

TGCL

Tanzanian-German Centre
for Postgraduate Studies in Law

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

TGCL bulletin 1 | 2009



BULLETIN 1 | 2009

**TANZANIAN-GERMAN CENTRE FOR
POSTGRADUATE STUDIES IN LAW**

AT THE FACULTY OF LAW, UNIVERSITY OF DAR ES SALAAM

IN COOPERATION WITH THE UNIVERSITY OF BAYREUTH



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EDITORIAL

DEAR READER,

The first issue of our TGCL bulletin introduces you to the recently founded Tanzanian-German Centre for Postgraduate Studies in Law. We also report on the magnificent inauguration ceremony of the centre.

The cooperation between our two countries, Tanzania and Germany, and between our two universities, the University of Dar es Salaam and the University of Bayreuth, was celebrated in the presence of a large audience in Nkrumah Hall on the campus of the University of Dar es Salaam.

For those responsible for the centre, this represented the starting signal for the real work, first of all to build up a new LLM and PhD programme. This was a most memorable day for ten young lawyers being presented with the centre's first letters of scholarship.

Our heart-felt thanks go out to our sponsors, the German Academic Exchange Service (DAAD) and **Aktion Afrika** of the German Foreign Office, for their support, and to all those who actively contributed to the inauguration's success.

We are also grateful to those who came to celebrate this significant moment with us. The report and pictures contained in the following pages are meant to share the memories of the event with our readership, whether they were able to participate on the day or not.

Since the inauguration of the centre, there has been a change of leadership at the Faculty of Law. Dean Prof. Sifuni E. Mchome completed his highly productive term of office in March 2009 and Prof. Palamagamba J. Kabudi has now taken on the role.

Dar es Salaam and Bayreuth, May 2009

Ulrike Wanitzek

INAUGURATION CEREMONY

On September 4th in 2008 the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) was inaugurated in Nkrumah Hall at the University of Dar es Salaam. Numerous dignitaries graced the ceremony by their attendance, notably from the judiciary, the advocacy, various ministries and government departments, the diplomatic corps, the DAAD, and Tanzanian and German universities. The audience was welcomed by the master of ceremonies, Prof. Palamagamba J. Kabudi of the Faculty of Law in Dar es Salaam.

"The Tanzanian-German Centre for Postgraduate Studies in Law is the only project of its kind in East Africa", **Prof. Sifuni E. Mchome** proudly pointed out. Mchome, Dean of the Faculty of Law at the University of Dar es Salaam, was the first to address the gathering after the national anthems of the United Republic of Tanzania and of the Federal Republic of Germany were magnificently rendered by the Tanzania People's Defence Force's Brass Band. He continued to explain that the centre is intended to train future leaders in many areas of governance, such as the judiciary, the Department of Public Prosecution, the Law Reform Commission, and the private sector.

Numerous potential candidates from various areas of both the public and private sectors had already expressed interest in joining postgraduate study programmes under the sponsorship of the TGCL, he informed the audience. The Dean expressed his confidence that the joint management of the new centre would also strengthen the relationship between the United Republic of Tanzania and the Federal Republic of Germany.

Prof. Ulrike Wanitzek, the project leader of the TGCL, prefaced her address by expressing her delight at the establishment of the centre and by emphasizing the relationship of the University of Dar es Salaam and the University of Bayreuth: "The Tanzanian-German Centre for Postgraduate Studies in Law will build on the long-standing close relationship between our two universities. I visited the Faculty of Law for the first time 27



years ago when I came to do my doctoral research in Mwanza and the Lake Victoria region in 1981. That was the beginning of a long and fruitful academic association with the University of Dar es Salaam."

SHARING PROFESSIONAL WISDOM

She continued by introducing the audience to the scope of the centre's academic programme: "The TGCL seeks to train and enable aspiring lawyers to assume leadership positions in various fields. To achieve this object it will be necessary for our graduates to have a solid academic foundation. In this regard the centre's programmes will rely upon the great competence and experience of existing academic staff of the Faculty of Law, to be complemented in specific areas by a select number of external

*Project leader
Prof. Ulrike Wanitzek,
University of Bayreuth,
and the Dean of the
Faculty of Law,
University of Dar es
Salaam, Prof. Sifuni E.
Mchome, present the
contracts of academic
cooperation between
both universities.*

scholars. Our students will also require a practical perspective which we believe to be central to the training of future leaders. We will therefore, from time to time, invite lawyers in leading posi-

ing of the structures and institutions of the East African Community. However, if the EAC is ultimately to mature into a political union, the legal structures existing in the partner states will



Speakers and guests from both countries after the ceremony.

tions in various fields of the law to hold lectures and discussions with our students and share their professional experience and wisdom". The centre will also offer courses on interdisciplinary approaches, information technology, advanced English writing and speaking skills for lawyers as well as an introductory course to the German language.

TANZANIA WITHIN THE EAC

She pointed out that Tanzania is increasingly becoming part of a larger community, most importantly, the East African Community (EAC). Consequently, it is intended that the students will gain a solid knowledge and understand-

have to be harmonized to some extent. Such harmonization will require thorough knowledge of the constituent legal systems of the partner states. The centre will therefore invite lawyers and other professionals from Kenya, Uganda, Burundi and Rwanda to contribute to our programme through lectures, discussions and other forms of instruction.

Prof. Wanitzek further pointed out that the centre aims to integrate into the programme a component of German and European Union law to provide a basis for the comparative analysis of the legal systems of Tanzania and Germany as members of the East African Community and European Union structures, respectively.



SCHOLARSHIPS AND A SUMMER ACADEMY

Prof. Wanitzek had some news for the assembled audience: "Within its first five year phase, the centre will provide 40 scholarships for LLM students and ten scholarships for PhD students. The centre's programme will not only be open for students who have been offered scholarships by the TGCL but also to all other students admitted to the Faculty of Law LLM programme. Moreover the best LLM and PhD students will be awarded a prize, namely: to participate in a summer academy at the University of Bayreuth in Germany."

ACADEMIC COLLABORATION

On behalf of the University of Bayreuth, **Prof. Torsten M. Kühlmann** congratulated all involved on the opening of the centre. He reported that for many years African studies had been a focus of teaching and research at Bayreuth University, where nearly 100 scholars are currently involved in African studies. In the University's

quest to enhance knowledge on and in Africa, the interdisciplinary "Bayreuth International Graduate School of African Studies" (BIGSAS) had been established in 2007.

He informed the audience that the University of Bayreuth, since its foundation in 1975, in its mission to enhance knowledge, had managed to establish and maintain



Prof. Torsten M. Kühlmann informed the audience about the achievements of research and education on Africa at the University of Bayreuth.

joint ventures with over 50 universities worldwide. The TGCL could be seen as a good example of the fruits of a flourishing academic relationship.

NEED FOR SOPHISTICATED SKILLS

The German Academic Exchange Service (DAAD) was represented by **Ms Barbara Mück MA**, Head of the "Special Projects Africa" Section, who began her address by emphasizing that globalization, climate change, food crisis, international terrorism and other challenges require a highly-trained leadership — leaders who have acquired deep knowledge, wisdom and sophisticated skills to face the problems of today's world; leaders who do not seek their own interest first and foremost, but rather that of the whole community. She pointed out that the most relevant overall objectives of the programme to promote centres of excellence in Africa included improvement in the quality of higher education and the extension of research capacities.

Five "Centres of Excellence for Teaching and Research to Train Future Leaders in Sub-Saharan Africa" will be established within this programme of the DAAD. The TGCL was the first to be launched.

SELECTED FROM 70 APPLICANTS

Ms Mück informed the audience that when the tender concerning centres of excellence was released, an astounding 70 applications were received based on already existing university cooperation projects between Germany and various African countries. She further explained that apart from the TGCL, there were only four other centres established in African countries, specifically the Centre for Logistics in Namibia, the Centre for Development Research and Criminal Justice in the Republic of South Africa, the Centre for Development Studies and Health



Ms Barbara Mück MA from the DAAD was amazed how swiftly the TGCL got off the ground.

Research in Ghana, and the Centre for Microfinance in the Democratic Republic of Congo. Ms Mück emphasized that the TGCL was the first of all five centres to be inaugurated. She commended the TGCL for its swift establishment with the following words: "We were absolutely amazed how quickly the University of Dar es Salaam and the University of Bayreuth were able to work out this programme together. The excellent preparation of both partners in the programme shows that our commission chose the right universities. It is DAAD's philosophy to promote highest quality."



Mr Clemens Hach from the German Embassy in Tanzania presented a summary of the relations between both countries.

HISTORY BETWEEN BOTH COUNTRIES

The representative of the Embassy of the Federal Republic of Germany in Tanzania, Chargé d'Affairs **Mr Clemens Hach**, pointed out the long and close relationship between Tanzania and Germany. He mentioned that the centre was one among many examples of cooperation between Germany and Tanzania in the field of higher education.

LONG-STANDING COOPERATION

The Vice-Chancellor of the University of Dar es Salaam, **Prof. Rwekaza Mkandala**, stressed that projects like the Tanzanian-German Centre for Postgraduate Studies in Law would enhance the University's capacity as an academic institution and improve Tanzanian society as a whole. Furthermore he remarked that the cooperation between the University of Dar es Salaam and the University of Bayreuth had been long-standing and fruitful. Numerous members of the University of Dar es Salaam had studied in Bayreuth under the auspices of the cooperation between the two universities.

HONOURED BY THE EAST AFRICAN COURT OF JUSTICE

The guest of honour, **Honourable Justice Kasanga Mulwa**, representing the President of the East African Court of Justice, Honourable Justice Joseph Nyamihana Mulenga, remarked that there had always been a tendency among students from East Africa to come and study at the University of Dar es Salaam, a tendency which was positive and important for the advancement of the East African Community. Therefore, he praised the Faculty of Law of the University of Dar es Salaam for taking the lead and acknowledged that the Faculty of Law had always been a pioneer of legal integration in the region, having produced key figures in the region's legal sectors.

GUEST OF HONOUR OPENS THE CENTRE

According to the guest of honour it was highly commendable that the programme focussed on constitutional law, human rights law and comparative law because East Africa requires leaders who respect constitutionalism and human rights in carrying out their day to day business. He went on to congratulate both the University of Bayreuth and the University of Dar es Salaam for having been selected to run the centre and he assured the audience that the East African Court of Justice would provide its assistance to the centre whenever required. He further expressed his desire that the centre and the Faculty of Law devise a hybrid module taking the best of common law and the best of civil law as applied to dispute resolution in order to accommodate members from civil law jurisdictions like Rwanda and Burundi. Finally, the guest of honour solemnly declared the centre officially open.

UNVEILING THE PLAQUE

After the opening of the centre the Dean of the Faculty of Law of the University of Dar es Salaam, Prof. Mchome, and the project leader, Prof. Wanitzek of the University of Bayreuth, exchanged signed copies of the contract of academic cooperation between the two universities. The contract describes the modes of collaboration and represents a memorandum of understanding between both universities. Subsequently, Honourable Justice Kasanga Mulwa, assisted by members of the University of Dar es Salaam and German officials, unveiled the plaque of the Tanzanian-German Centre for Postgraduate Studies in Law to mark the official launch of the centre.

CHALLENGE AND PRIVILEGE

As part of the inauguration ceremony a vote of thanks was read by the Associate Dean (Curricula and Student Affairs) of the Faculty of Law in Dar es Salaam, **Dr Khoti Kamanga**. According to him a morally upright leadership imbued with a strong sense of duty, constitutionalism and justice is of infinite significance. The new

centre therefore represented a challenge to the Faculty of Law to make a contribution to an undertaking of profound global, regional and national significance. Dr Kamanga concluded his vote of thanks by noting that "this is an opportunity that we will live to cherish, and we thank you for the privilege."



Dr Khoti Kamanga, Associate Dean of the Faculty of Law, considers the centre a great opportunity.

PUBLIC LECTURE: LEADERS AND LAW

Proceeding to the academic part of the inauguration ceremony, **Honourable Justice Madam Eusebia Munuo** gave a public lecture on "The Relevance of Law for Future Leaders in Africa".



Honourable Justice Munuo was appointed to the Court of Appeal of the United Republic of Tanzania in 2002 and became the first Lady Justice in the history of the Court of Appeal. Her Ladyship premised her lecture on the lessons of pre-colonial African history. She also reminded the audience of the experiences of colonialism and stated that in order to address the scars left by the African past, lawyers – among other professionals – were relevant in the shaping of a more human and acceptable future for Africa in terms of leadership, development, technology, and international relations.

Honourable Justice Kasanga Mulwa (right) displays the plaque which marks TGCL's official launch. He is assisted by the Vice-Chancellor of the University of Dar es Salaam, Prof. Rwekaza Mkandala.



*Honourable Justice
Madam Eusebia
Munuo called on
future leaders to abide
by the doctrines of
separation of powers
and independence of
the judiciary. Prof.
Gamaliel Mgongo
Fimbo of the Faculty of
Law, University of Dar
es Salaam, strives to
foster excellence.*

CHARACTERISTICS OF LEADERS

She went on to state that any future leader, who desired to lead his or her nation rationally and successfully and to contribute to the development of mankind, should respect human rights in totality, be they international, regional or domestic, and uphold democracy, good governance, justice and peace. International human rights instruments such as the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981 (the Banjul Charter) should be observed to the letter and in spirit.

To add emphasis to the importance of respect for human rights by future African leaders, her Ladyship cited the celebrated case of Christopher Mtikila versus Attorney General [1995] TLR 31 in which Lugakingira, J. (as he then was) stated that human rights are an entitlement for each person. They are not gifts from the state but are inherent in a person by virtue of birth and precede the state and the law. They are not a creation of the constitution, rather their inclusion in the constitution is merely evidence of their recognition and enforceability in the courts of law.

SPEARHEADING AGAINST CORRUPTION

The need for free and fair elections across the continent was further discussed by her Ladyship. She noted that among the limitations to the holding of free and fair elections, corruption is one of the most serious. Future leaders in Africa should spearhead the war against corruption and, in the public interest, create the pre-conditions for the conducting of free and fair elections. In her conclusion she invited the future leaders of Africa to uphold the independence of the judiciary to enable the courts to properly administer justice without fear, favour or ill will.

LEADERS MUST USE THE LAW FOR CHANGE

The public lecture presented by Honourable Justice Munuo was commented upon by **Prof. Gamaliel Mgongo Fimbo** of the Faculty of Law, University of Dar es Salaam. He remarked that the topic of the public lecture related closely with the objectives of the centre as its charter was to educate future leaders in East Africa. He further noted that Honourable Justice Munuo had maintained that African leaders must uphold democracy, human rights, and good governance. To this he added they also had to use the law to bring positive change in today's context, and that they had to play a vital part in the fields of economics and politics. Therefore, legal education should be provided in a way that makes its recipients aware of their future roles.

GOOD LAWYERS KNOW ABOUT SOCIETY

He remarked that a good lawyer is one who knows something about the society in which the law operates and that the TGCL represented an outstanding contribution to reach this aim. He closed his remarks by pointing out that the Law

Faculty's mission was to make sure that TGCL would remain a centre of excellence and that the sustainability of the new programme depended not only on the support of the Government of the United Republic of Tanzania and the East African Community but first and foremost on the commitment of the Faculty of Law and the University of Dar es Salaam to foster the centre.

SCHOLARSHIP LETTERS

Following on from the discussion and commentary on the public lecture, proceedings turned to the granting of scholarship letters to the successful applicants. Ten LLM students received their letters of scholarship. They thanked the



Ms Hawa Juma spoke for the scholarship holders and promised to study hard.



Prof. Kabudi ably conducted the ceremony.

Faculty of Law and all German institutions and officials for the establishment of the centre of which they were fortunate enough to have become the first beneficiaries. The vote of thanks was read by **Ms Hawa Juma LLB** who said that they all felt privileged and honoured for being granted scholarships of the centre and that they, on their part, promised to study hard to realize the objectives of the centre. The master of ceremonies, **Prof. Palamagamba J. Kabudi**, closed the inauguration and thanked all involved.



AUDIENCE AND MEDIA COVERAGE

The inauguration ceremony was attended by approximately 200 persons from Tanzanian and German universities, the judiciary, ministries, government departments, the diplomatic corps, NGOs and the private sector. Several Tanzanian newspapers published articles on the ceremony and on the centre's programme. The whole ceremony was broadcast live on national radio and highlights of the event could be seen in news coverage on major TV stations in Tanzania. ■

An audience of dignitaries and interested parties assembled in Nkrumah Hall at the University of Dar es Salaam.



Goodluck Kiwory (right) is one of the LLM students to receive his scholarship letter from project leader Prof. Wanitzek, University of Bayreuth, from the Dean of the Faculty of Law in Dar es Salaam, Prof. Mchome, from the Director of the DAAD Regional Office at Nairobi, Ms Gabriele von Fircks, and from Ms Barbara Mück (behind Kiwory), head of the DAAD "Special Projects Africa" Section (from left to right).

INSIDE THE TGCL



STUDENTS

The first ten LLM scholarship holders of TGCL pictured above are (from left to right): Ms Judith Kakongwe, Mr Thomas Sipemba, Ms Bahati Ndeserua, Ms Hawa Juma, Ms Juliana Kimwanga, Mr Bakari George, Mr Francis Kamuzora, Mr Hamza Ismail, Mr Goodluck Kiwory, Ms Angela Lushagara. They are joined by a number of further LLM students holding scholarships from other institutions.

ORGANIZATION

The centre is headed by an academic committee currently consisting of five members: Four academics represent the Universities of Dar es Salaam and Bayreuth in equal measure, i.e. Dean Prof. Kabudi, coordinator Dr Kennedy Gastorn, project leader Prof. Wanitzek, and manager PD Harald Sippel. The LLM students are represented by Mr Francis Kamuzora LLB, to be joined later by a gender representative. The academic committee regularly verifies the progress of every student and takes the final decisions regarding the organization of the TGCL and the training programmes. ■



Dr Kennedy Gastorn is the TGCL coordinator in Dar es Salaam. He received his doctoral degree in law from the University of Bayreuth.



Privatdozent Harald Sippel from Bayreuth University is the manager of the TGCL. His habilitation thesis centred on the legal history of Tanzania.



Mr Francis Kamuzora is the LLM students' representative in the academic committee.

HUMAN RIGHTS CONFERENCE

In commemoration of the 60th anniversary of the Universal Declaration of Human Rights, the Commission for Human Rights and Good Governance (CHRAGG) and the Tanzanian-German Centre for Postgraduate Studies in Law (TGCL) co-organized a conference in Nkrumah Hall on the campus of the University of Dar es Salaam on 25th November 2008. The Dean of the Faculty of Law, Prof. Sifuni E. Mchome, PD Harald Sippel of the University of Bayreuth, and the Honourable Justice Amili Manento of CHRAGG addressed the audience during the opening of the conference.

CURRENT STATE IN TANZANIA

The academic papers presented during the conference by members of the Faculty of Law dealt with important issues of human rights in Tanzania. Prof. Chris Maina Peter provided an overview of the current state of human rights in Tanzania while Prof. Sifuni E. Mchome drew the attention of the audience to recent cases of mob, inter-tribal and witchcraft killings in Tanzania and the resulting challenges for society, the judiciary and the government. Corruption in the delivery of justice in Tanzania was the topic of a written contribution by Dr Sengondo Mvungi.

Dr Axel Dörken, the Director of the German Agency for Technical Development (GTZ) in Tanzania, added a practical view and discussed the human rights approach in German development cooperation with Tanzania.

ARE HUMAN RIGHTS NEGOTIABLE?

The central question during the discussion of the papers was to what extent the Universal Declaration of Human Rights was based on the cultural and social values of Europe and North America, and to what degree its content could be accepted in the African cultural context. The speakers unanimously expressed the view that the Declaration of Human Rights is indeed universal and aims to protect the fundamental rights of any human being anywhere in the world. They concluded from this that human rights are not negotiable and that neither traditional nor religious values can impinge on the rights to freedom and equality of the individual person. ■

UNIVERSAL DECLARATION OF HUMAN RIGHTS TURNS 60!

Theme: Justice and Dignity for All

The Tanzanian-German Centre for Postgraduate Studies in Law (sponsored by DAAD and Aktion Afrika) at the Faculty of Law, University of Dar es Salaam, together with the Commission for Human Rights and Good Governance is organizing a Public Lecture in Commemoration of the 60th Anniversary of the Universal Declaration of Human Rights to be held at the Nkrumah Hall, University of Dar es Salaam on Tuesday, 25th November 2008, from 9:00 am.

Topics to be discussed include:

- ◆ The State of Human Rights in Tanzania.
- ◆ Corruption in Delivery of Justice in Tanzania.
- ◆ The Challenges of Mob, Inter-Tribal and Witchcraft Killings in Tanzania.
- ◆ Human Rights Approach in German Development Cooperation.

You are all invited.

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The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in Paris, France, on December 10th in 1948, and signed by almost all nations, is the most translated document in the world. A translation in any language can be found at <http://www.ohchr.org/EN/UDHR/Pages/SearchByLang.aspx>.

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 being conducted at the Faculty of Law, University of Dar es Salaam, 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 Academic Exchange Service (DAAD) and the German Foreign Office.

The academic committee heading the TGCL consists of four academics representing the University of Dar es Salaam and the University of Bayreuth in equal measure, and of representatives of the LLM and the PhD students.

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