courses offered by the TGCL to both LLM and PhD students: a seminar on Transferable Academic Skills (with Professor Bart Rwezaura), a seminar on Sustainable Professional Skills (with Judge Dr Steven Bwana), and a German Language Course (with Ms Christina Pfleiderer).

On 16 January 2018, we visited the Tanzanian

Prevention and Combating of Corruption Bureau (PCCB) in Dar es Salaam. The objective of the visit was to learn about the PCCB's mandate in effectively combating corruption while drawing lessons and appreciating challenges faced. The students compared this office with equivalent offices in their home jurisdictions, for instance the Office of the Ombudsman in Rwanda.

Our second semester comprised two University of Dar es Salaam School of Law courses, one core course (East African Community Law, taught by Professor Khoti C. Kamanga) and one optional course. The optional course was either Citizenship Law, taught by Dr Juliana Masabo, or Refugee Law, taught by Professor Khoti C. Kamanga and Dr Benedict T. Mapunda.

Two additional TGCL courses, namely Sustainable Professional Skills and the German Language Course, continued for both LLM and PhD students. (Cecilia Ngaiza) ■



The TGCL student group at the Prevention and Combating of Corruption Bureau (PCCB).

GUEST LECTURER'S SESSION: TRANSNATIONAL ENVIRONMENTAL LAW

On 22 November 2017, the TGCL was visited by Dr Thomas Richter, a legal officer from the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

Before beginning his lecture, Dr Richter spoke about his experience as a law student, as a lecturer, and now as a legal officer in a German Federal Ministry. After some exchange on the TGCL students' background and expectations, he delivered a comprehensive lecture with the title 'Transnational Environmental Law: Approach from a German/European Perspective'. He discussed the concepts of national law (genuine national law and incorporated international law) and international law (multilateral law and communitarian law), infringement assessment (infringement types and assessment procedure), and some case studies of European Union law (the *Waldschlösschenbrücke* case, and a current nuclear fuel exportation dispute). The goal of the seminar was to highlight key elements of international environmental law so as to facilitate understanding of the handling of



Dr Thomas Richter (back, fourth from right) and the students after his guest lecture in front of the TGCL office on Mikocheni Campus.

conflicts in this field. The lecture was followed by a discussion and was closed by Mr Antidius Kaitu on behalf of the TGCL Coordinator. It was productive and relevant to the content of the TGCL courses. (Cecilia Ngaiza) ■



Top: View of Kigali city centre from Nyarugenge

KIGALI ACADEMIC EXCURSION

From 19 to 23 March 2018, a TGCL academic excursion took the student group, together with Ms Carolin Herzog, TGCL Manager, and Mr Antidius Kaitu, TGCL Assistant Coordinator, to Rwanda's capital, Kigali. We thank the TGCL Alumni from Rwanda, especially Ms Jolly Ntungire, for their tremendous help in organising our programme in Rwanda.

GENERAL ASPECTS OF THE KIGALI ACADEMIC EXCURSION

It is a great pleasure to have participated in the study excursion to Rwanda for the 2017/2018 TGCL students. The excursion offered significant regional exposure to the participants who had the opportunity to compare the social, economic, political and cultural developmental perspectives of their own countries with those of Rwanda. More specifically, the excursion enabled us to interact with several of the country's high-ranking leaders in politics, the judiciary and academia. These leaders gave us very useful insights into their country's state of development against the backdrop of its genocidal past.

The unanimous message from the country's officialdom is that the country is stable and that it has put behind it its horrendous past. A very gratifying aspect of the trip was the opportunity to interact with ordinary Rwandan citizens, both in and outside Kigali. These citizens, like their

leaders, are very appreciative of the great strides that their country has made, especially in the economic, social and political spheres. However, as a developing country with a complex mix of ethnic relations, it was not lost on us that Rwanda has not fully turned the corner in respect of all its social, economic, political and cultural challenges. However, it was satisfying to note that the Rwandan people's collective will is to confront and overcome these challenges as one people under the policy of *Ndi Umunyarwanda*.

KIGALI GENOCIDE MEMORIAL CENTRE

We visited Kigali Genocide Memorial Centre which has outdoor and indoor sections to explain the ideology of the genocide, its execution and its impact on Rwandan society. The Centre gives an insight into the background of genocide. If tribal divisions are not prevented and the situation contained well, they will have adverse effects on future generations.



Mr Xavier Mbarubukeye, Permanent Secretary, Office of the Ombudsman of the Republic of Rwanda (left), with Ms Carolin Herzog, TGCL Manager (middle), and Mr Antidius Kaitu, TGCL Assistant Coordinator (right).

KIGALI CITY TOUR

The main places we visited during a tour of Kigali city were the prison built in 1930; the main bus terminal in Nyabugogo; the National Police Headquarters; the Embassy of the United States of America in Rwanda; the Ministries Park (Ministry of Infrastructure, Ministry of Education, Ministry of Public Services and Labour, Ministry of Local Government, and Directorate of Immigration and Emigration); Kigali Convention Center; the Judiciary Park (Ministry of Justice, National Public Prosecution Authority, Supreme Court and High Court); the National Amahoro Stadium; and finally Kimironko Market. The students enjoyed the tour and commended the clean environment.

NATIONAL PUBLIC PROSECUTION AUTHORITY

At the National Public Prosecution Authority of the Republic of Rwanda, which is located in Kigali, the group met the Prosecutor General of the Republic of Rwanda, Mr Jean Bosco Mutangana. He made a short presentation on the institution, and mentioned that he is also President of the EAC Association of Prosecutors and Vice President of the African Prosecutors Association. He explained the role of the institution and highlighted its organisational chart which is made up

of the Prosecutor General himself, the Deputy Prosecutor General, the Secretary General and the Inspector General. He mentioned the different units which form the institution, such as the genocide fugitive tracking unit, the international crimes unit, the economic crimes unit and the gender-based violence unit. Finally he explained the mission of the institution, called *Imihigo* in Kinyarwanda, which every member of staff must keep in mind while performing his or her work. The students had an opportunity to ask questions during the Prosecutor General's presentation, for instance concerning prosecution of corruption cases or the role of *Gacaca* Courts in prosecuting genocide criminals.

The National Public Prosecution Authority in Rwanda has taken good steps to reinforce measures to fight corruption in both the public and the private sectors. One of the good things we noted in the presentation by the Prosecutor General is the fact that they encourage inter-agency co-operation, proper investigation and high quality prosecution on matters pertaining to corruption. However, we also noted that they need to increase their capacity, especially with regard to forensic investigations, to enable them to effectively prosecute highly organised and covert crimes.



Mr Erick N. Shirimpunu, Acting Vice Rector of the Institute of Legal Practice and Development (ILPD) in Nyanza (front, sixth from right), receiving the TGCL group with their TGCL Student Representative Ms Cecilia Ngaiza (front, sixth from left).

OFFICE OF THE OMBUDSMAN OF THE REPUBLIC OF RWANDA

The group was received by the Permanent Secretary on behalf of the Ombudsman. He explained the structure, mandate and role of the Office of the Ombudsman.

Among other things he pointed out that the Office was established under the Constitution of Rwanda of 2003 amended in 2015. The Ombudsman's mission is to lead the fight against corruption. His job requires integrity and accountability. The Ombudsman can propose a judicial review to the Supreme Court if he considers that the decision made by a certain court or tribunal is unfair.

It was interesting to learn that in Rwanda the Ombudsman can oversee the activities of civil society.

As corruption is one of the biggest challenges in EAC countries, Rwanda has declared the 1st December of each year as Anti-Corruption Day. The Ombudsman utilises this day to educate the citizens on the hazards of corruption and how they

can fight against it. As long as corruption exists, the growth and development of any country will always be held back.

UNIVERSITY OF RWANDA SCHOOL OF LAW

The group was received by Dr Denis Bikesha, the acting Dean of the School of Law, who is a graduate of TGCL. He explained that the University of Rwanda was formed in 2013 through the merger of Rwanda's previously independent public institutions of higher education, the largest of which was the National University of Rwanda, something which most of the students were not aware of.

Dr Bikesha gave a general overview of the university's structure. It is composed of six colleges and 14 campuses. Being the major higher learning institution in Rwanda, the University of Rwanda, including the School of Law, faces various challenges, most of which are administrative and practical, like the reduction of the government's budget allocation for Masters'



Mr Jean Bosco Mutangana, Prosecutor General of the Republic of Rwanda (centre, back) speaking to the TGCL students during their visit to the Rwanda National Public Prosecution Authority.

programmes, or the shortage of teaching staff. However, the School of Law is integrated in the society through the provision of legal aid and legal education to citizens, which is a good practice.

SUPREME COURT OF RWANDA

At the Supreme Court of Rwanda, the group had the honour to meet the Chief Justice, Hon. Sam Rugege. The Chief Justice made a brief presentation on the Supreme Court of Rwanda, which is the highest court and the last resort for appeals from the High Court, High Military Court and High Commercial Court. The Supreme Court has exclusive jurisdiction as a court of first and last resort for matters of constitutionality and matters involving the five top leaders (President of the Republic, President of Senate, President of Parliament, Prime Minister, and Chief Justice). He also mentioned the role of ***Abunzi***, meaning mediation committees in Kinyarwanda, elected by the community, which are responsible for trying to resolve disputes before the parties go

to court. This system was introduced in order to reduce the number of cases taken to court. One of the conditions for admission of a case to the Primary Court is that the parties must show that a mediation report has been made by the ***Abunzi***. It is possible to take a case before the ***Abunzi*** even if it has already been taken before the court.

INSTITUTE OF LEGAL PRACTICE AND DEVELOPMENT (ILPD) IN NYANZA DISTRICT (SOUTHERN PROVINCE)

During this visit, we were hosted by Mr Erick N. Shirimpumu who is the Acting Vice Rector of Administration and Finance at the ILPD, together with the Academic Registrar and the Academic Dean.

The current institution was formerly a centre for judicial training which was renamed the ILPD in 2004, as a consequence of reforms within the justice sector. The ILPD offers a Diploma in Legal Practice, Research and Training and a Diploma in Continuous Legal Education.



Mr Jean-Damascène Gasanabo, Director General, Research and Documentation Centre on Genocide at the National Commission for the Fight against Genocide, receiving the TGCL student group.

The ILPD seems to be a replica of similar institutions offering postgraduate legal education within the EAC, namely, Kenya School of Law (KSL), Law School of Tanzania (LST) and Law Development Centre (LDC) in Uganda. However, we noted that the ILPD has certain peculiar characteristics which distinguish it from other similar institutions within the EAC region: First, since 2008 the institution has focused on training members of the judiciary, lawyers and prosecutors (there is a backlog of about 1,000 judges and 300 prosecutors). It has only started admitting fresh graduates recently. Secondly, due to the backlog of personnel to be trained, the institution has five specialised modes of teaching: full-time mode, work-based learning mode, part-time mode, executive mode (specifically for judges and prosecutors with ten years' experience) and part time/weekend programmes. Thirdly, students working in the executive mode do not do written exams but instead write essays or reflective journal articles, and carry out research exercises. Fourthly, students who have two years' working experience do not need to do an internship, which is mandatory for all other students. Fifthly, the institution admits students from across Africa, including Kenya, Uganda, South Sudan, Cameroon, Ghana and South Africa. The curriculum is therefore based

on standard legal practice and incorporates the legal systems of students admitted from different jurisdictions.

KING'S PALACE (NYANZA)

The TGCL team paid a visit to the king's palace in Nyanza. Several issues regarding the history of Rwanda in terms of traditional governance and structures before and in the early days of Belgian rule were explained. The king's palace was the residence of King Mutara III Rudahigwa and was built by the Belgians in 1931.

The museum is not very rich in terms of pre-colonial materials; it largely contains materials from the early days of Belgian colonial rule. However, it was a great experience to visit the museum and see that the country has preserved its history for future generations and visitors from other countries.

CAMPAIGN AGAINST GENOCIDE MUSEUM

The TGCL Study Trip group visited the 'Campaign against Genocide Museum' located within the Parliament of Rwanda buildings. Here, 600 soldiers of the Rwandan Patriotic Army (RPA) were stationed to protect dignitaries of the Rwandan Patriotic Front (RPF, *Inkotanyi*) who were there to implement the Arusha peace accord of 1993. This Arusha agreement was made under the presidency of Juvénal Habyarimana and unfortunately was violated by him. He kept extending the deadline for implementation of the agreement, until his plane was shot down on his return to Rwanda from Tanzania and he met his untimely death. This triggered the genocide against the Tutsi in 1994 by the *Interahamwe*. Inside the museum, each gallery shows step by step the preparation, elaboration and execution of the genocide against the Tutsi who form the

minority ethnic group in Rwanda and Burundi. Green light, red light, darkness and finally green light again show how times became hard during the genocide. Pictures of the main actors are shown, such as Théoneste Bagosora, Hassan Ngeze, Félicien Kabuga and others. There are also photos of the French army training the *Interahamwe* to commit the genocide. The evasive role of the UN in containing the situation in Rwanda is also mentioned. This museum will show future generations the truly patriotic role played by the Rwandan Patriotic Army in ending the genocide in Rwanda, and the importance of patriotism in the development of any nation, regardless of ethnicity.

ALUMNI DINNER

After a visit to the German Embassy in Kigali, we came together with the TGCL Alumni from Rwanda, Burundi and Uganda for an alumni dinner where we were joined by Professor Rainer Schmidt (Political Sciences) who is a DAAD Long-Term Lecturer at the College of Arts and Sciences, Huye Campus, University of Rwanda, and Professor Martina Drescher (Roman Linguistics), University of Bayreuth, who was in Kigali for a brief research stay. There was a lot of interaction and exchange of interesting and constructive ideas as we, current and former TGCL students, got to know one another and form new contacts. For us, it was about meeting new people who have walked the path we are on right now, and learning important things about the path. It was brief, but an interesting evening.

NATIONAL COMMISSION FOR THE FIGHT AGAINST GENOCIDE

At the Commission, the visiting group was provided with a grim insight into the genocide



against the Tutsi and the steps Rwanda has taken to move forward. In our view, Rwanda needs to do a lot to build an inclusive society to heal the scars of the past. Colonialism with its 'divide and rule' policy cut the string that united the Rwandese and 'things fell apart'. It is now time for them to tie a new rope of unity, recognition, forgiveness and continue moving forward as one nation, one people, one country of a thousand hills, one Rwanda. *Umoja ni nguvu.*

RWANDAN PARLIAMENT

The Rwandan Parliament is bicameral, consisting of a higher Chamber for the Senators and a lower Chamber for the Deputies. Women make up 64 per cent of the members, making this the parliament with the highest number of women in the world. This visit gave a unique insight into Rwanda's Parliament as compared to other parliaments in the EAC countries and marked the end of the Kigali Academic Excursion.

(Christopher Ayieko, Korenilo Ajang Duot, Boaz John Mabula, Lilian Masalu, Viola Nabawanda, Rose Akulia Banja Natalino, Cecilia Edward Ngaiza, Arnaud Ntahompagaze, Felix Otieno Odhiambo, Jean Jaques Symphorien, Norah Wakiaga, Joseph Raphael Wawa) ■

Mr Antidius Kaitu, TGCL Assistant Coordinator, with TGCL students Mr Alphonse Omondi Owuocha, Mr Christopher Ezra Onyony Ayieko and Mr Arnaud Ntahompagaze (from left to right) at the King's Palace (Nyanza).

2017 LLM AND PHD STUDENTS & DISSERTATIONS

Student Representative 2017/2018: Ms Cecilia Ngaiza

CHRISTOPHER EZRA ONYONY AYIEKO (KENYA)



A Critical Analysis of the Common Market Protocol on Realization of Free Public Procurement Competition within the Community

Supervisor: Dr C. K. Mtaki

ISAKWISA LAMECK MWAMUKONDA (TANZANIA)



An Examination of the Legal and Institutional Framework for Regulating Genetically Modified Organisms in Tanzania (PhD)

Supervisor: Prof. K. Kamanga

KORENILO AJANG DUOT (SOUTH SUDAN)



Legal and Practical Challenges Relating to Implementation of Free Movement of Persons and Labour under the Common Market Protocol: A Case Study of South Sudan

Supervisor: Prof. N. N. Nditi

VIOLLA NABAWANDA (UGANDA)



Examining Uganda's Compliance with Provisions on Socio-Economic Empowerment of Women in the EAC Treaty

Supervisor: Prof. L. P. Shaidi

BOAZ JOHN MABULA (TANZANIA)



Legal Challenges Facing Public Service Pensioners in the EAC: A Case of Tanzania

Supervisor: Dr T. Mwenegoha

ROSE AKULIA BANJA NATALINO (SOUTH SUDAN)



Examining Legal Gaps in the Juvenile System in South Sudan

Supervisor: Dr J. Jesse

LILIAN MAGABIRO MASALU (TANZANIA)



An Examination of the Enforcement and Execution of East African Court of Justice Decisions by Partner States

Supervisor: Prof. G. M. Fimbo

CECILIA EDWARD NGAIZA (TANZANIA)



Implementation of Article 121 of the Treaty for the Establishment of the East African Community, 1999 in Tanzania: A Case Study of Challenges Facing Women's Access to Property Rights

Supervisor: Dr M. Laurean

HAMISI JANGAWE MSUYA (TANZANIA)



Portability of Health Insurance Benefits in the EAC: The Case of Tanzania's National Health Insurance Scheme

Supervisor: Dr J. Masabo

ARNAUD NTAHOMPAGAZE (BURUNDI)



Upholding the Right to Fair Trial within the East African Community: A Case Study of the Burundian Criminal Justice System

Supervisor: Dr E. Longopa

SYMPHORIEN JEAN JACQUES NZABONIMANA (RWANDA)

Examining the Attraction of National Legal Frameworks on Movement of Workers within the East African Community: The Case of Rwanda

Supervisor: Dr D. Shayo

ALPHONCE OMONDI OWUOCHA (KENYA)

The Legal Implications of the EAC Competition Law and Policy in Kenya: Reasserting the Principle of Subsidiarity

Supervisor: Dr B. Kanyabuhinya

FELIX OTIENO ODHIAMBO (KENYA)

Management and Conservation of Living Marine Resources of the Exclusive Economic Zones of Kenya and Tanzania: A Legal Inquiry (PhD)

Supervisor: Prof. C. M. Peter

NORAH JAEI KIJALA WAKIAGA (KENYA)

Harmonizing Postgraduate Legal Education and Training within the East African Community: An Examination of the Laws and Policies

Supervisor: Prof. A. M. Mapunda

STANISLAUS OKELLO ONGWEE (UGANDA)

Non-Discrimination in Public Procurement under the Legal Framework of the East African Common Market: Case Study of Kenya, Uganda and Tanzania

Supervisor: Prof. H. I. Majamba

JOSEPH RAPHAEL WAWA (TANZANIA)

East African Community Legislative Response on HIV and AIDS: Need for a Human Rights Based Approach

Supervisor: Dr S. Materu

TGCL STUDENTS WHO GRADUATED IN NOVEMBER 2017

Name	Origin	Programme
Mr Denis Bikesha	Rwanda	PhD
Mr Edwin Bilikundi	Tanzania	LLM
Ms Pooja Mahendra Karia	Tanzania	LLM
Mr Cyril Yavatsa Kubai	Kenya	LLM
Mr Augustus Mutemi Mbila	Kenya	LLM
Ms Charity Nyombe Modi	South Sudan	LLM
Mr Theophil Romward Mujubi	Tanzania	LLM

Name	Origin	Programme
Mr Ferdinand Nakintije	Burundi	LLM
Mr Amon Maranga Nyambane	Kenya	LLM
Mr John Osapiri	Uganda	LLM
Mr Emmanuel Sebijjo	Uganda	LLM
Mr Edmond Shikoli	Kenya	LLM
Mr Elisha Emanuel Suku	Tanzania	LLM
Mr Jean Pierre Tuyishime	Rwanda	LLM



The participants of the Research Workshop in Dar es Salaam (31 May to 3 June 2018).

RESEARCH PROJECT AT THE TGCL

DRIVING MOTIVES AND DRIVERS OF REGIONAL INTEGRATION IN AFRICA

The new interdisciplinary research project at the TGCL (see TGCL bulletin 2017, 17-19) is in full swing. Under the title 'Steering Regional Development through Regional Economic Communities in Africa: Legal, Economic and Political Instruments', the project is led by Mr Johannes Döveling and Dr Daniel Shayo of the University of Bayreuth and the University of Dar es Salaam, respectively. It is funded by the German Ministry of Economic Cooperation and Development (BMZ). The major areas of research are the institutional setup of African regional economic communities, the relationship between those regional institutions and their member states, and harmonisation of laws within such economic blocs.

INSTITUTIONAL SETUP OF AFRICAN REGIONAL ECONOMIC COMMUNITIES

Three of the twenty subprojects deal with aspects relating to the institutional setup of African regional economic communities. These overarching questions are of significant importance for the success of such regional organisations, as their institutional design determines their powers and how decisions can be taken on the regional level.

In a joint subproject, political scientists Alexander Makulilo, Rodrick Henry and Alexander Stroh are analysing political and legal challenges to the intended East African Federation. Their focus lies on the question as to why this objective has been repeatedly announced by the Heads of East African Partner States while at the same time

no significant steps have been taken towards its realisation. Khoti Kamanga's research looks at the concepts of intergovernmentalism versus supranationality, trying to identify which of them, or which combination of them, best suits the needs of African economic communities. Ada Ordor and Ilyayambwa Mwanawina are involved in a subproject relating to the institutional balance and setup of regional economic communities, with special consideration of the role of regional courts.

RELATIONAL QUESTIONS AND IMPLEMENTATION IN THE MEMBER STATES

The relationship between regional organisations and their member states is governed both on the



Dr Sosteness Materu (top left), Associate Dean Dr Juliana Masabo (top right), Prof. Khoti Kamanga (bottom left) and Dean Prof. Hamudi Majamba (bottom right) contributing to the discussions during the Research Workshop.

regional and on the national level. One of the major challenges facing African regional economic communities is the high level of legal and factual uncertainty regarding this relationship, which results in huge gaps in implementation of regional decisions.

Richard Frimpong Oppong's subproject provides general insights into 'The Effectiveness of Community Law in Member States' Legal Systems', showing up driving and hindering factors affecting the implementation of community laws and possible ways to overcome the current shortcomings. An extensive case study of the implementation of EAC legislation in Kenya is being undertaken by Tomasz Milej and Winnie Cheserem. They ask whether Kenya's constitutional framework can function as a driver for the implementation of regional laws. Laurean Mussa examines the question why land, being an important factor of production, is not part of the East African Common Market, and how access to land for East African citizens in Partner States other than their own could be achieved. Ahonagnon Noël Gbaguidi, Eric Dewedi and Hy-

gin Kakai are running an interdisciplinary subproject with a focus on the law of the Organisation for the Harmonisation of Business Law in Africa (Organisation pour l'Harmonisation en Afrique du Droit des Affaires, OHADA), looking at how implementation of harmonised commercial law on the national level and legal certainty in respect of its application could be better achieved. Two subprojects, one by Mohammed Mpuga and another by Ada Ordor and Ilyayambwa Mwanawina, deal respectively with the highly topical issues of recognition and enforcement of foreign judgments and judgments by regional courts. The implementation of the EAC legislative framework for natural resources and environmental management is being analysed by Hamudi Majamba and Evaristo Longopa. David Stadelmann, an economist, is making a study of the causal effects of the East African Customs Union, applying a synthetic control group approach to investigating whether membership in this Customs Union has actually contributed to the economic welfare of the Partner States.



Speakers presenting their views during the Research Workshop: Dr Anatole Nahayo (left), Dr Benedict T. Mapunda (top right) and Prof. Jörg Gundel (bottom right).

HARMONISATION OF LAWS

Ensuring the free cross-border flow of factors of production within a common market requires harmonisation of rules related to these factors, in order to avoid unfair competitive advantages for market participants from certain member states. An overview of harmonisation of community laws and regulations in the East African Community, with a focus on customs law, is being worked on by James Otieno Odek and Geoffrey Osoro. Self-evidently, intangible property rights such as trademarks need to enjoy similar protection across the borders of member states in an economic bloc. Anthony Kakooza is thus examining how the EAC could implement a harmonised intangible property protection mechanism for cross-border goods and services in the EAC, including traditional knowledge. Juliana Masabo is focusing on the role of the Inter-University Council for East Africa regarding mutual recognition of academic qualifications as an essential requirement for labour mobility. A similar subproject, led by

Anatole Nahayo and Michel Ndayikengurukiye, is investigating the complex matrix of mutual recognition agreements between East African Partner States in the field of professional services, linking the findings to the rules on free movement of services within the East African Common Market. The impact of cyber protection of the consumer is being analysed by Edrine Wanyama. Johannes Döveling is carrying out a subproject on the liberalisation of air transport markets in the East African Community, taking the newly established Single African Air Transport Market into account.

Jan-Erik Schirmer and Daniel Shayo are working on the harmonisation of company laws in the East African Community, comparing major elements in the national company laws of East African Partner States and suggesting how a harmonised East African company law could be developed. A subproject entitled 'Towards a Low-Carbon Future: Assessing Avenues for Translation/Transposition of EAC Climate Change Policies, Laws and Regulations' is being



carried out by Omondi Robert Owino, focusing particularly on the energy sector and its potential to contribute to a greener future.

THE SECOND RESEARCH WORKSHOP

The interim results of this research were discussed at the second Research Workshop of the project from 31 May to 3 June 2018 in Dar es Salaam. Having presented their research proposals at the first Research Workshop in October 2017, the majority of the team members have since carried out field research. They have conducted interviews with stakeholders from regional organisations and in national public and private sector institutions, and in some cases with ordinary citizens. In addition, desk and library research has formed an essential part of their activities, especially for the theoretical underpinning of their work.

The second Research Workshop provided a forum for all researchers involved in the project to

present and discuss their interim findings with their colleagues and a number of additional academics from the University of Dar es Salaam School of Law and the University of Bayreuth. Input from practitioners was provided by legal officers from the Ugandan Ministry of East African Community Affairs (Baker Mugaino) and the Kenyan Ministry of East African Community and Northern Corridor Development (Winnie Cheserem). They gave valuable insights into ministerial practice relating to the implementation and enforcement of East African Community law, including the challenges faced.

The team of thirty researchers from nine countries representing three different academic disciplines are now continuing their joint investigations on challenges, driving motives and drivers of regional integration in Africa and are working towards publishable results.

(Johannes Döveling and Daniel Shayo) ■

Ms Winnie Cheserem (top left) and Prof. Alexander Stroh (bottom left) attentively being listened to by Associate Dean Dr Juliana Masabo and Dean Prof. Hamudi Majamba (right) presenting their arguments.

FAMILY LAW AND LEGAL PLURALISM

A SERIES OF RESEARCH COLLOQUIA HELD IN BAYREUTH AND DAR ES SALAAM

Within the framework of the cooperation between the two partner universities of Bayreuth and Dar es Salaam, several staff members of the University of Dar es Salaam School of Law are currently working on their PhD theses at the University of Bayreuth, among them Ms Veronica Buchumi and Ms Florencia Kimario. Their research is devoted to socio-legal studies in the fields of family law and legal pluralism. A series of research colloquia is being held to approach these fields from various comparative and interdisciplinary perspectives.



Prof. Chuma Himonga

BAYREUTH, WITH PROFESSOR CHUMA HIMONGA

Professor emerita Chuma Himonga held the *Chair of Customary Law, Indigenous Values and Human Rights* at the University of Cape Town, managed by the National Research Foundation of South Africa under the Department of Science and Technology's 'South African Research Chairs Initiative (SARChI)' until she retired in December 2017. Her expertise in African customary law, a subject she has extensively studied and lectured on, proved invaluable at a research colloquium held on 7 and 8 November 2017 at the University of Bayreuth. At the colloquium, Professor Himonga made a presentation on 'The Conceptualisation of Customary Law and Its Implications for Research in Africa' (based on her paper in J. Fenrich *et al.* (eds), *The Future of African Customary Law*, Cambridge 2011, 31-57). She also shared her experience of investigating customary law in Africa based on a research project she headed at her Chair. The results of this research have been published in a book titled *Reform of Customary Marriage, Divorce and Succession in South Africa* (by Chuma Himonga and Eleanor Moore, Cape Town 2015). The colloquium was the start of a series of

research colloquia hosted by Professor Ulrike Wanitzek for our benefit as her doctoral supervisees. We are both doing research on the laws of Tanzania with regard to children's right to alternative care. Our research brings to the fore issues relating to the law of marriage, children's rights, and the pluralistic nature of African legal systems. Professor Himonga's presentation was extremely interesting with regard to our projects. The main aim of the colloquium was to prepare us for field research. It served as a platform to present and discuss our PhD proposals and field research plans. Our presentations were made on the first day of the colloquium, before other doctoral students from East Africa, Mr Gilbert Hagabimana and Mr Goodluck Temu, and be-

'THE SECRET TO GETTING AHEAD IS GETTING STARTED.'
(MARK TWAIN)

fore some undergraduate students of Law in Africa, namely Ms Lorelei Dubost, Mr Rafael Eifler and Ms Lisa Strube. The expert opinions of the professors and discussion by the students provided valuable insights and challenged our perspectives.

On the second day of the colloquium, an intensive discussion was conducted between the seasoned researchers, on the one hand, and the young aspiring researchers on the other. The aim was to follow up on the questions and ideas arising from the first day and find recipes for successful PhD projects. It was rigorous!

The series of colloquia will have a double impact in the sense of step-by-step interdisciplinary mentoring throughout the doctoral project, and academic and social interaction with other students at different levels of study.

DAR ES SALAAM, WITH PROFESSOR BART RWEZAURA

We have never before considered the concept of 'evolving capacities' enshrined under Article 5 of the Convention on the Rights of the Child, 1989 as applicable to us. The concept essentially establishes that as children acquire enhanced competencies, the need for guidance and direction is reduced and they develop greater capacity in decision-making for matters affecting their lives. Well, Professor Bart Rwezaura, in our second colloquium held on 26 and 27 March 2018 in Dar es Salaam, enlightened us on its application. 'Working towards holding a PhD is a training process', he said. The supervisor is like a parent who guides and directs the PhD student to be a good researcher, who will eventually be

'UNLESS YOU TRY TO DO SOMETHING BEYOND WHAT YOU HAVE ALREADY MASTERED, YOU WILL NEVER GROW.'
(RONALD E. OSBORN)

able to report research findings in an agreed professional manner. Throughout the process, the supervisor holds 'dwindling powers' over the PhD student, while the latter's competencies evolve, until ultimately he or she can do research without supervision, and in turn become a supervisor to someone else. That is the objective of doing a PhD!

During the two days of the colloquium, Professor Rwezaura discussed the interaction of customary and religious laws with state law, and how

people perceive their rights as coloured by these laws. Also, in relation to our work in progress, he talked about the importance of developing a conceptual framework which, like a line, will pull together all arguments and provide a basis for understanding them. A conceptual framework provides a structure for the thesis. It guides the student in conducting the research and helps him or her to ask the right questions. It assists the student in the analysis of the data and finally in the writing up of the thesis. In other words, a conceptual framework is a compass in the navigation process. The discussion was based on examples from two texts of his own, namely 'Competing "Images" of Childhood in the Social and Legal Systems of Contemporary Sub-Saharan Africa' (*International Journal of Law, Policy and the Family* 12 (1998) 3, 253–278) and 'The Value of a Child: Marginal Children and the Law in Contemporary Tanzania'



Prof. Bart Rwezaura

Contemporary Tanzania' (*International Journal of Law, Policy and the Family* 14 (2000) 3, 326–364).

This colloquium took place when we were about to conclude our first phase of field research in Tanzania. We appreciated the opportunity to share with Professor Rwezaura the progress and challenges of our field research. He provided valuable insights into conducting effective field research, especially in the Tanzanian family law context in which he is an expert. Thus, we can indeed say that this series of colloquia is enhancing our evolving capacities!



Prof. Keebet von Benda-Beckmann

BAYREUTH, WITH PROFESSOR KEEBET VON BENDA-BECKMANN

A sunny Bayreuth! Such a pleasant surprise as we returned from challenging field research in Tanzania in April 2018. In the cooking was a third research colloquium planned to take place at the University of Bayreuth on 23 and 24 April 2018. On the designated

days, we had the privilege, under the coordination of our supervisor Professor Ulrike Wanitzek, to have Professor Keebet von Benda-Beckmann as a guest professor to facilitate the colloquium. Professor von Benda-Beckmann is a legal anthropologist with most of her research focusing on the legal pluralist elements to be found in societies and their legal systems. She is also a long-time board member of the Commission on Legal Pluralism. Her expertise on legal pluralism, combining insights from both law and the social sciences, is significant for our socio-legal research projects in a plural society like Tanzania. The objective of the research colloquium was to give us an opportunity to share and discuss our field research experiences in Tanzania. On the first day, we presented our field research

expectations and the realities we encountered in the field. Our presentations were attended by undergraduate Law in Africa students, Mr Rafael Eifler, Ms Lena Scheibinger and Ms Lisa Strube. We also had the pleasure of meeting Dr Jeannett Martin, a social anthropologist who has done intensive research on childhood politics, families and children's belonging in West Africa and who shared her methodological approaches to empirical research with us.

Our presentations were preceded by Professor von Benda-Beckmann's presentation. Her first topic was 'Theoretical Perspectives on Legal Pluralism' (based on her paper on 'Legal Pluralism, Social Theories, and State Law', presented on 5 October 2017 in Berlin at the *Deutsche*

'THE PRIMARY REWARD IS NOT THE GOAL BUT WHAT YOU BECOME AS A RESULT OF DOING ALL THAT WAS NECESSARY TO REACH THE GOAL.' (DAVID MACNALLEY)

Gesellschaft für Sozial- und Kulturanthropologie Conference). Her second topic was 'The Practice of Care' (based on her article in D.J. Mearns and C.J. Healey (eds), *Remaking Maluku. Social Transformation in Eastern Indonesia*, Darwin 1996, 121-139). The discussion that ensued widened our knowledge and understanding of the theme of child care which is central to our projects.

On the second day of the colloquium we had a consultation session which featured an intensive discussion on specific aspects of our projects. On the face of it, each research colloquium appears to be a stumbling block in our PhD journey, forcing us to lean back and find ways to get over it. Nonetheless, like a kick on a frog, each colloquium gives us a reason to press on, reflect and sharpen our perspectives on our research projects!

(Veronica Buchumi & Florencia Kimario) ■



Ms Veronica Buchumi (left) and Ms Florencia Kimario (right) presenting their research projects on family law and legal pluralism.

DAAD ALUMNI CONFERENCE IN CAPE TOWN

The South African-German Centre for Development Research at the University of Western Cape, Cape Town, South Africa, hosted a conference for the Alumni of all Centres of African Excellence on 'Tackling the Root Causes of Displacement in Sub-Saharan Africa'. The conference took place from 26 November to 1 December 2017 at Krystal Beach Hotel, Gordons Bay, in Cape Town. The TGCL was represented by three of its Alumni, Mr Patrick-Didier Nukuri, Mr Fleming Lumumba and Mr Edrine Wanyama, as well as by Dr Juliana Masabo, Associate Dean of the University of Dar es Salaam School of Law.

The conference brought together DAAD Alumni, Coordinators and Managers from different centres, and the programme managerial staff from DAAD. Represented were, apart from the hosting centre and the TGCL, the South African-German Centre for Transnational Criminal Justice, the Ghanaian-German Centre for Development Studies, and the Congolese-German Centre for Microfinance.

Several presentations were made showing the relevance of each centre's functions to the conference theme. With regard to the University of Dar es Salaam School of Law, Dr Juliana Masabo showed how the TGCL students' research projects, the various LLM and PhD programmes offered, and synergy effects between the TGCL and the Centre for the Study of Forced Migration (CSFM) can contribute to reducing structural causes of displacement. The presentations were followed by a constructive discussion on matters pertaining to migration and displacement in sub-Saharan Africa, and viable approaches to these problems. The presentations and discussions covered a wide range of topics, including food security, regional integration, international criminal law, poverty reduction through social

policies, education and health sector interventions, prevention and management of water and land conflicts, and increasing aid effectiveness. Furthermore, each of the centres held a workshop. The TGCL was assigned Workshop 3 on the theme 'Regional Integration in Africa and Its Relevance for Reducing Structural Causes of Displacement'. With Mr Fleming Lumumba's presentation and the other TGCL Alumni's comprehensive comments, the workshop was a great success.

Some important points to note are that the centres were strongly encouraged to explore ways of sustaining their activities, such as exploring funding from other organisations, as major DAAD funding will come to an end soon. DAAD Alumni were encouraged to apply for funding to attend conferences, prepare papers and do research, as the DAAD has a specific fund to support its Alumni. We also learned that the DAAD has a keen interest in migration, obviously because of Europe's migrant crisis from 2015 onwards. It is my opinion that the synergy that exists between TGCL and CSFM presents a good avenue for the two centres to cooperate in fund raising and project implementation. (Juliana Masabo) ■

PERSONALIA

NEWS FROM THE TGCL

Prof. Richard Frimpong Oppong, Thompson Rivers University, British Columbia, Canada, who is the TGCL Programme Adviser, has been a member of the Editorial Board of the *TGCL Research Series* since February 2018.



NEWS FROM THE TGCL IN BAYREUTH

Ms Sabine Wagner (right) has been working as our TGCL Secretary at the University of Bayreuth since February 2018.



Ms Sabine Geisenberger (left) has been the new Secretary of the Regional Integration Research Project since February 2018.

OBITUARY

PROF. LUITFRIED XAVIER MBUNDA

On Sunday 29 April 2018 Professor Luitfried Xavier Mbunda passed away at the University of Dodoma Hospital.

Professor Mbunda was first employed at the University of Dar es Salaam as a Tutorial Assistant in the Faculty of Law in January 1982. He was promoted to the rank of Associate Professor in July 2005. He served as Head of what was then the Constitutional and Administrative Law Department from May 2002 to June 2003, and as Head of the Department of Economic Law from July 2006 to February 2009.

At the Tanzanian-German Centre for Eastern African Legal Studies (TGCL), Professor Mbunda supervised a number of LLM dissertations and taught Human Rights Law during the very first academic year of the TGCL (2008/2009). He participated actively in several TGCL workshops and conferences.

In November 2013, Professor Mbunda was appointed Principal of the College of Humanities and Social Sciences at the University of Dodoma. He took up this post on 2 January 2014, retired from the University of Dar es Salaam on 15 May 2014, and worked in Dodoma until his death.

We are very grateful for all his contributions. May God rest his soul in eternal peace.

(Hamudi I. Majamba) ■

TGCL PUBLICATIONS

A new volume has been published within TGCL Series in 2018.

TGCL SERIES VOLUME 5

Harmonisation of Laws in the East African Community. The State of Affairs with Comparative Insights from the European Union and Other Regional Economic Communities. Edited by Johannes Döveling, Hamudi I. Majamba, Richard Frimpong Oppong and Ulrike Wanitzek. Nairobi: LawAfrica, 2018
ISBN 9966-53-071-4

ABOUT THE BOOK

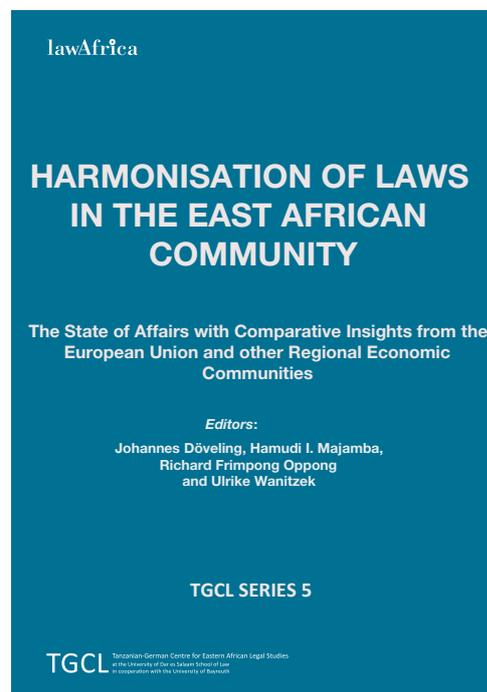
This book presents the results of a Research Workshop held on 10-11 August 2015 at Giraffe Ocean View Hotel in Dar es Salaam (see *TGCL bulletin* 2015, 12-15). The workshop had brought together policy makers, academics and post-graduate students from Burundi, Canada, France, Germany, Kenya, Rwanda, Tanzania and Uganda and provided an opportunity for exchange and mutual learning. Through this book, we hope to make the results of the workshop accessible to interested researchers in Africa, Europe and beyond.

Regional economic communities are of increasing relevance for the economic and social development of individual countries. Consensus among member states on economic policy is necessary for the success of a regional economic community and the achievement of its goals. The free movement of goods, services, persons and capital is a key aspect in reducing

barriers to trade and other economic activities. A central instrument for achieving this goal is the harmonisation of laws, as the creation of a common legal space in the field of economic law is decisive for the reduction of barriers to international trade within a regional community; it creates a conducive climate for investments from the re-

gion and into the region, and for the provision of new jobs; and it is therefore an important factor in economic growth and welfare.

The papers in this book focus on the harmonisation of private economic law, especially in the fields of commercial law, competition law, intellectual property law, labour law and private international law (with a special focus on choice of law in contracts, jurisdiction and enforcement of judgments). They explore the impact of the law of regional economic communities on the national laws, as well as obstacles that those laws pose to regional integration, with regard to the East African Community (EAC), other African regional economic communities, and the European Union (EU).





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 and Economics, University of Bayreuth.

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

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