

# TGCL

Tanzanian-German Centre for  
Postgraduate Studies in Law

at the University of Dar es Salaam School of Law (Formerly Faculty of Law)  
in cooperation with the University of Bayreuth

TGCL bulletin 2 | 2010



*BULLETIN 2 | 2010*

*TANZANIAN-GERMAN CENTRE FOR  
POSTGRADUATE STUDIES IN LAW (TGCL)*

*AT THE UNIVERSITY OF DAR ES SALAAM SCHOOL OF LAW (FORMERLY FACULTY OF LAW)  
IN COOPERATION WITH THE UNIVERSITY OF BAYREUTH*



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## EDITORIAL

### DEAR READER,

The year 2010 marked the beginning of the East African Common Market. This major step reflects the great speed with which the East African Community (EAC) is moving forward. It is to be expected that in the near future more and more lawyers in the EAC partner states will have to deal with legal matters concerning EAC structures and institutions. But also knowledge of each other's national laws will be required in the process of legal integration within the EAC. This means an increasing regionalisation of the legal profession in East Africa.

The focus of the postgraduate study programmes of the TGCL on the laws of the EAC and its partner states therefore seems to come at a good time. Moreover, a policy of the TGCL is to admit, whenever possible, internationally mixed student groups consisting of lawyers from all the five EAC partner states. Out of a current total of 40 TGCL students and alumni, two are from Burundi, two from Rwanda, four from Uganda and five from Kenya while the rest are from Tanzania. Through this composition, interaction between the students also cuts across national boundaries.

Many persons have contributed to the successful implementation of the TGCL programme so far and I wish to express my sincere thanks to Dr K. Gastorn and PD H. Sippel, the coordinator and manager of the TGCL respectively, and to the assistants, both in Dar es Salaam and in Bayreuth; to our advisers, lecturers and supervisors who ably lead the TGCL students through their study programmes; to former Dean S. E. Mchome and Dean P. J. Kabudi who were instrumental in the setting-up and development of the centre; to the leadership of the universities of Dar es Salaam and Bayreuth, the cooperating partners; to the German Embassy in Dar es Salaam; and to our sponsors, the German Academic Exchange Service (DAAD) and the German Foreign Office.

It is with great pleasure that we are able to report in this issue on the graduation of the first nine TGCL students. I congratulate all of them warmly and am looking forward to more exciting news from the TGCL students and alumni.

Bayreuth, 30 November 2010  
Ulrike Wanitzek

## THE FIRST TGCL GRADUATES

*Nine former LLM students of the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) graduated on 27 November 2010 at the University of Dar es Salaam graduation ceremony – two years after the inauguration of the TGCL, a joint project of the universities of Dar es Salaam and Bayreuth within the 'Aktion Afrika' programme of the German Foreign Office and the DAAD.*

The TGCL celebrated the event with a dinner party for its former students at the Holiday Inn Hotel in Dar es Salaam on 25 November 2010. Guest of Honour was the German Ambassador in Tanzania, H. E. Dr Guido Herz. He told the audience that his taking over of the Embassy in Dar es Salaam exactly coincided with the opening of the TGCL in September 2008 and that he therefore felt closely connected to the centre whose development he has been following up with much sympathy and interest. The Guest of Honour Ambassador Dr Herz handed over the TGCL certificates to the nine graduands.

Introductory remarks were made by the TGCL Coordinator Dr Kennedy Gastorn. Prof. Ulrike Wanitzek, the Project Leader of the TGCL, also gave an overview of developments at the TGCL during its first two and a quarter years. Prof. Palamagamba J. Kabudi, Dean of the University of Dar es Salaam School of Law (Formerly Faculty of Law), informed the audience that the Faculty of Law, which celebrates its 50th anniversary in the academic year 2010/11, has a long-standing tradition of educating law students not only from Tanzania but also from other East, Central and Southern African countries, such as Kenya, Uganda, Malawi and Zambia. He led the audience through the history of the Faculty of Law and showed that during the five decades of its existence, it has produced a large number of high-ranking lawyers and politicians. The Director of the School of Postgraduate Studies of the University of Dar es Salaam, Prof. Bakari Mwinyiwiwa, represented the Deputy Vice-Chancellor (Academics) of the University of Dar es Salaam, Prof. Makenya A. H. Maboko. He assured the TGCL of continuing support by the University



*Seven of the nine TGCL students who graduated in November 2010 (from left to right): Tasco Luambano, Angela Lushagara, George Bakari, Goodluck Kiwory, Kalekwa Kasanga, Hamza Ismaili and Mustapher Siyani.*

administration. In his speech, Mr Christoph Hansert, the Director of the DAAD Regional Office for Africa, put the TGCL into a wider context of educational programmes involving international cooperation. He commended the TGCL for its innovative approach.

On behalf of the students, Mr George Bakari gave a vote of thanks. He said that the students had fulfilled the promise to study hard which they had made at the inauguration of the TGCL. The time of their studies at the TGCL had bonded them together to a community and they thanked the DAAD and the German Foreign Office as their sponsors, their supervisors, lecturers, UDSM School of Law and TGCL representatives. Prof. Gamaliel Mgongo Fimbo spoke on behalf of the supervisors. He stressed the pleasure of working together with young academics and that not only

students learned from their supervisors but also vice versa. Comparative legal studies such as those done at the TGCL are particularly valuable and productive.

*The Guest of Honour, German Ambassador Dr Guido Herz, handing over the TGCL certificate to Ms Kalekwa Kasanga*



The nine graduates have already gone back into practice after having completed their study programmes. They are employed by the Community Development Training Institute Tengeru-Arusha (Mr George Bakari), the Institute of Tax Admin-

*TGCL students, lecturers and supervisors attending the ceremony. From right to left, first row: Mr Jesse James and Prof. G. Mgongo Fimbo; second row: Hon. Mahadhi Juma Maalim (MP), Prof. David Williams and Mr Josephat Mkizungo.*



istration (Mr Hamza Ismaili), the Law Reform Commission (Ms Judith M. Kakongwe and Ms Kalekwa Kasanga), in private legal practice (Mr Francis Kamuzora), by the University of Dar es Salaam School of Law (Mr Goodluck Kiwory), the Attorney-General's Chambers (Ms Angela K. Lushagara), Mzumbe University Mbeya (Mr Tasco Luambano) and the judiciary (Mr Mustapher Siyani).

*From left to right, sitting: Prof. G. M. Fimbo, Dr R. A. Mwaipopo, Ambassador Dr G. Herz, Prof. B. Mwinyiwiwa, Prof. P. J. Kabudi; standing: Prof. B. Rutinwa, Dr Ch. Hansert, Mr G. Bakari, Ms A. K. Lushagara, Prof. U. Wanitzek, Mr G. Kiwory, Mr H. Ismaili, Mr M. Siyani, Ms K. Kasanga, Mr T. Luambano, PD H. Sippel, Dr K. Gastorn*



*Hon. Mahadhi Juma Maalim (MP)*

## CONGRATULATIONS

The TGCL would like to congratulate one of its PhD candidates for being elected as a Member of Parliament for Muyuni constituency in Zanzibar and subsequently being appointed by the President as the Deputy Minister for Foreign Affairs and International Cooperation of the United Republic of Tanzania.

## TEACHING AT THE TGCL

*The legal study programme of the TGCL is complemented by interdisciplinary courses, such as business economics and personnel management. Furthermore, research methodology, language and soft skills, such as communication, organisational skills and team work, feature in the programme.*

The special focus of the TGCL study programmes is on constitutional law, human rights law and comparative law, with a regional East African perspective. The key courses of the programme and related exams therefore cover these legal fields. Dr Sengondo E. Mvungi held the LLM course on "Constitutional Law", with a focus on the constitutions of the member states of the East African Community (2008/09 and 2009/10); and he is currently teaching the same during the academic year 2010/11. The LLM course on "Human Rights Law", which looks at the international, regional and national levels and also focusses on the East African region, was held by Prof. Luitfried X. Mbunda (2008/09) and by Dr Khoti Kamanga (2009/10). Currently Prof. Palamagamba J. Kabudi is teaching the course (2010/11). Co-teaching in human rights law was provided by Ms Juliana Masabo and is currently done by Mr James Jesse.

To complement this programme, several short additional courses were taught by Dr John Eudes Ruhangisa, Registrar of the East African Court of Justice in Arusha, on the institutions of the East African Community, with special emphasis on the East African Court of Justice (2008/09 and 2009/10); by PD Harald Sippel (University of Bayreuth) with an introduction to comparative law (2008/09) and the German Legal System (2009/10); and by Hon. Justice Dr Fauz Twaib, then Advocate and President of the Tanganyika Law Society, on the law relating to land transfers (2008/09). During the current academic year 2010/11, Prof. Gordon R. Woodman (University of Birmingham) taught "Customary Laws and Legal Pluralism: Past, Present and Future" and Prof. David Williams (University of Auckland) held a course on "Legal History in the Context of East Africa". An interdisciplinary perspective was provided by



Prof. Andreas Remer (University of Bayreuth) in his course on "Business Economics and Personnel Management" (2008/09 and 2009/10).

Prof. Julie Stewart, Co-Director of the Southern and Eastern African Regional Centre for Women's Law (SEARCWL) of the University of Zimbabwe, introduced the students to research methodology and also advised them on an individual basis (2009/10 and 2010/11). The aim of this course was to assist students in conceptualising their research projects and working out their empirical research plans.

A German language course for beginners was held by Ms Monika Spohr during the academic years 2008/09 and 2009/10. English communication skills were taught by teachers of the British Council in 2008.

During regular group meetings with the TGCL Student Adviser, Hon. Justice Dr Steven Bwana of the Court of Appeal of Tanzania, students learned communication skills and dealt with topics such as management and organisational skills, leadership, team work, professional and ethical conduct for lawyers. ■

*PD H. Sippel, Dr S. E. Mvungi, Prof. L. X. Mbunda and Ms M. Spohr (from left to right) all teach at the TGCL.*

## 2008 LLM STUDENTS, DISSERTATIONS AND SUPERVISORS

### *GEORGE BAKARI (TANZANIA)*



Freedom of Expression and Freedom of the Media in Tanzania: The Efficacy of Stakeholders Media Bill Proposals in Promoting Freedom of the Print Media  
*Supervisor: Dr K. Gastorn*

### *JULIANA KIMWAGA (TANZANIA)*



The Impact of Foreign Direct and Local Investment on the Rights of Indigenous People: The Case of Land Rights of the Maasai in Tanzania  
*Supervisor: Dr K. Kamanga*

### *HAMZA ISMAILI (TANZANIA)*



A Comparative Study of Value Added Tax (VAT) Regimes of Tanzania and Kenya. The Extent to which VAT Contributes to the GDP of these Countries  
*Supervisor: Prof. L. X. Mbunda*

### *GOODLUCK KIWORU (TANZANIA)*



Constitution without Constitutionalism or Constitutionalism in Evolution? A Critical Study of the First 45 years of Constitutional Law and Practice in Independent Tanzania (1961-2005) and Kenya (1963-2005)  
*Supervisor: Prof. J. Kanywanyi*

### *HAWA JUMA (TANZANIA)*



Representative Democracy in Tanzania: Roles of Members of Parliament in their Constituencies  
*Supervisor: Dr C. K. Mtaki*

### *ANGELA K. LUSHAGARA (TANZANIA)*



The Independence of the Office of the Director of Public Prosecutions in Tanzania  
*Supervisor: Prof. H. I. Majamba*

### *JUDITH M. KAKONGWE (TANZANIA)*



The Right to Vote in Tanzania: A Critical Analysis of the Rights of the Sidelined Voters  
*Supervisor: Dr B. T. Mapunda*

### *BAHATI M. NDESERUA (TANZANIA)*



Corruption and its Impact on the Administration of Justice in Tanzania  
*Supervisor: Dr T. Ackson*

### *FRANCIS KAMUZORA (TANZANIA)*



The Legal Right to the Highest Attainable Standard of Mental and Physical Health: An Assessment of the Impact of Laws on Public Health Financing Mechanisms on the Right to Health  
*Supervisor: Dr A. M. Mapunda*

### *THOMAS M. SIPEMBA (TANZANIA)*



Constitutionality of Mining Development Agreements, with some Reference to the Mining Development Agreement between Pangea Minerals Limited and the Government of the United Republic of Tanzania  
*Supervisor: Prof. N. N. Nditti*

## *A PUBLIC DISCUSSION ON THE ATROCIOUS KILLINGS OF ALBINOS IN TANZANIA*

*The University of Dar es Salaam Human Rights Association (UDHRA) and the TGCL co-organised a conference with the title "Mlimani Hard Talk on how to Battle Atrocious Killings of Albinos" in Nkrumah Hall on 14 February 2009. Mr George Bakari, one of the 2008 LLM students, presented a paper at this conference.*

In the recent past, the right to life has been increasingly violated in Tanzania by the killing of Albinos. The atrocious killings of Albinos and chopping off of their body parts in anticipation of using the same for gaining wealth have necessitated public concern. These vicious killings have become a cause of national shame and embarrassment to Tanzania. It is against this background that the University of Dar es Salaam Human Rights Association (UDHRA) and the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) jointly organised a public event at the premises of the University of Dar es Salaam on 14 February 2009, to discuss and raise awareness of these human rights violations. The discussion was preceded by a demonstration on the main campus, condemning the killings, followed by talks and discussions at Nkrumah Hall. The event brought together more than 300 people from various institutions, including the University of Dar es Salaam academic community, members of the diplomatic corps, and the media.

The discussion was presided over by Dr Martha Qoro, Dean of Students of the University of Dar es Salaam. Dr Qoro pointed out that there was a need to conduct an extensive public awareness campaign to educate people on various issues connected with albinism, since there are many misconceptions about it. She insisted that those engaged in the evil activity of killing their fellow human beings in the belief that they would get wealthy fast should be educated.

Before audience discussion, two papers were presented by Mr George Bakari, the former President of the UDHRA and LLM student of the TGCL, and by the Chairperson of the Editors' Forum in Tanzania, Ms Sakina Dattoo.



Mr Bakari addressed the killing of albinos from a human rights perspective. He suggested, among other things, that the Tanzanian Government should undertake immediate action in promoting social awareness and providing information related to albinism, and that such measures should be implemented particularly in rural areas, where people tend to be less educated and more superstitious. Ms Dattoo vehemently underlined the role of the media in stamping out the vicious killing of Albinos in Tanzania. She commended the work being done by the media, but added that there was room for extensive investigative journalism to unearth more issues related to the myths surrounding the Albinos killings. Most importantly, she condemned local media that seem to be blind to these vices in Tanzania. The two papers were followed by a lengthy discussion among the participants, as well as questions, comments and criticism. Summing up the discussion, the President of UDHRA, Mr Onesmo Olenyumwa, tried to show the way forward, followed by the TGCL Coordinator, Dr Kennedy Gastorn, who thanked all the participants. ■

*From left to right:  
Guest of Honour  
Dr M. Qoro, Dean of  
Students UDSM;  
Mr O. Olengurumwa,  
President UDHRA;  
Dr K. Gastorn, Coordi-  
nator TGCL*

## FORM FUTURE FORMERS!

### ANTI-CORRUPTION AND GOOD GOVERNANCE TRAINING PROGRAMME

This two-day event on 4 and 11 April 2009 was organised jointly by the FAITA-TRUST (Forum on Anti-Corruption Initiatives in Tanzania Trust), CEOAC-UDSM (Combined Efforts Against Corruption) and TGCL. It took place at the University of Dar es Salaam and was officiated by the Dean of Students.

The chief objective of the workshop was to train young graduates to spearhead war against corruption. Therefore the topics presented were geared to imparting knowledge to the participants on various facets of corruption with the aim of making them "future formers", especially with regard to their peers.

The workshop was attended by 40 young graduates drawn from the University of Dar es Salaam,

the Institute of Finance Management (IFM), and TGCL students, as well as representatives from the Prevention and Combating of Corruption Bureau (PCCB). It was facilitated by FAITA-TRUST chief coach Mr Romuald Z. Rwechungura.

The workshop helped the participants to understand various forms of corruption, which enhanced their understanding of the subject matter. The participants were offered a forum to exchange various viewpoints on corruption. The attendance of PCCB staff within the workshop was crucial as they responded to questions raised by the participants. The workshop participants unanimously agreed to engage in a dialogue with the PCCB on the possibilities of further training on corruption matters.

(George Bakari) ■

## TGCL ANNUAL CONFERENCE 2009



Speakers Mr W. Nyamajeje (left) and Hon. Justice H. Nsekela (right) with their attentive audience



Under the title "The Commemoration of the 10th Anniversary of the East African Community Treaty and the 1st Anniversary of the Tanzanian-German Centre for Postgraduate Studies in Law", the annual TGCL conference took place on 4 September 2009 in Nkrumah Hall at the University of Dar es Salaam. Mr Weggoro Nyamajeje presented a paper on "Ten Years of the East African Community – Achievements, Challenges and Prospects" on behalf of the Secretary General of the EAC,

Ambassador Juma V. Mwapachu. The President of the East African Court of Justice, Hon. Justice Mr Harold Nsekela, spoke on "Achievements and Challenges of the East African Court of Justice under the Treaty for the Establishment of the East African Community".

During the conference, letters of scholarship were handed over to ten LLM students and five PhD students who had been admitted to the TGCL study programme starting in September 2009. ■

## 2009 LLM STUDENTS, DISSERTATIONS AND SUPERVISORS

### *KALEKWA KASANGA (TANZANIA)*



The Right to Real Property in Tanzania and Rwanda

*Supervisor: Prof. G. M. Fimbo*

### *AISHA NABUKEERA (UGANDA)*



Child Domestic Work: A Device against the Rights of a Child – The Case of Rubaga Division, Kampala, Uganda

*Supervisor: Dr C. K. Mtaki*

### *TASCO LUAMBANO (TANZANIA)*



Reflections on Land Use Conflicts between Farmers and Pastoralists in the Light of the Bill of Rights in Tanzania

*Supervisor: Dr B. T. Mapunda*

### *ROBERT OMONDI OWINO (KENYA)*



Human Rights and Environmental Management in Kenya: Analysis of the Right to a Clean and Healthy Environment

*Supervisor: Prof. P. J. Kabudi*

### *JANETH N. MACHULYA (TANZANIA)*



The Effectiveness of the Mechanisms for Enforcement of Basic Rights and Freedoms in Tanzania: An Examination of the Impact of the Basic Rights and Duties Enforcement Act (Act No. 33 of 1994) on the Realisation of Individual Basic Rights and Freedoms

*Supervisor: Dr A. M. Mapunda*

### *ALEXANDER MARTIN SABA (TANZANIA)*



Constitutional Protection of the Principle of Independence of the Judiciary: A Survey of the Constitution of Tanzania

*Supervisor: Prof. L. X. Mbunda*

### *IRENE D. MALLONGA (TANZANIA)*



Protecting the Right of the Child to Alternative Care: An Analysis of the Law on Adoption in Tanzania

*Supervisor: Dr T. Ackson*

### *MUSTAPHER SIYANI (TANZANIA)*



Power Sharing Deals in Post-election Africa: Drawing Lessons from Kenya

*Supervisor: Dr B. T. Mapunda*

### *JOSEPHAT T. MKIZUNGO (TANZANIA)*



The Role and Significance of the East African Court of Justice in Promoting and Protecting Human Rights

*Supervisor: Dr K. Kamanga*

### *ANNET TENDO (UGANDA)*



Legal Implications of Women's Right to Maternal Health Care: Case Study of Katwe Slum, Kampala, Uganda

*Supervisor: Prof. H. I. Majamba*

## *OBSERVANCE OF HUMAN RIGHTS IN THE EDUCATION SECTOR: A GLANCE AT THE LAWS AND POLICIES OF HIGHER LEARNING INSTITUTIONS*

*A Symposium on Education and Human Rights took place at the University of Dar es Salaam on 30 January 2010. It was co-organised by the University of Dar es Salaam Human Rights Association and the TGCL. The symposium dealt with the question which priority is given to the human right to education in contemporary Tanzania.*

The idea for this event held on 30 January 2010 at Nkrumah Hall, University of Dar es Salaam, was mooted by the University of Dar es Salaam Human Rights Association (UDHRA) together with scholarship holders at the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL), who together agreed to conduct a public symposium under the above title as a starting point for raising awareness among students and other members of the university community.

The first presentation was about "The Right to Education in Tanzania – A Comparative Discussion", by Mr Harold Sungusia (Legal and Human Rights Centre, Dar es Salaam). He gave a synopsis of the right to education in Tanzania, as well as education as a basic right in selected countries, the legal status of education in Tanzania, and the challenges facing the justiciability of the right to education. Dr Sengondo Mvungi (University of Dar es Salaam School of Law) spoke on "The Right to Education – Social, Political and Economic Repercussions". The third presentation was on "The Right to Education in Higher Learning Institutions – a Human Rights Perspective" by Mr George Bakari (TGCL scholarship holder).

The presentations were followed by discussions, which gave the approximately 300 participants (students from the University of Dar es Salaam, members of the academic staff and the university community, and representatives from civil societies) a chance to share their insights into the challenges and prospects of education in

higher learning institutions. The presenters and participants came up with the following recommendations:

- that the right to education should be one of the justiciable rights under the constitution, that is, there should be means for its enforcement;
- that the budget for the education sector should be improved and a realistic priority should be given to education;
- that measures should be implemented to regulate the quality of education;
- that an educational vision must be created which would help to shape all programmes and prohibit politicians from manipulating the education system for political interests;
- that education must focus on the revolution that is changing our society from poverty to prosperity;
- that the brain drain must be limited by giving intellectuals opportunities to serve the community.

It was agreed that it is high time to make education a basic right and not a mere privilege. Education forms an essential and fundamental part of Human Rights. The excuse of lack of resources should not be accepted, as Tanzania is rich in resources. Some African countries have already achieved legal enforcement of the right to education (e.g. Namibia, Mozambique, South Africa and Zambia). The symposium provided insights and valuable knowledge to students and members of the university community.

(Fredy Kihwelo) ■

## 2010 LLM STUDENTS, WORKING TITLES OF DISSERTATIONS, AND SUPERVISORS

### *BAHATI S. HAULE (TANZANIA)*



Constitutional Exercise of the Executive Powers: An Assessment of the Powers of the President on the Legislature: a case study of Tanzania and Kenya

*Supervisor: Dr C. K. Mtaki*

### *LUCY PEACE NANTUME (UGANDA)*



The Legal Framework for the Protection of Children's Rights to a Family Environment: A Case Study of Uganda and Tanzania

*Supervisor: Dr K. Kamanga*

### *MILKA WAHU KURIA (KENYA)*



A Critical Analysis of the Legal Framework for Participatory Democracy in the East African Community Organs and Institutions

*Supervisor: Dr B. T. Mapunda*

### *JOLLY NTUNGIRE (RWANDA)*



Analysis of State Principles of Non-interference in the Internal Affairs of a State and Self-Defence in Relation to the East African Community Treaty 1999

*Supervisor: Dr A. M. Mapunda*

### *AGATHA LEANDY (TANZANIA)*



Towards True Democracy in East Africa: A Critical Analysis of Electoral Expenses Laws of Tanzania and Kenya

*Supervisor: Dr B. T. Mapunda*

### *SHEILLAH NYANZI (UGANDA)*



The Potency of the Spousal Consent Clauses in Securing Women's Property Rights: A Comparative Study of Tanzania and Uganda

*Supervisor: Dr R. A. Mwaipopo*

### *AMALIA LUI (TANZANIA)*



The Accessibility and Availability of the Right to Legal Representation to the Indigent People in Tanzania in Comparison with Kenya

*Supervisor: Prof. H. I. Majamba*

### *RHODA CHEROTICH RUTTO (KENYA)*



The Compatibility of Tanzania's and Kenya's Extradition Law and Practices with International Human Rights Norms vis-à-vis the East African Community Treaty

*Supervisor: Prof. B. Rutinwa*

### *DIEUDONNÉ MWERU (BURUNDI)*



A Comparative Analysis of the Efficacy of Anticorruption Agencies in Burundi and Tanzania

*Supervisor: Dr A. M. Mapunda*

### *STEPHEN MSECHU WILBARD (TANZANIA)*

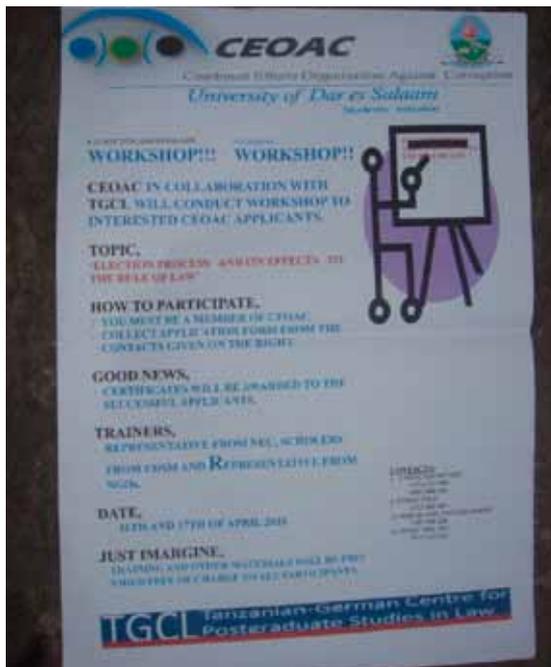


The Constitutional Principle of Accountability in the Extractive Industry: The Case of North Mara in Tanzania and the Albertine Region in Uganda

*Supervisor: Dr N. N. Nditti*

## *THE ELECTION PROCESS AND ITS EFFECTS ON THE RULE OF LAW*

*This Workshop was held at the University of Dar es Salaam on 16 and 17 April 2010. It was co-organised by the Combined Efforts Organisation Against Corruption at the University of Dar es Salaam (CEOAC-UDSM) and the TGCL. Topics were the upcoming parliamentary and presidential elections in Tanzania, conditions under which corruption may emerge, and possibilities to avoid and combat corruption in the context of elections.*



*The poster advertising the workshop*

The Combined Efforts Organization Against Corruption (CEOAC), a student initiative at the University of Dar es Salaam, and TGCL co-organised a workshop on “The Election Process and Its Effects on the Rule of Law” on 16 and 17 April 2010. Because of the elections in Tanzania on 31 October 2010 there was good reason to give students a forum for discussion about the topic of the workshop. The purpose of the event was to impart knowledge to students without being aligned to any political ideology. Some of them had expressed their wish to educate voters on the election process, their voting rights and the effects of malpractices in the election process. The first lecture was given by Mr Jingu John (Department of Political Science and Public Administration, University of Dar es Salaam) on

“Corruption in Election”. He defined it as the use of state power for personal interests, through the use of various means. The presenter pointed out the example of the Zanzibar situation during the 1995 election. Some of the means of corruption he mentioned were repeaters, illegal registration, unqualified voters and vote buying. He also explained manifestations of corruption in the election process, the persons involved and their interests in such corruption.

Mr Moses Kulaba (Agenda Participation 2000) followed, with his lecture on the understanding of election, the election process, corruption and ethics. He stressed that election is a system which enables society to select people as leaders who will wield power. In this regard he pointed out that there is a strong inter-linkage between ethics, accountability, transparency and corruption. The third presenter, Mr John Kihamba (Department of Political Science and Public Administration, University of Dar es Salaam), spoke about the procedures and legal settings in elections. He pointed out that some of the rights of candidates in the election process are not well protected. This is due to the interpretation of the rules; some people use provisions of the constitution to protect their own interests. He also showed some weaknesses in the work of the National Electoral Commission of Tanzania (NEC). In the discussions after each presentation, and in final group discussions, the participants sought the best way forward. ITV, which is viewed in the whole of East Africa, and Mlimani TV, which is viewed in Tanzania, were present and broadcast the event in their evening news. ■

## TGCL ANNUAL CONFERENCE 2010

*The law of the East African Community (EAC) is of high relevance for legal developments in the five EAC partner states Burundi, Kenya, Rwanda, Tanzania and Uganda. Major legal instruments are the Treaty for the Establishment of the EAC of 1999, the Protocol on the Establishment of the EAC Customs Union of 2004 and the Protocol on the Establishment of the EAC Common Market of 2009, with both Annexes and Schedules. The conference speakers analysed the progress made with the implementation of these instruments and the context of legal pluralism in Africa.*



The second annual conference of the TGCL took place on 4 October 2010 in the Julius Nyerere Lecture Theatre at the University of Dar es Salaam. The theme was legal pluralism and the harmonisation of laws in the East African Community. Prof. Gordon R. Woodman of the University of Birmingham School of Law, spoke on "Multiple Sources of Law: A Threat to Constitutional Governance?" The phrase "multiple sources of law" referred to the claim that there are in every African state a number of bodies of law which differ from each other not only in content but also in the sources of their claims to authority. The paper considered the historical development in Africa of multiple sources of law from the inception of colonial rule. The paper by Mr Joseph E.

Ochwada, Director Human Resources and Administration, East African Community Secretariat, on "EAC Integration: Achievements, Challenges and Prospects" focused on the Common Market Protocol and its draft Annexes as a point of reference. Assistant Director Mr Eliabi K. Chodota who spoke on behalf of Dr Stergomena Tax, Permanent Secretary, Tanzanian Ministry of East African Cooperation, discussed the stage of harmonisation and mutual recognition of academic and professional qualification.

Like in the previous year, the annual conference was again the occasion to welcome the newly admitted TGCL students who started their LLM and PhD study programme immediately after the conference. ■

*TGCL students (centre) were among the audience when Prof. G. R. Woodman (left) and Mr E. K. Chodota (right) presented their papers.*

## BAYREUTH SUMMER UNIVERSITY 2010

*The first summer school within the TGCL programme was held in August/September 2010 at the University of Bayreuth, hosted by the Bayreuth Summer University for Intercultural German Studies, the Institute of African Studies and the Faculty of Law, Business Administration and Economics. A daily, intensive German language course was accompanied by a legal and interdisciplinary programme. Two participants report on their experiences.*

*Students relaxing ►  
over a cup of tea after  
classes*

The year 2010 has had lots of exciting learning events for the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) students but the Bayreuth Summer University stood out and remains indelibly etched in the minds of the 13 scholarship holders from both the 2008 and 2009 intakes who had the privilege of attending it. This was truly a classical case of 'writing history' not the least because it was the first time for

most of us to visit Europe but also because during the three weeks spanning 27.8.2010 – 22.9.2010, we blended in very well in the intercultural mosaic comprising students from all over the world at the Summer University with whom we pur-

sued German language classes and intercultural excursions in and out of Bayreuth.

As budding jurists, we were particularly privileged to hobnob with several law scholars at the University of Bayreuth under the Legal and Interdisciplinary Programme where in the first week we met Dr Johannes Saurer who gave us an overview on Institutions of the European Union followed by Prof. Jörg Gundel who delivered a lecture on European Legislation. Dr Claas Friedrich Germelmann capped the week with two lectures on the Basic Concepts of the Fundamental Freedoms under the European Union and the Economic Constitution of the European Union.

During the second week, we got insight into leadership from an intercultural perspective from Prof Torsten Kühlmann as well as a lecture on "A Constitution of Europe" and the Treaty of Lisbon



by Prof. Markus Möstl. The final lecture of the week on Integration through Harmonisation in the European Union by Ms Jana Härtling indeed struck a chord in the hearts of most of us, given similar efforts at integration within the East Africa Community where the scholarship holders predominantly come from.

The third week summed it all up, with Ms Doris Leitner and Mr Martin R. Otto giving a talk on the Draft Common Frame of Reference under the European Union and the German Constitution and its openness to International Law respectively. These intellectual engagements were interspersed by excursions to places of renown in Bayreuth, such as the Markgräfliches Opernhaus and Villa Wahnfried, Burg Rabenstein and Sophienhöhle, as well as Das Neue Schloss and the Eremitage, among other places. On the first weekend break of the Summer University, we visited the medieval German town of Rothenburg



▲ *Dr Oliver Meinecke  
(German Foreign  
Office) giving an over-  
view of the EU organi-  
sational structures*

ob der Tauber, where we arrived in time for a traditional festival featuring ancient royalty in full regalia. We also made a visit to the famous Christmas Museum.

On the second weekend break of the Summer University we had the rare opportunity of discovering traces of German classicism by renowned German poet Johann Wolfgang von Goethe in Weimar and his counterpart Friedrich von Schiller in Jena.

It was also a rewarding experience for us to visit Nürnberg, the seat of the famous post-Nazi Germany criminal trials, where we learned much about the historical events that inform modern day International Criminal Law.



*Top: Students in front of the bus waiting to go to Berlin; left: An outing to Burg Rabenstein, a historical castle in the surroundings of Bayreuth; right: On the roof terrace of the German Foreign Office in Berlin*

At the close of the third week of the Summer University, we had the pleasure of receiving our German language test results, together with our certificates. This was followed the next day by an early departure for a four day visit to Germany's capital Berlin, where we had a guided city tour and saw the most amazing work of Norman Foster's architecture in the German Parliament, known as the Bundestag, complete with a narration of the separation and union of East and West Germany. During this stay in Berlin, we were also greatly honoured to be able to visit the German Foreign Office, as well as the DAAD office, together

with a rare but wonderful opportunity for intellectual exchange of ideas with students at the Humboldt University.

Most certainly, all good things come to an end, and soon it was time for our departure back to Dar es Salaam, eternally grateful to the TGCL triumvirate, consisting of the Project Leader Prof. Ulrike Wanitzek, Project Coordinator Dr Kennedy Gastorn and the Project Manager PD Harald Sippel, for an experience like no other and their diligent efforts in making the whole Summer University experience flawless, very exciting and an encounter to remember.

(Annet Ttendo and Robert Omondi Owino) ■

## PHD STUDENTS, WORKING TITLES OF THESES, AND SUPERVISORS

### 2009 PHD STUDENTS

#### GRACE KAZOBA KAMUGISHA (TANZANIA)



Legal and Institutional Framework for Combating the Prevalence of Counterfeit and Substandard Pharmaceuticals in Tanzania

*Supervisors: Prof. B. Rutinwa, Dr M. K. B. Wambali*

#### HON. MAHADHI JUMA MAALIM (MP) (TANZANIA-ZANZIBAR)



Legal and Constitutional Challenges of Managing Zanzibar Non-union Matters: A Case Study of the United Republic of Tanzania in the East African Community

*Supervisors: Prof. P. J. Kabudi, Dr C. K. Mtaki*

#### LILIAN M. MONGELLA (TANZANIA)



The Right to Compensation for Victims of Internal Conflict: A Case Study of Rwanda

*Supervisors: Prof. B. Rutinwa, Dr A. M. Mapunda*

#### ANATOLE NAHAYO (BURUNDI)



The Harmonisation of Income Tax Regimes within the EAC Common Market: An Assessment of Viability

*Supervisors: Prof. F. Luoga, Dr R. W. Tenga*

#### JEAN BOSCO NGENDAHIMANA (RWANDA)



The Impact of Regional Integration on Human Rights Protection in Africa

*Supervisors: Prof. C. M. Peter, Dr S. E. Mvungi*

### 2010 PHD STUDENTS

#### GOODLUCK PETER CHUWA (TANZANIA)



A Critical Analysis of the Conflict between Islamic Law Principles and Human Rights Standards in Relation to Women's Rights

*Supervisors: Prof. J. L. Kanywanyi, Dr R. A. Mwaipopo*

#### ADAM JUMA MAMBI (TANZANIA)



The Legal Implications of Information and Communication Technologies (ICT) on Human Rights: A Case Study of the Rights to Privacy and Freedom of Information in Tanzania and Kenya

*Supervisors: Prof. C. M. Peter, Prof. N. N. Nditti*

#### NENELWA JOYCE MWIHAMBI (TANZANIA)



Bicameral Parliamentary Systems as a Tool to an Effective Parliament: A Case Study of the United Republic of Tanzania and the Republic of Rwanda

*Supervisors: Prof. G. M. Fimbo, Dr C. K. Mtaki*

#### EUGENE OCHIENG NYAMUNGA (KENYA)



The East African Community Common Market: Conceptualising Effective Rights Based on the European Union Experience

*Supervisors: Prof. F. Luoga, Dr K. Kamanga*

#### GRACE WAKIO (KENYA)



Challenges of Implementation of Pronouncements of African Union Organs and Institutions: Implications on the Achievement of the Objectives and Goals of the African Union

*Supervisors: Prof. L. X. Mbunda, Prof. H. I. Majamba*

## TGCL INTERNSHIPS IN ARUSHA

*Practical training forms part of the study programme at the Tanzanian-German Centre for Post-graduate Studies in Law. Eight TGCL students had the opportunity to gain insights into practical fields of legal work at the African Court on Human and Peoples' Rights (AfCHPR) and the East African Community (EAC) Secretariat in 2010. The following reports illustrate the experiences gained by the interns.*

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



#### FIRST AFCHPR INTERNSHIP: DEVELOPING AN INTERNSHIP PROGRAMME

From 9 February to 5 March 2010 we were attached to the AfCHPR as the first interns at the Court since its establishment. At the Court we were received by Dr Markus Löffelmann, Director of the GTZ Project "Strengthening the Capacities of the AfCHPR" and AfCHPR staff members and were joined by Ms Martha Makenge, an LLM student of the University of Cape Town, making a total of three interns.

As the Court was not yet fully operational, and since there were not any cases on record, our programme involved, firstly, assisting the Chief

Librarian of the Court in cataloguing and indexing the newly acquired stock of books in an online library database; secondly, assisting the communication department with online research and creation of a database of ministries of foreign affairs in various African countries, as well as contacts with media houses around Africa; thirdly, attending lectures and discussions with the legal officers and other staff of the Court on the work of the AfCHPR and human rights issues in Africa; and fourthly, helping to develop an internship programme for the AfCHPR, by contributing ideas on how best such an internship programme at the AfCHPR should be conducted. On this basis the court developed its

*The President of the AfCHPR, Hon. Justice J. Mutsinzi (centre), and his staff bid farewell to their first interns Mr F. Kamuzora (second from left), Ms M. Makenge (third from left), Mr G. Bakari (third from right), and to TGCL Project Leader Prof. U. Wanitzek (fourth from left).*

new internship policy (see the court's website). The programme also included visits to the International Criminal Tribunal for Rwanda (ICTR), to the East African Court of Justice, and to the Arcadia University, where Mr Roland Adjovi, the Academic Director of the Tanzanian programmes, spoke on the various

*The building which accommodates the AfCHPR*



enforcement mechanisms for human rights in Africa. On 5 March 2010, at the end of the internship programme, there was a ceremony at which we made a presentation of our ideas about the internship programme to the staff of the Court, and were later awarded certificates by the President of the AfCHPR.

On the whole, the internship programme was a success. It was a new experience for us and we learnt a lot of new things and met and interacted with the staff of the Court, consisting of people from different African countries with a variety of backgrounds. We would encourage future students of TGCL to utilise this opportunity, especially those who are interested in working in international organisations such as the AfCHPR.

(George Bakari and Francis Kamuzora) ■

#### *SECOND AFCHPR INTERNSHIP: THE AFRICAN HUMAN RIGHTS PROTECTION SYSTEM*

We carried out our internship at the AfCHPR from 5 to 30 July 2010. We started by touring the court premises and familiarising ourselves with various staff members of the Court. During

the internship period, we had various discussions with different members of staff on matters regarding the Court and on human rights issues in Africa. These discussions included: the relationship of the Court with other regional courts and other organs of the African Union; the relationship between the AfCHPR and the African Court of Justice; the Court and the role of external partners, and the Court's protection of human rights at the national level. We were also introduced to the filing system, the interpretation and translation system, as well as protocol and financial matters regarding the Court. Apart from these discussions, we were given some assignments to do; for these we had to do research and write papers for presentation. We prepared papers on the African Human Rights Legal Framework and presented them to students from Arcadia University who visited the Court on 19 July 2010. We also wrote papers on the African Human Rights Protection System. On 30 July 2010, we presented our workshop results to the President and staff members of the Court and were awarded an internship certificate, which marked the end of the internship programme.



### *THIRD AFCHPR INTERNSHIP: COLLOQUIUM OF AFRICAN HUMAN RIGHTS COURTS*

During our internship from 5 October to 4 November 2010 our supervisor at the Court was Senior Legal Officer Mr Jester Charewa. Immediately after our arrival we attended the Colloquium on Human Rights Courts and Similar Institutions which was organised by the AfCHPR. Later we participated in the outgoing President's farewell party prepared by the Court's staff. We also attended proceedings at the International Criminal Tribunal for Rwanda (ICTR). Our assignments included conducting research on the justiciability of economic, social and cultural rights in Africa, taking due account of the work by the African Commission on Human and Peoples' Rights, and court decisions from South Africa, Namibia, Mozambique and Tanzania, as well as United Nations mechanisms.

Through this internship we gained much experience in respect of human rights issues. We enjoyed the friendly attitude and cooperation of the Court's staff and got to know the Court as a big family.

(Josephat Mkizungo and Mustapher Siyani) ■

▲ *The interns with the Registrar of the AfCHPR, Mr A. D. Diakit  (left), and GTZ Project Director Dr M. L ffelmann (right) who helped to establish the internship programme*

◀ *The interns Ms M. Makenge, Mr G. Bakari and Mr F. Kamuzora discussing their final presentations (above) before certificates are handed over to them by the court's President, Hon. Justice J. Mutsinzi (below).*

Generally, the internship was a good experience for us. It enabled us to learn new things regarding human rights in Africa, and made us more familiar with the African Court as well as other organs within the African Union. Moreover, it gave us a valuable opportunity to work in an international organisation and interact with people from different countries and cultural backgrounds. We would like to express our sincere gratitude to the President and the Registrar of the AfCHPR and the staff members of the Court, as well as to the TGCL, for giving us this wonderful opportunity.

(Lilian Mongella and Jean Bosco Ngendahimana) ■

## *INTERNSHIPS AT THE GTZ ADVISORY SERVICES FOR THE EAST AFRICAN COMMUNITY SECRETARIAT*

### *FIRST EAC INTERNSHIP: TAX HARMONISATION IN THE EAC*

From 5 to 30 July 2010 I was attached to the GTZ (Gesellschaft für Technische Zusammenarbeit/German Technical Cooperation) at the EAC Secretariat under the Support to EAC Integration Process Programme. On the first day of my internship, I reported at the GTZ office in the Arusha International Conference Centre (AICC) building, where I was warmly welcomed by Ms Miriam Heidtmann, the GTZ Deputy Head of Programme and Organisational Development Adviser at the EAC Secretariat, and Mr Evariste Munyampundu, the Tax Harmonisation Officer for the GTZ-EAC Tax Harmonisation Project. The latter was my supervisor for the internship. They gave me a briefing on the conditions of my internship, the ways in which the GTZ supports the EAC Secretariat in general, and the tax harmonisation project in particular. For the next two weeks, I worked at the GTZ office located in Njiro Area, outside Arusha town.

During the first days of the internship, I gathered relevant information about what has already been done by the EAC Secretariat, what is still ongoing, and what is planned to be done in the field of tax harmonisation and in respect of the EAC's integration process and institutional framework. This information was collected from key documents available at the GTZ office and the library of the EAC Secretariat. I was also invited to take part in the weekly GTZ team meeting on Tuesdays. From 18 to 24 July 2010, I participated in the conference of the EAC Experts Working Group on Excise Tax Harmonisation, held in Nairobi, Kenya. The purpose of the meeting was to draft an EAC Excise Bill. During the meeting, I mainly

assisted the GTZ Tax Harmonisation Officer in the facilitation of the conference, took part in a study tour to two companies (the East African Brewery Ltd. and the British-American Tobacco Company), which are among the most important Kenyan excise taxpayers, and made contact with tax experts from various revenue authorities, tax policy makers from the ministries of finance of the EAC partner states, and some representatives of the East African Business Council. At the end of my internship, I was asked to present my views on the harmonisation of Value Added Tax (VAT) in the EAC, after taking into consideration the convergences and divergences in the VAT regimes of the EAC partner states, the recommendations of the study on "Tax systems and tax harmonisation in the EAC" and the international best practices in this field.

To conclude, I would like to thank the GTZ, especially the Head of the GTZ programme, Mr Wolfgang Leidig, and the TGCL for giving me their support. It allowed me, among other things, to gather relevant information for my research. Briefly, the internship gave me great insights and practical experience for a better understanding of my research topic, contact with key persons involved in the EAC tax harmonisation project, and, to a certain extent, some skill in project management. (Anatole Nahayo) ■

### *SECOND EAC INTERNSHIP: MEETING OF THE EAC COUNCIL OF MINISTERS*

The internship programme took place from 6 to 29 October 2010 in Arusha under the EAC/GTZ support programme. After my arrival I was assigned to work under the civil society coop-

eration officer. Later I was placed with the East African Law Society (EALS) and attended the meeting of the EAC Council of Ministers from 18 to 21 October 2010 in Arusha. Different officials of the EALS gave me some in-house tasks like writing reports on various subjects, for instance on access to justice, and specifically legal aid provision in Kenya and Uganda.

I thank Ms Clarisse Bukeyenzeza for her supervision and guidance throughout my internship, and all the officials of the EAC/GTZ support programme, as well as the EALS staff. A major

experience during my internship was working with people from different cultures. I was impressed by the staff meetings and the manner in which they were conducted, creating a conducive atmosphere for officials to enlighten and inform each other about the work in the various departments. I learned how to write concept notes, reports, minutes and proposals. These are things that may be learnt in classes in theory, but in order to practise them one has to be placed in a working environment.

(Alexander Martin Saba) ■

## AN INTERNSHIP AT THE TGCL

*The TGCL itself has also become a place where internships can be done. A German law student from the University of Bayreuth was the first to make use of this opportunity.*

### MY INTERNSHIP AT THE TGCL



In the second year of my studies in law at the University of Bayreuth, Germany, I had the opportunity to serve a three-week internship at the TGCL in Dar es Salaam. As a student assistant of Prof. Wanitzek in Bayreuth, I had already

been involved in several organisational activities of the centre.

During the internship period my tasks included preparing an intranet for the centre's homepage, holding German language tutorials for the TGCL students and assisting the management of the

centre. In addition I participated in a workshop organised by the TGCL students and attended a court session of the Court of Appeal of Tanzania. Last but not least, I got to know Dar es Salaam city and its people.

In conversations with the TGCL students about their dissertation and thesis topics and connected problems relating to politics, society and culture, I was able to learn much about legal systems and human rights issues in the East African context from a comparative point of view. The experiences and impressions I gained during my internship were certainly useful in view of my specialisation in international law. I very much enjoyed the frankness and amiability of the TGCL students and associates.

(Thomas Himmer) ■

*TGCL intern Mr Th. Himmer, law student from the University of Bayreuth, Germany*

## INSIDE THE TGCL

*The TGCL in Dar es Salaam is assisted by two full-time administrative assistants. These are Ms Violeth Machinda (left) and Mr Mark Mboyi (centre). Permanent student assistant is Mr Fredy Kihwelo (right).*



*TGCL Coordinator in Dar es Salaam, Dr Kennedy Gastorn (left), TGCL Manager in Bayreuth, PD Harald Sippel (centre) and Project Leader Prof. Ulrike Wanitzek (right)*



*The Dean of the University of Dar es Salaam School of Law (Formerly Faculty of Law), Prof. Palamagamba J. Kabudi (left), is a member of the Academic Committee of the TGCL which oversees the activities of the centre. As a Dean, he also represents the University of Dar es Salaam as a partner in the project.*

*The Student Adviser, Hon. Justice Dr Steven Bwana (Court of Appeal of Tanzania) (centre), is in close and permanent personal contact with all the students and advises them in various matters. The Programme Adviser, Prof. Gordon R. Woodman (University of Birmingham) (right), is being consulted by the Management and by the Academic Committee on matters relating to the TGCL programme.*



## TGCL ACADEMIC COMMITTEE

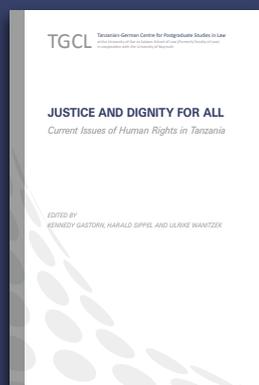
The Academic Committee of the TGCL, which takes the final decisions regarding the organisation of the centre and its study programmes, currently consists of the following six members (in alphabetical order):

- Mr Goodluck Peter Chuwa, PhD Student Representative
- Dr Kennedy Gastorn, TGCL Coordinator and Associate Dean of the University of Dar es Salaam School of Law (Formerly Faculty of Law)
- Prof. Palamagamba J. Kabudi, Dean of the University of Dar es Salaam School of Law (Formerly Faculty of Law)
- Ms Rhoda Cherotich Rutto, LLM Student Representative and at the same time Gender Representative
- PD Harald Sippel, TGCL Manager (University of Bayreuth)
- Prof. Ulrike Wanitzek, TGCL Project Leader (University of Bayreuth)

In the academic year 2009/10, Mr Robert Omondi Owino was the LLM Student Representative and Ms Grace Kazoba Kamugisha was the PhD Student Representative and Gender Representative.

### PUBLICATION

The TGCL has embarked on publishing a series. The first volume which just appeared is entitled



JUSTICE AND DIGNITY FOR ALL – CURRENT ISSUES OF HUMAN RIGHTS IN TANZANIA (edited by K. Gastorn, H. Sippel and U. Wanitzek), Dar es Salaam University Press 2010, pp. x, 162.

## STUDENTS RESEARCH WORKSHOPS 2010

*Research workshops during which the TGCL students present their research to their fellow students and some senior academics and discuss it with them take place regularly.*



*PhD student Mr Jean Bosco Ngendahimana discusses with his fellow students.*



UNIVERSITY OF  
DAR ES SALAAM

The Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) or, in German, the “Tansanisch-deutsches Fachzentrum für Rechtswissenschaft”, offers aspiring lawyers and law students a structured LLM and PhD study programme. 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 (Formerly Faculty 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).

The academic committee heading the TGCL consists of two academics from the University of Dar es Salaam and two from the University of Bayreuth, together with representatives of the LLM and the PhD students.

[www.tgcl.ac.tz](http://www.tgcl.ac.tz)



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