

# Admission Ceremony



Chief Justice, Prof. Ibrahim Hamisi Juma admitted 549 advocates to the Bar during the admission ceremony which conducted on 19th July 2018 Dar es salaam. The event was attended by TLS President among others to welcome the admitted.



New advocates benefited with the two days Compulsory CLE Seminar on Legal Practice Management convened by TLS and Judiciary. The essence of this seminar was to equip newly advocates with necessary knowledge and practical information on legal practice and management.

Different topics was presented from relevant institutions such as Judiciary, Advocates Committee, Ethics Committee, Attorney General's Office, Senior Advocates and the Tanganyika Law Society.



## TLS STATEMENT ON THE TREATMENT OF PRISONERS

TLS president, Fatma Karume on behalf of the Governing Council issued the educative statement concerning the treatment of prisoners as follows;

In the past few weeks, political statements on the treatment of prisoners in Tanzania have been issued which have caused consternation both nationally and internationally. The Governing Council of the Tanganyika Law Society wish to inform the general public that treatment of prisoners in Tanzania Mainland is subject to the Constitution, the Prisons Act Cap. 58 R.E. 2002 and subsidiary legislation made thereunder and our international obligations including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) adopted by the General Assembly of the United Nations in resolution 2015/20. For the purpose of educating the general public and advising the Government we wish to clarify the law relating to treatment of prisoners.

### Employment of Prisoners:

Pursuant to section 62 of the Prisons Act, a prisoner shall be employed in such a manner as the Commissioner of Prisons may determine. The use of the word "employed" in the Prisons Act necessarily means that the services of prisoners can only be used in return for money. In its ordinary English meaning the verb "to employ" means "to engage or make use of the services of a person in return for money". In addition, article 23(1) of the Constitution, requires all persons without discrimination of any kind to be paid a salary commensurate with the work they undertake.

Rule 103(1) of the Mandela Rules requires prisoners undertaking work to be equitably remunerated for their work. This means that no prisoner in Tanzania can be forced to work for a prison farm or to build houses for prison officers without equitable compensation for their labour.

### Extra-Mural Labour

Under section 73 of the Prisons Act, a person sentenced to a term of imprisonment of less than 12 months can opt to undertake public work outside the prison instead of serving his term. This is the only free labour of prisoners that is permitted under our law and it is at the option of the prisoner.

The Prisons (Prison Management) Regulations provides detailed scales of diet for prisoners and Rule 22 of the Mandela Rules require "every prisoner to be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served".

### General Treatment of Prisoners

Rule 1 of the Mandela Rules requires Tanzania to treat all prisoners with "the respect due to their inherent dignity and value as human beings".

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### Social Relations

Rule 106 of the Mandela Rules require Tanzania to maintain and improve relations between a prisoner and his family "as desirable in the best interests of both".

**We urge all parties to respect our law and our international obligations.**

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Lets see some feedback from the public!



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**Hilal Kanai** Na endapo askari magereza watabainika wakitumikisha wafungwa hizo kazi ngumu kinyume na sheria, nawashauri kuwafungulia mshitaka askari hao ili iwe onyo, kwakuwa watakuwa wameenda kinyume na sheria pamoja na katiba. Na hao ndio size yetu, yule bwana mkuu yeye hashitakiwi wala hahojiwi kwa mujibu wa katiba.  
Like Reply Message 2d

**Olwin Mbangwa Safi** Sikuyajua haya. Mi nilijua zile kazi wanazofanya ni sehemu ya adhabu Kumbi kuna sheria inawalindali Lakini tunapata je taarifa Kwamba jawatendewi sawa na sheria inavyotaka? Asanteni TLS, asante Mhe Rais TLS  
Like Reply Message 2d

**Costa Kimario** Frankly speaking... Mh. Raisi(TLS) nimepata shule leo. Sikua nafahamu kabla ya elimu hii kuwa wafungwa wanapaswa kulipwa kulingana na kazi wanazozifanya  
Like Reply Message 1d

**Mussa Rashidi** Duuuuu wanasheria wamepata Rais bora kabisa. Umesomeka Mheshimiwa Rais.  
Like Reply Message 1d

**Romy Rissah** Sheria inasemaje kuhusu Conjugal rights kwa wafungwa?  
Like Reply Message 1d

**Salehe Mapua** Good President  
Like Reply Message 2d

**PagoStaa Yoabu** Very short and clear.  
Like Reply Message 2d





TLS paid a courtesy visit to honorable Ibrahim Juma, on 24 July 2018. The Chief Justice of the United Republic of Tanzania at the Court of Appeal of Tanzania. The courtesy visit was followed by a presentation on Judiciary Strategic Plan chaired by Chief Register of the Judiciary, Hon. Katarina R.



## CALL FOR SPONSORSHIP - HAGM

Tanganyika Law Society will be holding its Half Annual General Meeting on Saturday 15th September 2018 in Arusha. About 2000 Advocates from all over Tanzania are expected to attend this top profile event.

In that regard Tanganyika Law Society welcomes businesses, institutions and law firms interested to sponsor the event. As the Bar professional Association, the TLS can help business reach all legal professionals of all levels with our range of sponsorship, exhibition and advertising opportunities. The event provides great opportunity for exposure and networking openings with our membership, who are key decision makers in diverse industries, for future organizational or business opportunities.

Please write to our Business Development Manager, Mr. Alphonse Gura through [agura@tls.or.tz](mailto:agura@tls.or.tz) or call through +255779626286 /+255 22 277513 or to Assistant Fundraising Officer, Mr. Rashid Hassan Mbegele through [rmbegle@tls.or.tz](mailto:rmbegle@tls.or.tz) or call through +255779626296.

### Visit our website for more information

**CALL FOR IDENTIFICATION ON AREAS OF LAW FOR REFERENCEBOOKS/PRACTICING MANUAL** Aiming at providing guidelines to our practicing members in various area of laws, we request for your assistance in identifying areas of laws that may be of interest or need coverage. [mrehani@tls.or.tz](mailto:mrehani@tls.or.tz)

TLS reminds its members that 19th SADCLA Conference & AGM will be conducted at Maputo, Mozambique on 16-17 August 2018. A pro bono conference will be held immediately preceding the ACGM on the 15th of August 2018. To see the programmes kindly visit TLS website.

TLS continued with CLE seminars in different chapters, among the CLE conducted were Maritime Law; "The Law Covering the Hiring of Ships: Charter Party Agreement", "The Arrest of Ships in Tanzania" and Highlights on the BRELA online registration system for incorporation of companies, registration of business names and trade and services marks.

TLS Governing Council and Dodoma Chapter leader paid a courtesy visit to the Speaker of the Parliament of United Republic Of Tanzania in Dodoma.



## TRADE FAIR EXHIBITIONS(SABASABA) EVENT PULLOUT



## UPGRADING AND UPDATING THE TLS DIRECTORY

Dear esteemed Members,

TLS is in the process of upgrading and updating the institution Directory (TLS Directory) so that we can have the updated addresses of all Members of the Society, partner organizations and other stakeholders.

Kindly update your addresses and contacts by replying this email [directory@tls.or.tz](mailto:directory@tls.or.tz) considering the format below.

**NAME:**

**FIRM/WORKING PLACE:**

**PHYSICAL ADDRESS:**

**TEL:**

**FAX:**

**MOB:**

**EMAIL ADDRESS:**





**Issued on 31st July 2018**

**STATEMENT REGARDING TO  
ADVOCATE MEINRAND D'SOUZA DETENTION**

Dear Members,

Yesterday afternoon at precisely 15:58 Hrs I received a phone call informing me that Advocate Meinrad D'Souza and his client were being held against their will by the Regional Commissioner of Manayara, Alexander Mnyeti at his headquarters in Babati.

I immediately contacted the Arusha Chapter Convener, Advocate Maeda who informed me that he was aware of the matter and that Advocate Mariam was on her way to Babati. As the afternoon progressed I was in touch with the Advocate Mfinanga, the Secretariat and the Governing Council in order to discuss the best way to assist our fellow member and his clients. By the evening, RC Alexander Mnyeti had ordered the Regional Police Commander of Manayara to lock Advocate D'Souza and his clients in a police cell. I would like to inform the members that there were three interventions used to obtain Advocate D'Souza's release:

1. Advocate Mariam and Advocate Mfinanga spent the entire day today in discussions with the RPC of Manayara;
2. Advocate Maeda and Advocate Njooka of the Arusha Chapter were instrumental in preparing an application for Habeas Corpus against the Inspector General of Police and the RC of Manyara;
3. The Governing Council called a press conference exposing the conduct of the RC of Manyara and the abuse of power.

At 16.48 hrs this afternoon, I received a message from Advocate Mfinanga informing me that the RPC of Manayara has released Advocate D'Souza and his clients on police bail signed for by the Chapter Convener for Babati. Advocate D'Souza and his clients are in good health. I wish to thank everybody for their concern. My personal thanks go to Advocate Mariam, Advocate Mfinanga, Advocate Maeda, Advocate Njooka, Members of the Governing Council and the Secretariat for the hard work and the solidarity shown in coming to the aid of our fellow advocate. It is my sincere hope that we shall continue to look after one another in this manner.



**Ordinary Meeting**

TLS Governing Council conducted a Ordinary Meeting at TLS headquarter office, Dar es salaam on 28 June 2018.



**Extra Ordinary General Meeting**

TLS Chapters conducted Extra Ordinary General Meeting to discuss TLS issues at the region's level. Mwanza, Dar es Salaam, Arusha, Dodoma and Mbeya were among the Chapters that conducted General meetings.



TLS Mtwara Chapter conducted official meeting with Charge d'affaires of US Embassy Tanzania Inmi Patterson and Political Officer, Lauren. Good things are coming out soon!



### STATEMENT OF THE TANGANYIKA LAW SOCIETY ON CASHEW DABATE

The Tanganyika Law Society (TLS) is an independent professional society established by an Act of Parliament required by law not only to protect and assist the public in Tanzania in all matters touching, ancillary or incidental to the law but amongst other matters, the TLS is also required to assist the Government and the Courts in all matters affecting legislation as provided under section 4(c) and 4(d) of the Tanganyika Law Society Act.

In the discharge of our legal duty, the Governing Council of the TLS would like to make the following statement on the legal public debate relating to the export levy payable by Cashewnut exporters.

In 1996 the Cashewnut Board of Tanzania (The Board) and the Registered Trustees of the Cashewnut Industry Development Fund (The Fund) entered into an agreement, in which the Board agreed to pay the Fund 2% out of the 3% export levy it charged cashewnut exporters under rule 21(1) of G.N. No. 369 of 1996. By 1999, the Board had paid the Fund a sum of TZS 1,735,740,135/= collected from the export levy. Following an audit, the Fund sued the Board for failure to pay the Fund a further sum of TZS 1,887,599,526/=.

In Civil Appeal No. 18 of 2001, between the Fund and the Board (which case is available on the TLS Website for the purpose of transparency) the Court of Appeal of Tanzania held that the Fund was not entitled to 2% of the export levy because (a) the Board is not an agent of the Fund and (b) Rule 21(1) of G.N. No. 369 of 1996 did not require the Board to remit any sum of the export levy to the Fund.

In section 4 of the Finance Act 2010, (a copy of which is available on our website) Parliament amended the Cashewnut Industry Act Cap. 203 R.E. 2002 and included an export levy payable by cashew exporters calculated at 15% of the FOB value or an amount equivalent to 160 USD per metric tonne of the exported cashew, whichever was the higher.

Therefore, the Finance Act 2010 requires the TRA to remit directly to the Fund 65% of all export levy collected from exporters of cashew from July 1st 2010 to such time as the law is amended or repealed. Any such sum collected and not remitted by the TRA is, as a matter of law due to the Fund. We would like to further clarify that Civil Appeal No. 18 of 2001 was decided before the passing of the Finance Act 2010 and accordingly has no bearing on the present debate in Parliament.

As we have explained above the ratio decidendi in Civil Appeal No. 18 of 2001 is limited to an analysis of the relationship between the Board and the Fund; and an interpretation of Rule 21(1) of G.N. No. 369 of 1996. We urge that due regard should be paid to the Court of Appeal's finding in the case that "In that regard, we have no difficulty in holding that the cashewnut export levy was not tax because it was not enacted by the government to raise money for public expenditure". Civil Appeal No. 18 of 2001 should be read and applied within its context.

For purposes of clarity, we would like to inform the general public that in Civil Appeal No. 18 of 2001, the Court of Appeal did not nullify section 4 of the Finance Act 2010. To enhance rule of law in our country, we respectfully advise all parties to respect laws passed by Parliament unless amended or repealed by Parliament or nullified by a court of law.







## 3RD EAST AFRICA YOUNG LAWYERS CONFERENCE BEST ESSAY PRIZE COMPETITION

### Call for Submissions

The East Africa Law Society (EALS) is arguably the largest professional body of lawyers in Africa. It is made up of Bar Associations from member states in Uganda, Tanzania, Kenya, Zanzibar, Rwanda and Burundi. The year 2016 marked great strides for young lawyers of the EALS. Under the auspices of the EALS Young Lawyers Committee, the inaugural East Africa Young Lawyers Conference (EAYLC) was held in Tanzania. The inaugural EAYLC was a success that culminated into having the EAYLC in 2017.

In 2017, the EAYLC developed the "Best Essay Prize Competition" in order to award young lawyers who would wish to participate in the EAYLC, but experience financial difficulties in doing so. Again, like its predecessor, EAYLC 2017 was a success that saw several young lawyers get sponsorship under the Best Essay Prize Competition.

Against this backdrop, EALS cordially invites its members to participate in the 2018 East Africa Young Lawyers Conference, Best Essay Prize Competition.

Outstanding applicants from member states will be awarded a prize. The overall winner will also have an opportunity to present their essay at the EAYLC 2018 to be held on 29th November 2018 at Pride Inn Paradise Beach Resort, Mombasa, Kenya.

### Submission Guidelines

- The Essay is to be submitted in the following format:
  - Typed in English;
  - Double Lined spaced;
  - Maximum 1500 words excluding footnotes or the bibliography; and
  - PDF format
- Essays must be original, independent and unpublished works that will not be and are not under consideration; for any commercial contract by any publishing house. The author warrants his or her unrestricted copyright to the essay submitted.
- The EAYLC Essay Committee shall judge the essay primarily on originality, style, logic, research and overall quality of the content.
- The decision of the EAYLC Essay Committee is final and no correspondence will be entered to regarding the outcome of the results.
- The EALS has the right to publish a selection of the essays submitted, including but not limited to the winning essay (either in full or extracts thereof) this includes publication in the conference document and the EALS website.
- Prize winners shall be requested to write a short report on their experiences and the EALS reserves the right to publish such reports.

### How to apply

Entrants must submit:

- A completed application form (see attached). Please save this with your name as the filename.
- An Essay via email to [ylc@ealawsociety.org](mailto:ylc@ealawsociety.org) using the subject line EAYLC ESSAY COMPETITION. The essay file must be submitted as a PDF document and saved using the following format:  
FAMILY NAME, FIRST NAME INITIAL (COUNTRY). e.g. If the applicant is submitting an essay from UGANDA the subject line on email will be EAYLC ESSAY COMPETITION. The essay file saved as pdf and named NABWELA(Uganda)

### Best Essay Prize:

The Best Essay Prize will be awarded to the most outstanding individual. The Prize comprises of:

- Travel and accommodation costs to the EAYLC 2018 for the overall winner;
- Certificates of Participation to the top three essays from individuals of EALS member states; and
- Waiver of EAYLC conference fees in (a) and (b) above.

Moreover, one best entry from each bar will get recognition.

### Eligibility

The competition is open to applicants who meet the following criteria:-

- Must be a 'young lawyer' being a lawyer up to the age of 35 years at the time of the Conference;
- A citizen of any of the EALS member states; and
- Must hold a law degree and be admitted to practice as an advocate in their respective jurisdiction as at the time of the conference.
- Employees of the East Africa Law Society secretariat and their relatives are excluded from the competition.
- Past winners are not eligible to participate in the competition.

Entries submitted without following the above guidelines will not be considered. Any missing information will lead to automatic disqualification.

The deadline for entries is 16.00 (GMT) on **Monday 10th September 2018**. Entries received after this deadline will not be considered.

If you have any questions about the competition, please email us at: [ylc@ealawsociety.org](mailto:ylc@ealawsociety.org). Feedback on the winners shall be announced on or before **30th October 2018**.

### Essay Question

Professor Leon C. Megginson in a speech delivered in 1963 at a social science convention in Louisiana State University stated:

*"Yes, change is the basic law of nature. But the changes wrought by the passage of time affects individuals and institutions in different ways. According to Darwin's Origin of Species, it is not the most intellectual of the species that survives. It is not the strongest that survives. The species that survives is the one that is able best to adapt and adjust to the changing environment in which it finds itself."*

In light of the above, discuss the challenges and opportunities for legal practice in the East African Community(EAC) posed by either ONE of the following change agents:

- Technology and its effect on legal practice; or
- Disruptive Technology and its effect on businesses.

Good Luck!

EAYLC Essay Committee



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### TLS engagement on Twitter!

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7	124	3,818	352	0	1

**Tanganyika Law Society** @TanganyikaLaw · Jul 7

My week on Twitter 📈: 66 Mentions, 800K Mention Reach, 167 Likes, 54 Retweets, 684K Retweet Reach. See yours with [sumall.com/performance](http://sumall.com/performance)



👍 6 📈

**Tanganyika Law Society** @TanganyikaLaw · Jul 6

Our biggest fans this week: @CarolNdosi, @tzDiscovery, @chandruok. The via [sumall.com/thankyou?utm\\_...](http://sumall.com/thankyou?utm_...)



**OBITUARY OF ADVOCATE MOSES SIMBA MKWESELA**  
TLS Secretariat attended the funeral of our beloved member Advocate Moses Simba Mkwesela in Dar es salaam.

MAY THE ALMIGHTY GOD REST HIS SOUL IN ETERNAL PEACE, AMEN.



tls website

[www.tls.org.tz](http://www.tls.org.tz)



## LAAC PROJECT PROGRESS

TLS Secretariat paid a site visit to LAAC project and saw the progress. The Secretariat appreciated the constructions progress and were eager to see it complete!

Members are reminded, for those who are yet to contribute a Once to go LAAC compulsory contribution, kindly pay to so as to finish the construction on time.





The IBA provides a scholarship programme to several selected bar associations and law societies located in developing countries, by which these associations and societies, in turn, are able to offer young lawyers (up to and including the age of 35) within their jurisdiction, the opportunity to participate in the IBA Annual Conference, but who may find it financially difficult to do so.

The following applicants were chosen to participate.

Prisca Chogero,  
Angelista Nashon,  
Benedict Ishabakaki and,  
Stanley Mabiti.

We congratulate successful applicants and we hope they will present TLS well.

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## REPORT FROM THE CHINA – AFRICA LEGAL PROFESSIONALS PROGRAMME

The China - Africa Legal Exchange Programme was organized by the Peoples Republic of China government and the China Law Society. The program started from 12th June to 4th July and was attended by seven members from Tanganyika Law Society and other twenty seven (26) members from different countries and organizations in Africa. Several topics including Chinese legal system, rule of law, Chinese social and economic development and the Belt and road initiative were covered in the program.

The program was very intensive as it included exchanges of experience in legal system of different African countries and their social economic relationship with China. Among other things, the Belt and Road Initiative was one of main and most important topic in the program. Belt and Road Initiative simply means the development strategy by the Chinese Government aimed at attaining regional connectivity and embracing a bright future. It focuses on boosting trade links and infrastructure investment among countries along the ancient Silk Road trade routes from Asia to Europe and Africa.

Belt and Road Initiative mainly focuses on connectivity, including infrastructure investment. More specifically, the five priority areas as defined in the Belt and Road Initiative, or the “five types of connectivity” namely, connectivity in policy, facilities, trade, finance and among peoples are intrinsically linked. A good example of the benefits of the Belt and Road Initiative in East Africa is Kenya Standard Gauge

The Participants to the program had also the opportunity to attend the “forum on the Belt and Road and legal Cooperation” which was conducted in Beijing on the 2nd and 3rd July, 2018. The Program was a good opportunity for the participants to get an overview of the BRI and to take opportunity in learning about dispute resolution mechanisms in this kind of international integration since not all countries in the Belt and Road Initiative are not in bilateral treaty with china. The Belt and Road Initiative is also an opportunity to further harmonize legal systems related to foreign investment treatment and dispute settlements mechanisms.

Further, China will fund a legal cooperation Programme under the Belt and Road initiative (BRI) to better enable the settlement of disputes and foster a business environment governed by the rule of law. A dispute settlement mechanism featuring lawsuits, arbitration and mediation will be established. A security network of treaties will also be built to align with the BRI's development.

This Programme has opened eyes to the participants from East Africa that we need to have a better dispute resolution and open a lot of Arbitration Centers to cater for disputes that may arise under the BRI like what China's plans to establish two international commercial Courts to settle and arbitrate cross boarder commercial disputes. The Programme has also awoken the participants that it is high time for our TLS members and the government to have more understanding of the BRI and think of the ways to strengthen the relationship between China and Africa, particularly Tanzania in terms of trade, investment and infrastructure.

The Chinese government will contribute to the implementation of its legal cooperation research Programme, while simultaneously supporting legal ability and international legal personnel training along the initiative's route.

**The same should also be done in our Country.**





TLS Mbeya Chapter Secretariat and some of TLS members paid a visit to Senior Counsel Kayange who is sick for a long time. Get well soon Counsel!



## ILFA Intra-Africa Secondment Programme

**Application Portal Now Open**

African qualified & African based rising stars are encouraged to apply

[www.ilfa.africa/secondee-application](http://www.ilfa.africa/secondee-application)



DATE	CHAPTER	CLE TOPICS	PRESENTER	CLE FEES (TZS.)	CLE POINTS
17th August, 2018	Mtwara	"From Preliminary Hearing, through Trial to Judgment and Sentencing: Judicial Hints through Case Law".	Hon. Judge Fauzi Twaib	60,000	2
24th August, 2018	Kilimanjaro	Legal Framework on Public procurement: A practical Guide.	Suleiman Mzava	60,000	2
31th August, 2018	Iringa	Tax Dispute Resolution and Practice	Steven Axwesso	60,000	2

## NOTICE TO HAGM 2018

**The President of TLS, on behalf of the Governing Council, invites all TLS members and stakeholders to the Half Annual General Meeting scheduled on 15th September, 2018. The HAGM will be convened in Arusha city and the venue will be communicated later**







**NEWSLETTER**

**THANK YOU!**