

TLS COUNCIL MEETS THE CHIEF JUSTICE

1

TANGANYIKA LAW SOCIETY SIGNS ON TO A PETITION ON THE REINSTATEMENT OF THE SADC TRIBUNAL.

2

EAST AFRICA LAW SOCIETY MEMBERS MEET THE CHIEF JUSTICE AND THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA.

2

RESULTS OF THE CAMPAIGN "CALLING AFRICAN FEMALE LAWYERS"

3

THE TLS AND THE ONGOING CONSTITUTION MAKING PROCESS

4

THE CHIEF JUSTICE ADMITS 66 LAWYERS TO THE BAR

5

MR. FULGENCE MASSAWE RECEIVES FULL SCHOLARSHIP TO STUDY A POST GRADUATE DIPLOMA IN LAW MEDIATION AND ARBITRATION

5

TANZANIAN LEGAL AID PROVIDERS VISIT MALAWI PARALEGAL PROJECT

6

EDITOR'S NOTE TO MEMBERS

7

PICTURES

7

THE NEWSFLASH

A Bi - weekly newsletter of Tanganyika Law Society

TLS COUNCIL MEETS THE CHIEF JUSTICE



TLS President, Francis Stolla, hands over a TLS wheel cover to Hon. Mohamed Othman, Chief Justice of Tanzania.

On 19th April, the TLS Council met with the Honourable Chief Justice, Mohamed Chande Othman to discuss matters affecting the administration of justice, which touch on the Bench and the Bar.

During the meeting, the TLS President, Mr. Francis Stolla, raised several pertinent issues including (among others) the need for the Judiciary to advise the Ministry of Lands, Housing and Human Settlement on the need for new premises for the condemned building, which houses the District Land and Housing Tribunal at Ilala; the need to increase the number as well as inculcate continuous training for Magistrates especially in the rural areas; and the need for Advocates to have access to legal resources produced by or in the custody of the Judiciary including the 1998-2006 Law Reports.

The Chief Justice commended the TLS

Council for raising important issues and solutions during the meeting and urged the Council to look into the growing number of applications against advocates, which are being filed at the Advocates Committee. He also informed the Council of his willingness to support TLS efforts to institute both formal and informal fora between the Bench and the Bar for the discussion of important judicial administration issues.

The Chief Justice also informed the Council of a recent policy decision to raise the minimum level of education of Magistrates to degree level; he further informed that the Bill for the Judiciary Administration Act, which was tabled at the recently ended session of Parliament looks to address many issues, which affect the timely and efficient administration of justice. For example, the Act looks to empower Registrars to perform the functions of Judges, save for the hearing of cases.



Members of the TLS Council pose for a photo with the Chief Justice.

TANGANYIKA LAW SOCIETY SIGNS ON TO A PETITION ON THE REINSTATEMENT OF THE SADC TRIBUNAL.

The TLS joined with other SADC non-governmental organisations (NGOs), which are concerned with the legitimacy and effectiveness of the SADC Tribunal to sign on to the petition on the restoration of the SADC Tribunal, which was in essence suspended by the SADC Summit in August, 2010. The petition was presented at the SSADC meeting held in Swakopmund, Namibia from 11-15 April 2011.

The petition called upon the SADC Council of Ministers to objectively consider the recommendations of the World Trade Institute and adopt decisions meant to strengthen rather than weaken the SADC Tribunal; to retain the SADC Tribunal's human rights protection mandate and the jurisdiction to receive individual petitions on issues of human rights and trade; to affirm the institutional autonomy of the SADC Tribunal and the personal independence of its members; and to recommend the immediate renewal of the contracts of those judges eligible for reappointment or the appointment of such numbers of new judges needed for quorum, so as to allow the Tribunal to continue its work and guarantee the rights of SADC citizens to access to justice and to an effective remedy. It was also emphasized that the judges' security of tenure should be entrenched in the SADC Tribunal Protocol.

Since its operation in November 2005, the SADC Tri-

bunal has handed down over 20 decisions in cases between individuals, states and individuals, SADC employees and the relevant SADC organs. The cases include disputes touching on human rights, trade and employment law. The Tribunal's jurisprudence has been progressive and the rate of compliance generally encouraging. However the Tribunal earned Zimbabwe's enmity by rendering judgment against it in a line of cases dealing with land disputes and the right to property.

SADC NGOs are concerned that if the council of ministers ousts the jurisdiction of the Tribunal to deal with individual human rights petitions, the SADC citizens' right to access to justice and to effective remedies would be violated. Secondly, if individuals are effectively barred from filing cases before the Tribunal, investors who might be targets of arbitrary expropriation and unable to secure relief before domestic courts, will have no viable mechanism to protect their rights at the sub-regional level. Such a decision would also be a clear violation of the institutional independence of the Tribunal.

For the TLS Council, the suspension of the SADC Tribunal by the SADC Summit is a clear sign of bad governance and a lack of observance of Rule of Law.

EAST AFRICA LAW SOCIETY MEMBERS MEET THE CHIEF JUSTICE AND THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA.

The EALS Council, led by senior TLS member and EALS President, Dr. Wilbert Kapinga, paid a courtesy call on His Excellency, Dr. Jakaya M. Kikwete at State House on Tuesday, 5th April 2011. The meeting was preceded by a meeting with the Chief Justice, Hon. Othman Chande on Monday, 4th April, 2011. The TLS was represented by the President.

The two meetings aimed at discussing

achievements and challenges facing the EALS. Some of the burning issues raised by the EALS included the issue of cross-border legal practice. At both meetings, the EALS delegation stressed that although all the States-Parties to the Treaty Establishing the East African Community had made commitments to liberalize legal services under the Common Market Protocol, Tanzania had yet to make any commitments.

The Secretariat of the EALS has



EALS President, Dr. Kapinga shakes hands with H.E., Dr. Jakaya Kikwete at a recent visit to the State House.



EALS Council members during their recent visit to State House.

reported the meeting as a success as they have managed to garner the following commitments from His Excellency:

1. A re-affirmed commitment to preside as Chief Guest at the EALS AGM in Arusha in November 2011.
2. Assurances of his intervention to the Arusha regional authorities to ensure that the EALS is allocated a plot of

land. Assurances of his intervention to the Ministry of Foreign Affairs and the Immigration Department to draft a favorable Immigration framework with the EALS that will enable the latter to attract and retain quality multinational staff.

During the EALS visit in Dar es Salaam, the TLS Secretariat provided logistical support and took the delegation on a tour of the TLS offices, as well as on a visit to the Strengthening Access to Justice in Eastern Africa (SAJEA) program, which is headed by a Regional Director, Jennifer Khor, of the Canadian Bar Association (CBA).

The TLS is represented on the EALS Council by the TLS President, Mr. Francis Stolla; Mme. Commissioner, Joaquine De Mello (EALS Deputy Secretary General); and Mr. Albert Msando (Resident Council member).



EALS Council members pose for a photo with H.E., Dr. Jakaya Kikwete at State House.

RESULTS OF THE CAMPAIGN "CALLING AFRICAN FEMALE LAWYERS" LAUNCHED BY THE INTERNATIONAL CRIMINAL COURT (ICC) AND INTERNATIONAL BAR ASSOCIATION (IBA)

In May, 2010, the ICC and IBA launched a campaign "Calling African Female Lawyers" with the main objective of encouraging female lawyers to become part of the ICC list of counsel and List of Assistants to counsel.

Following the 1st September, 2010 seminar hosted by the TLS in Dar es Salaam and other similar meetings held in various African cities, the ICC Campaign team has reported that at the beginning of the campaign only 12 African women were on the List of Counsel and 5 African women were on the List of Assistants to Counsel. After 17 events organ-

ized in 16 countries in seven months, the List of Counsel now includes a total of 32 African women. The List of Assistants to Counsel presently includes a total of 22 African women.

For both Lists, all applications received from African women have been processed and all complete applications have been decided upon. Since many applications are still incomplete, more women are expected to be admitted once additional information is received.

Applications from qualified female Afri-

candidates will also be prioritized through 2011. Plans have been made to hold new events in 2011 encouraging African women to apply to practice before the ICC representing either defendants or victims.

Interested, qualified Tanzanian female

lawyers should apply to be ICC counsels and Assistants to counsels by visiting the campaign website <http://www.femalecounsel.icc-cpi.info/> for obtaining the Application form and getting more information about the campaign.

THE TLS AND THE ONGOING CONSTITUTION MAKING PROCESS

At the 2011 AGM, members resolved that the TLS should play an active role in the constitution-making process. We have and will continue doing so, according to the TLS Council.

On 7th and 8th April, the TLS President presented the TLS comments to the Bill for the Constitutional Review Act during the public hearings conducted by the Parliamentary Committee on Constitutional, Legal and Public Administration. Emphasis in that presentation was on the need for the Bill to be prepared in Kiswahili, the need to incorporate a consultative approach in the processes and to remove clauses, which run contrary to the Constitution of the United Republic of Tanzania, 1977.

Following participation in the public hearings, the TLS hosted a debate on 8th April on the Constitutional Review Bill for members, feedback from which would be used to draft a press release. 161 members attended the debate, which was hosted at the Russian Cultural Centre. Presenters included Mr. Godwin Ngwilimi (Head of Legal, Vodacom), Hon. Tundu Lissu (Member of Parliament) and Mr. Francis Stolla (TLS President).

On Saturday, 9th April, the TLS President led a press conference at the TLS Secretariat attended by over 20 media personnel to present the TLS position on the Constitutional Review Bill. Flanked by the TLS Vice President, Mr. Mpale Mpoki and the TLS CEO, the President re-stated points previously raised during the public hearings but emphasized the urgent need for removal of the Certificate of Urgency attached to the Bill in Parliament, citing the need for longer periods of consultation and debate. The TLS statement has received wide media coverage, raising the profile of the organization.

At the 15th April Council meeting, the TLS Council appointed the following members onto the Constitutional Affairs Committee:

1. **Dr. Angelo Mapunda;**
2. **Alute Mughwai;**
3. **Dr. Tulia Ackson;**
4. **Fatma Karume;**
5. **Daimu Halfani;**
6. **Godwin Ngwilimi;**
7. **Athanasia Soka; and**
8. **James Jesse.**

The TLS President will sit on the Committee *ex officio*.



The TLS President presenting the TLS position on the Constitutional Review Bill at a Press Conference.

THE CHIEF JUSTICE ADMITS 66 LAWYERS TO THE BAR

The Chief Justice of Tanzania, Honourable Mohamed Chande Othman admitted 66 lawyers to the Bar in a ceremony held on Wednesday, 06th April, 2011 at the High Court of Tanzania.

These sixty six lawyers formed the group, which had been refused admission due to a last-minute objection raised by the Attorney General on the day of the December admissions ceremony. At the time, the noted reason for objection was that the sixty six candidates for admission are civil servants.

Following a series of meetings of the Council of Legal Education, the objection was overruled with the TLS being a strong proponent for the admission of the sixty six.

To be sure, in Kenya and Uganda the lawyer-civil servants are members of the private Bar, pay membership fees and are

obligated to participate in the continuous training of the respective Bars. In those jurisdictions, this has ensured that members in private and public practice are equally competitive and interact regularly, which serves to raise the standards of the legal profession.

The April ceremony was held without fanfare and no speeches were read; however, the ceremony was attended by Justices of Appeal, Judges of the High Court, Registrars of the Court of Appeal and High Court, and the TLS President. Others in attendance included the family and friends of the newly admitted advocates, the Principal of the Law School of Tanzania, Dr. Gerald Ndika, and the TLS CEO, Ms. Emilia Siwingwa.

Notably absent from the ceremony were the Attorney General and the Director for Public Prosecutions (DPP).

MR. FULGENCE MASSAWE RECEIVES FULL SCHOLARSHIP TO STUDY A POST GRADUATE DIPLOMA IN LAW, MEDIATION, AND ARBITRATION FROM MAWALLA ADVOCATES

Mawalla Advocates, the sponsors of the TLS Young Lawyer Award, have granted Mr. Fulgence Massawe (the 2010 Awardee) a full scholarship to pursue a Post-graduate Diploma in Law, Mediation and Arbitration at the Institute of Social Work.

This grant forms a part of the TLS Young Lawyer Award, which Mr. Massawe won in 2010. The award comprises a TZS 5 million cheque, a plaque, award

certificate and up to USD 5,000 that is paid to an approved institution of post-graduate learning.



Mr. Massawe is an advocate working with the Legal and Human Rights Centre.

TANZANIAN LEGAL AID PROVIDERS VISIT MALAWI PARALEGAL PROJECT



Members of the Study Tour team pose with staff at the Paralegal Advisory Services Institute (PASI) office in Lilongwe, Malawi.

A team of Legal Aid Service Providers participated in a study tour of the Paralegal Advisory Services Institute (PASI) in Malawi from 10th to 14th April, 2011. The team comprised of Mrs. Aisha Bade (TLS Hon, Treasurer), Ms. Jane Magigita (Women's Legal Aid Centre), Ms. Asina Omari (University of Dar es Salaam – Legal Aid Committee), Ms. Felistas Mushi (Ministry of Constitutional Affairs and Justice) and Ms. Maria Matui (Programs Support Officer, TLS).

Funded by the Legal Sector Reform Program (LSRP), the team visited PASI to learn the best practices of formalizing and coordinating paralegals. With the TLS at

the forefront, legal aid providers under the LSRP are pushing for the formalization of paralegal services, which will go towards enhancing access to justice especially in the rural areas of Tanzania.

Currently, paralegals are operating in Tanzania unregulated and without any formal training. The idea behind the LSRP funded effort is to introduce paralegals as a professional cadre of legal professionals and to rein them and their services under a national Legal Aid Policy, Legal Aid Act and Paralegals Act.

The study tour enabled the team to meet with PASI staff, policy makers and implementers on how Malawi has successfully incorporated paralegal services in the access to justice agenda, including the use of mobile especially in the area of criminal law.



Members of the Study Tour Team pose with paralegal stakeholders in Malawi.

EDITOR'S NOTE TO MEMBERS

Dear Members,

We hope that you enjoy this edition of the *Newsflash*. Please feel free to e-mail us your comments and /or suggestions to info@tls.or.tz.

Otherwise, should you have any articles that you would wish to contribute for future editions, kindly forward them to Secretariat no later than close of business on the 1st and 3rd Fridays of the month. Please make sure you include your name, contact information and a picture if available.

Articles should provide information about legal updates or developments and should be no longer than 500 words.

THE TLS AND THE ONGOING CONSTITUTION-MAKING PROCESS IN PICTURES



TLS Members at the debate on the Constitutional Review Bill held at the Russian Cultural Centre.



L-R: TLS Vice President, Mpale Mpoki; TLS President, Francis Stolla; and TLS CEO, Emilia Siwingwa at the TLS Press Conference on the Constitutional Review Bill.



Mme. Commissioner De Mello chairs the TLS debate on the Constitutional Review Bill. Beside her is advocate Godwin Ngwilimi.