

SIXTY YEARS OF EXEMPLARY SERVICE IN TANZANIA BY THE UNIVERSITY OF DAR ES SALAAM LAW ACADEMICS, 1961-2021

Gamaliel Mgongo Fimbo✿

I INTRODUCTION

Organisations that cause or manage change are to be around and successful in the next Century. They are the ones using the future to manage the present [...] They are constantly causing change [...] Such companies are market and customer-focused and are led by skilled people who have a vision of what will take place tomorrow.

Waswa Balunywa¹

The Faculty/School Profile

This article is exclusively dedicated to the commemoration of the 60th Anniversary of the University of Dar es Salaam School of Law (UDSoL), formerly the Faculty of Law. It provides the UDSoL profile focusing on its mandate as a Unit of the University. It investigates the Faculty, that is to say, the teachers of law. Essentially, it interrogates teachers of law referred to as law academics.

* Professor Emeritus of Law, University of Dar es Salaam School of Law, Mwalimu J.K. Nyerere Mlimani Campus: Mobile: +255 716126869; e-mail gmfimbo@gmail.com

¹ Balunywa, W. (2000), Management Skills: How to Adapt to Changing Conditions, in Mbwette, T.S.A and A.G.M. Ishumi (Eds.) (2000), Managing University Crises, DUP (1996) Ltd, Dar es Salaam, p. 65.

Traditionally, the faculty's core function is to teach undergraduate students. The teaching function entails imparting legal knowledge to students who are privileged to enrol for a law degree, the Bachelor of Laws (LL.B). However, teaching of undergraduate students of the UDSoL and other departments of the University of Dar es Salaam is not the focus of this essay. The LL.B. degree or discipline of law enables the UDSoL law academics to teach and to undertake many other tasks with ease, namely, research, legal consultancy, human resource management, public administration, marketing and public relations, service to the University of Dar es Salaam (UDSM), service to the Government of the United Republic and service to the public. The article examines the role of the UDSoL law academics with regard to teaching postgraduate students, teaching extra-mural studies as well as performing some selected tasks enumerated above in the context of the University's constitutive Acts and other instruments. In this way, it is hoped that the reflection will have succeeded not only in depicting the larger than life profile of the University of Dar es Salaam School of Law but also in inspiring UDSoL law academics to feel that UDSoL is an enviable place to be until retirement in honour.

The article begins by identifying the teaching function of academic staff as a core function. This is done by examining the constitutive instruments of the University. It then traces development of capacity building of academic staff through the PhD degree for furtherance of this core function as well as the tasks enumerated above. The article essentially discusses fulfilment these tasks. In the process, it identifies potential areas of research at each stage.

Constitutive Instruments

Whereas the teaching function for academic staff was not explicitly stated in the University of East Africa Act of 1962,² the University College Dar es Salaam Act of 1963³ was quite emphatic with regard to the teaching and research functions. It stated in Section 13(1):

The Academic staff of the College shall be appointed by the Council and shall consist of the Vice-Principal, all full time and part time members of the College who are engaged in teaching or research, the Librarian, Deputy Librarian and Assistant Librarian.

The University of Dar es Salaam Act, 1970⁴ limited itself to the teaching function. Section 22 stated:

The academic staff of the University shall be composed of: the Chief Academic Officer, the Deans of the Faculties, the Directors of the Institutes, the Professors, the Lecturers, the Assistant Lecturers and such other members of the staff of the University who are engaged wholly or partly in teaching in any Faculty.

Although researchers were not listed in the University of Dar es Salaam Act, Research Fellows and Assistant Research Fellows were routinely appointed at the Institute of Kiswahili Research (IKR), the Economic Research Bureau (ERB), the Bureau of Research and Land Use Planning (BRALUP (later elevated to

² East African Common Services Organisation Act No. 16 of 1962.

³ East African Common Services Organisation Act No. 14 of 1963.

⁴ Act No. 12 of 1970.

Institute of Resource Assessment, IRA).⁵ The research function was intended to support the teaching function.

In the above pieces of legislation, the post of Tutorial Assistant was not listed under academic staff. Accordingly, the University of Dar es Salaam felt that it was a training post and never considered the post of Tutorial Assistant to be an established post.

The University of Dar es Salaam Charter 2007⁶ and Rules made two innovations. Firstly, the Charter amplified the objects of the University to include teaching, research, consultancy and service to society. Article 4 states:

4(1) The objects of the University shall be to advance learning and knowledge by teaching, research, consultancy and service to the Society ... and in close association with the Government of the United Republic and the Revolutionary Government of Zanzibar and other public and private stakeholder interests.

4(2) Without prejudice to the generality of sub-Article (1), the objects and functions of the University shall be:

...

(c) to ensure, as a matter of principle, integration of research, teaching and consultancy and public service at the immediate subject area level with a view to building a distinctive characteristic of the products of the University as creative scientific professionals and the services of the University and of its staff as symbols of creative scientific professionalism;

⁵ *University of Dar es Salaam Academic Calendar 1985-188*, p. 1.

⁶ It was made under the Universities Act, No. 7 of 2005.

...

- (k) to promote research into economic, political, social, cultural, scientific, technological, legal and other matters general and with particular reference to the interests of Tanzania and mankind in general ...

Whereas under the University of Dar es Salaam Act the research function was intended to support the teaching function, the University of Dar es Salaam Charter prioritizes consultancy related research and not basic research. In its consultancy policy document, the University authority had the audacity to declare that “consultancy activities form part of the mission of this University ... The University proposes that positive encouragement be provided for staff to undertake consulting activities.”⁷

The second innovation relates to the cadre of Tutorial Assistants. The University of Dar es Salaam Rules 2007,⁸ in Rule 19, carried a definition of academic staff which included Tutorial Assistants and, as usual, concluded with a residual provision: (n) such other members of staff of the University who are engaged wholly or partly in teaching or research in any college, school, faculty, institute, the Library, Centre or directorate, as shall be designated as academic staff by the Council on the advice or recommendation of the Senate.

By way of contribution for the Faculty’s 50th Anniversary,⁹ this author discussed exhaustively institutional development,

⁷ University of Dar es Salaam, University Consultancy Bureau, Consultancy Policy and Procedures, April, 2005, pages 1 and 14.

⁸ The First Schedule to the Charter, Rule 19.

⁹ Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum in Fimbo, G.M. (Ed.) *Fifty Years of Legal Education in Tanzania*, Dar es Salaam: Martisayi Investments Company Limited, Dar es Salaam, 2011, p. 1.

development of the Curriculum, student body and the teaching approach. In addition I offered my thoughts on future development.

All Universities including the University of Dar es Salaam consider the PhD degree as a pinnacle in the development of academic staff. An outline of this development at the University of Dar es Salaam School of Law is made immediately below.

II DEVELOPING UDSOL ACADEMIC STAFF CAPACITY FOR THE TASKS AHEAD: THE PHD DEGREE

Learning is not attained by chance. It must be sought with ardour and attended to with diligence.

Abigail Adam¹⁰

The PhD Degree on Inception of the Faculty of Law

The one act of capacity building was enabling academic staff to obtain the PhD degree. The process of acquisition of the degree, as narrated below, was slow and almost fortuitous. The minimum academic staff qualification for Lecturer in the formative years of the Faculty was the Master of Laws degree (LL.M). The same qualification applied to Special Lecturer (for East African academic staff). The qualification for Tutorial Assistant was LL.B. (Hons) First Class or Second Class Honours - Upper Division, and rarely, Lower Division. Thus the Faculty of Law senior staff¹¹ during the period 1961 to 1964 were not PhD holders, Dean A.B. Weston,¹²

¹⁰ <https://founders.archives.gov/documents/Adams/04-03-02-0240> (accessed on 15th October 2021).

¹¹ Lecturer to Professor.

¹² LL.B. (W. Aust.), B. C. L. (Oxon).

(Professor), William Twining,¹³ (Senior Lecturer), James S. Read,¹⁴ (Senior Lecturer) and J.P.W.B. McAuslan,¹⁵ (Lecturer). Yash P. Ghai,¹⁶ (Lecturer) joined in 1963 and Sol Picciotto, (Lecturer) joined in 1964. Similarly, our records here do not indicate that the following distinguished Fulbright Visiting Professors from the United States of America during the period 1962 to 1965 were PhD holders. These are Robert Stevens (Yale), 1962, Quintin Johnstone (Yale), 1963-64 and Charles W. Quick, 1965-66. In addition, Thomas Frank (New York University) taught in the Faculty during the first term of each academic year in 1963, 1964 and 1965.¹⁷

In 1966/67 academic year all senior staff were not PhD holders, namely, Dean A.B. Weston, (Professor), J.A. Hiller, (Professor), A.L. Diamond, (Professor), I.R. Macneil (Fulbright Visiting Professor), A.W. Bradley, (Reader), Y.P. Ghai, (Senior Lecturer), S. Picciotto, (Lecturer), G.F.A. Sawyerr (Ghana), (Lecturer) (on study leave), R.W. James (Guyana), (Lecturer) and P.A. Thomas, (Lecturer). Except for Y.P. Ghai who was from Kenya none of the others was East African. There were three Special Lecturers, namely, J.M.N. Kakooza (Uganda), F.X. Njenga (Kenya) and D.M.K. Bishota (Tanzania).¹⁸ In 1967, a PhD holder, Dr. Gyula Eorsi (Hungary) was, for the first time, appointed Visiting Professor. In

¹³ M.A. (Oxon), J.D. (Chicago), LL.D. (Hon.), Victoria. He was appointed Quain Professor of Jurisprudence at the University College, London.

¹⁴ LL.B., with Honours, First Class. He became Professor of Comparative Public Law, with special reference to Africa in the University of London.

¹⁵ B.C.L., (Oxon). He became Professor of Law, Birbeck College, University of London.

¹⁶ B. A. (Oxon). LL. M. (Harvard).

¹⁷ Twining, W., (1966), *Legal Education Within East Africa*, The British Institute of International and Comparative Law, 1966 in G.M. (2011), *Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum*, op. cit., p. 7.

¹⁸ *University of East Africa, The University College Dar es Salaam Calendar 1966-1967*, p. 68.

1967-1968 academic year, a non-PhD holder, W.C. Whitford was a Fulbright Visiting Senior Lecturer. In the following year, 1968/69 another non-PhD holder, Ian Brownlie was a Visiting Professor. Just for the record in 1968 Y.P. Ghai¹⁹ was appointed Professor and Dean of the Faculty of Law. He resigned from both positions and left the University in 1970 before the commencement of the University of Dar es Salaam Act, 1970.²⁰

In 1969 there were only two PhD holders among senior staff at the Faculty of Law, Dr. R.W. James (Guyana), Senior Lecturer and Dr. U.O. Umzurike (Nigeria), Lecturer. R.B. Seidman, Fulbright Visiting Professor was not a PhD holder. It should be noted, although in passing, in that year J.L. Kanywanyi was a Special Lecturer together with A. Kiapi (Uganda) and the author was a Tutorial Assistant.²¹ In 1970 there was a serious anomaly in the sense that the new Dean, P.L.U. Cross (Jamaica) had only one academic qualification, that is to say, Barrister at Law (B.L), Lincoln's Inn, London, UK.

In 1971 Dr. K.H. Beyer (German Democratic Republic, GDR) joined as a Senior Lecturer. In the same year Arthur Peter Thom Mutharika (Malawi), (Lecturer), until recently, President of the Republic of Malawi,²² graduated with Ph.D from the USA. Two years later, Dr. P.A. Oluyede (Nigeria) and Dr. O.C. Eze (Nigeria) joined at the level of Lecturer. In 1974 D.O. Anyoti (Uganda), Lecturer joined the Faculty. In the following year he graduated with PhD from the Hungarian Academy of Sciences. This far, registration for the PhD

¹⁹ He became Professor of Law at the University of Warwick, Coventry, UK and subsequently obtained the D.C.L. (Oxon) in 1992. He has since had an illustrious academic career in Sweden, UK and Hong Kong.

²⁰ Act No. 12 of 1970.

²¹ *The University of East Africa Calendar for the Session 1969/70*, p. 417.

²² Dr. A.P.T. Mutharika is credited, in 2021, with a rare distinction of a sitting African President who does not steal an election

was entirely voluntary. It is no surprise that Josaphat L. Kanywanyi, Issa G. Shivji and the author, in that order, registered for PhD between 1969 and 1977 for fun.²³ After he had seen the author's application for PhD registration dated 12th July, 1977, the Chairman of the Postgraduate Studies Committee, D.W. Nabudere²⁴ quipped in the author's hearing, "I have seen something quite ambitious." In September 1977, N.S. Rembe, (Lecturer) graduated with PhD from the University of Wales Institute of Science and Technology.

In the 1978/79 academic year there were two PhD holders²⁵ among thirteen senior staff, the configuration being one Professor (Umesh Kumar²⁶), two Associate Professors²⁷ (J.L. Kanywanyi²⁸ and D.W. Nabudere, three Senior Lecturers (G.M. Fimbo,²⁹ I.G. Shivji and D. Williams) and seven Lecturers. A second Professor, Dr. L. Kabir from Dhaka University, Bangladesh arrived in 1980. Just by way of completing this narrative, a third Associate Professor was

²³ We graduated with PhD at different dates as follows, Shivji 1982, Kanywanyi 1987 and Fimbo 1990.

²⁴ LL.B. (London), B.L. (Middle Temple), he had joined as Senior Lecturer in 1973. He was promoted to Associate Professor in 1978.

²⁵ Dr. N.S. Rembe, Lecturer and Dr. R. Ramamoorthy. See University of Dar es Salaam Faculty of Law 1978-1979 Hand Book, p. iii and Faculty of Law Research Activities and Publications (1970-1980), p. 17.

²⁶ LL.B., LL.M. (Lucknow, India), LL.M. (California). In July 1978, he delivered his Professorial Inaugural Lecture, "Developing Countries and the Law of the Sea: the Exclusive Economic Zone and Related Issues," Professorial Inaugural Lecture Series No. 13.

²⁷ The third was appointed in 1979, namely, Prof. B.P. Srivastava, a non-holder of the PhD degree. In 1984 he delivered his Professorial Inaugural Lecture, "The Constitution of the United Republic of Tanzania 1977, Some Salient Features – Some Riddles," Professorial Inaugural Lecture Series No. 34

²⁸ LL.B. (EA), LL.M. (California), Kanywanyi was appointed Dean of the Faculty, initially, 1974-1979.

²⁹ The author was appointed Dean of the Faculty of Law, 1979-1982.

appointed in 1979, Prof. B.P. Srivastava, a non-holder of the PhD degree.³⁰

The PhD Becomes As a Prerequisite for the Post of Lecturer

It's not the situation, but whether we react (negative) or respond (positive) to the situation that's important.

Zig Ziglar³¹

Eventually during the tenure of Nicholas A. Kuhanga as Vice-Chancellor, 1980-1988, the PhD degree became a prerequisite for the post of Lecturer. It was directed that everyone from the post of Lecturer and above without PhD was obliged to register and obtain the PhD degree or risk the eventuality of being required to seek alternative employment. The staff qualifications became: Tutorial Assistant: LL.B. (Hons) First Class or LL.B. (Hons) Second Class, Upper Division and GPA 3.8 or above; Lecturer: LL.M and PhD. There were two notable consequences. Firstly, Lecturers and Assistant Lecturers who had embarked upon the PhD programme were not promoted despite being in possession of requisite publications.³² Secondly, some TAs and Assistant Lecturers refused to register for PhD and others resigned in defiance of this requirement.³³ PhD holders immediately after that date were: Dr.

³⁰ In 1984 he delivered his Professorial Inaugural Lecture, "The Constitution of the United Republic of Tanzania 1977, Some Salient Features – Some Riddles," Professorial Inaugural Lecture Series No. 34.

³¹ https://www.brainyquote.com/quotes/zig_ziglar_617769 (accessed 15th October 2021).

³² Angelo M. Mapunda who was pursuing a PhD programme at the University of Warwick, Coventry, UK, 1984-1987 became one of the first victims. The University authority declined to promote to Senior Lecturer.

³³ J.R. Kikopa, Ms., J.B. Ngeleshi, J.A. Lyimo (deceased), Hamid Nassoro (deceased), Marco Banda (deceased).

Medard R.K. Rwelamira (Tanzania) and Dr. Balthazar A. Rwezaura (Tanzania), both of them holding PhDs from foreign Universities, Yale University, USA and Warwick University, UK respectively.

There are four factors, which gave impetus and prominence to the PhD degree and provided further justification for the PhD requirement. Firstly, increase in the number of undergraduate students in compliance with a University authority directive which was based upon the Institutional Transformation Programme (ITP), 1994.³⁴ The ITP was anchored upon the University of Dar es Salaam Corporate Strategic Plan (CSP) which was approved by the University Council in 1994. A detailed Five Year Rolling Strategic Plan (FYRSP) prepared at College, Faculty and Institute levels guided actual implementation. The University level FYSP 1997-2002 had sixteen strategic objectives. The first being, "To continue to implement the systematic expansion of the student enrolment." It was envisaged that by the year 2002 the total number of undergraduate students enrolled would increase to 9300 from 4200."³⁵ The consequence was that numbers of students in the Faculty of Law swelled to unmanageable proportions, 102 (1996/97), 224 (2000/01), and projected to a total of 585 undergraduate students in the academic year 2001/02.³⁶ The actual figures were 238 (2001/02) and 251 (2002/03).

³⁴ See Fimbo, G.M., (2011), Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum, op. cit. p. 20. The ITP was created by Prof. M.L. Luhanga, Vice-Chancellor, 1991-2007. Prof. T.S.A. Mbwette was the Project Manager. See Luhanga, Matthew L, *The Courage for Change: Re-Engineering the University of Dar es Salaam*, Dar es Salaam: Dar es Salaam University Press, 2009.

³⁵ University of Dar es Salaam (1997) Institutional Transformation Programme PMU/UDSM - 2000, University Level Five Year Rolling Strategic Plan, 1997-2002, September 1997, p. 1.

³⁶ See Fimbo, G.M. (2011) Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum, op. cit. p. 35.

Secondly, was the issue of semesterisation and modularisation of courses. The University level FYRSP 1997-2002 required Faculties to embark upon semesterisation. Further, the UDSM academic audit report of 1998 recommended semesterisation of curricula at UDSM together with course modularization of courses as a common structure for all programmes. Law courses had to be dismembered and, in the process, their wholeness may have been affected. The major focus was marketization of UDSOL courses. This author has stated elsewhere that with modularization, law academics are teaching, setting and marking timed essays or end of semester/year examinations throughout the year.³⁷ UDSOL law academics now face corresponding frequent and seemingly endless meetings of the Board of Examiners, the School Board and the University Senate for examinations purposes.

Thirdly, adoption of ambitious postgraduate training programmes whereby law academics are required to teach and supervise LL.M students (including Tutorial Assistants under LL M with coursework and dissertation and Taught LL.M for others). In addition, law academics supervise PhD candidates.

Fourthly is the establishment of the Tanzania German Centre for Eastern Africa Legal Studies (TGCL). In 2008 UDSOL came on top in the competition for hosting the TGCL. The TGCL was entrusted with the task of teaching and supervising LL.M students and supervising PhD candidates from the Partner States of the East African Community (EAC).³⁸

³⁷ Fimbo, G.M., (2011) Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum, *ibid* p. 36.

³⁸ See: <https://www.tgcl.uni-bayreuth.de/en/index.html> (accessed 15th October 2021).

All the above factors have contributed to an impressive number of PhD holders in the UDSoL. It must be noted that Dean Josaphat L. Kanywanyi and Dean Hamudi I. Majamba have been instrumental in this growth. They have permitted many young academics to undertake PhD studies abroad. Foreign Universities which have cooperated with UDSoL in admitting students are located in the Federal Republic of Germany (University of Konstanz;³⁹ University of Hamburg; University of Bayreuth; University of Humboldt; and *Freie Universitaet* Berlin). In the USA (Cornell University; University of Madison; Northwestern University; and Northeastern University). In the United Kingdom (University of Wales Institute of Science and Technology; Oxford University; University of London; University of Warwick; and the University of Aberdeen). In Belgium (Ghent University); Australia (Bond University) and the Republic of South Africa (University of Cape Town and University of the Western Cape).

Table 1 below shows PhD holders by law academics at the level of Lecturer and above since the year 2000.

TABLE 1

YEAR	PhD Holders, Lecturer to Professor	Lecturers Without PhD
2000/2001	24	3
2002/20003	23	4
2007/2008	25	1

³⁹ On his first visit to the Faculty of Law at the author's invitation as Dean of the Faculty, Prof. Dr. Dr. Carsten Thomas Ebenroth of the University of Konstanz paved the way for admission of Hawa Sinare Akarro, Ms., and the late Mwemezi Christian Mukoyogo for PhD at that University. They were followed by Chris Maina Peter, Professor Emeritus in 1985 and later Asha Rose Mtengeti Migiro, Ms.; Bakari, A. and Ringo, Freddy. Dr. Daniel Shayo is the most recent Konstanz graduate who has been supervised by one of Prof. Ebenroth's students

2009/2010	24	-
2011/2012	29	1
2015/2016	30	3
2016/2017	34	2
2017/2018	36	2
2020/2021	33	2

Sources: Faculty of Law Prospectus for the year 2000/2001, p. 51, University of Dar es Salaam Prospectus 2002/2003, p. 204, University of Dar es Salaam Undergraduate Prospectus 2007/08-2009/10, p. 184, University of Dar es Salaam Undergraduate Prospectus 2009/2010, p. 234, University of Dar es Salaam Undergraduate Prospectus, 2011/2012, p. 220, University of Dar es Salaam Undergraduate Prospectus, 2015/2016, p. 277, University of Dar es Salaam Undergraduate Prospectus, 2016/2017, p. 250, University of Dar es Salaam Undergraduate Prospectus, 2017/2018, p. 325, University of Dar es Salaam Undergraduate Prospectus, 2020/2021, p. 292

UDSoL law academics who have graduated with PhD in 2021 are Dr. N. Filbert (Humboldt University- Germany) Dr. V. Buchumi (University of Bayreuth- Germany), Dr. T. Romward (University of Aberdeen-Scotland) and Dr. P. Amani (University of Dar es Salaam), hence the number 33. Thanks to a vigorous Staff Development programme from 1999/2000 to date. Today, 12 law academics hold the PhD degree awarded by the University of Dar es Salaam and the rest from foreign Universities, which are located, predominantly, in Europe and the USA.⁴⁰ This diversity is healthy in itself. However, it leads one to identify one researchable topic on

⁴⁰ This information is based on the University of Dar es Salaam Postgraduate Prospectus 2020/2021, p. 292 and additional information from the Dean's office.

the role of PhD supervisors, namely, whether PhD Theses exhibit ideological inclinations of the Supervisors.⁴¹

It will be observed from Table 1 that there is an element of attrition in that the Government of the United Republic regards the UDSoL as a ready reservoir of its high level manpower. Dr. Ibrahim Hamisi Juma (Associate Professor and Dean of the Faculty) was appointed Chairman of the Law Reform Commission of Tanzania (LRCT) at the end of his term as Dean. He was then elevated to Judge of the High Court, Justice of Appeal and in 2017 he became Chief Justice. Dr. Juliana Masabo (Senior Lecturer) and Dr. Theodora Mwenegoha (Lecturer) were elevated to the post of Judge of the High Court. In addition, two UDSoL law academics, Dr. Evaristo Longopa (and) Dr. Boniface Luhende (Lecturer) were appointed Deputy Attorney General and Deputy Solicitor General, respectively. In 1978, my office mate in office No. 8, Mr. Abdul Wahid Masoud Borafia (Lecturer) was appointed Chief Justice of Zanzibar.

Dr. Tulia Ackson is currently serving as the Deputy Speaker of the National Assembly. She was appointed Deputy Attorney General in 2015. She served the post for two month before she was appointed a Member of Parliament-Special Seat and immediately contested for a post of Deputy Speaker of National Assembly; Prof. Florens Luoga is currently serving as the Governor of the Bank of Tanzania. Before this appointment, he served as the Deputy Vice Chancellor – Academic at the University of Dar es Salaam; Prof. Dr. Kennedy Gastorn is currently serving as the Permanent Representative of the United Republic of Tanzania to the United Nations.

⁴¹ See Majamba, H.I., (2011) Ideological Inclinations in Postgraduate Dissertation: Trends in Decades at the Faculty of Law in Fimbo, G.M., (2011) (Ed.) Fifty Years of Legal Education in Tanzania, op. cit. p. 135.

Transfer to the public service does not tell the whole story. Some UDSol law academics resigned from the University in order to join other Universities in Africa,⁴² Asia⁴³ or Europe⁴⁴ or to engage in full time private legal practice.⁴⁵ Yet there is another category of UDSol law academics who spend appreciable time in private legal practice.

III DEVELOPING CAPACITIES

When you learn, teach, when you get, give.

Maya Angelou

An examination of the PhD requirement in the context of the UDSol's role in developing capacities of the Judiciary, public administration, the legal profession, other Universities in Tanzania and in the East African Community (EAC) would now be in order. Supervision and examination of PhD candidates brings collateral benefits to UDSol law academics. Firstly, they gain further education through supervision of PhD research and by reading the PhD Theses. Secondly, the University pays supervision fees, examination fees to examiners, sitting allowance at meetings of the Departmental Graduate Studies Committee as well as sitting

⁴² Dr. M.R.K. Rwelamira (Senior Lecturer) (University of Lesotho, University of Swaziland and later University of the Eastern Cape) and Dr. N.S. Rembe (Lecturer) (University of Lesotho and later University of Fort Hare in South Africa).

⁴³ Y.P. Ghai (Professor) and Dr. B.A. Rwezaura (Associate Professor), (University of Hong Kong).

⁴⁴ Y.P. Ghai (Professor) and Dr. Abdul Paliwala (Lecturer) (University of Warwick, Coventry, UK), Dr. P.B. Mihyo (Associate Professor) (Institute of Social Studies, The Hague, The Netherlands).

⁴⁵ Dr. M.R.M. Lamwai (Lecturer); Dr. W.B.L. Kapinga (Senior Lecturer and Dean of the Faculty of Law); Dr. Fauz Twaib; Dr. M.O. Kyauke (Lecturer); and Mr. B. Mhozya.

allowance at the PhD *Viva Voce* Examination Sessions. An analysis of PhD research topics and titles of PhD Theses could prove a worthwhile researchable topic.

Under the subject of developing capacities an examination is made, in turn and in detail, of the Judiciary, the University of Dar es Salaam, other Universities in Tanzania, the Government of the United Republic, the public service and the legal profession as well as the general public.

Developing Capacities for the Judiciary

And if he makes a bad use of his strength and skill, his instructor surely ought not on that account be held in detestation or banished. For he was intended by his teachers to make good use of his instructions ...

Gorgias to Socrates in Plato's *Gorgias*, Jowett translation⁴⁶

The UDSoL academic lawyers' efforts lie in three respects, PhD supervision, acting as resource persons in local and international seminars of judges and serving as *amicus curiae* in the Court of Appeal of Tanzania. Academics from the UDSoL have also played a significant role in case reporting, a task overseen by the Judiciary. *The High Court Digest* (1967-1972) and *Law Reports of Tanzania* (1973-1979) were compiled by the Faculty. Later, the academics served in the editorial Boards of the *Tanzania Law Reports* (TLR) (1980 to date), some taking up the critical role of Chief Editor. Some of those who have provided services to the Judiciary in these capacities include: I.G. Shivji, H. Nassoro, Dean Z.S. Gondwe, L.P. Shaidi, N.N. Nditi, C.K. Mtaki, J.T. Mwaikusa and Dean H.I.

⁴⁶ https://digitalassets.lib.berkeley.edu/main/b20762568_v_3_C063897870.pdf (accessed 15th October 2021).

Majamba – the current Editor in Chief of the TLR. The contribution made by A.M. Mapunda and G. Nyika as members of Judicial Service Commission and Continuing Legal Education respectively, cannot be overlooked in the UDSOL's academia's role in developing and building the capacity of the Judiciary.

Doctor of Philosophy Law (PhD, Law) Supervision

With regard to PhD supervision, three judges have ventured to register for and obtain the PhD degree.⁴⁷ These are Justice Dr. Eliezer Mbuki Feleshi;⁴⁸ Lady Justice Dr. Atuganile Florida Ngwala and Justice Dr. John H. Kulimba Utamwa.⁴⁹ Judge Yose Joseph Mlyambina is in his final stages of writing his dissertation. It is also noted, with pride, that several UDSOL graduates have been appointed Judges of the High Court of Tanzania after graduating with PhD. A researchable topic is whether acquisition of the PhD degree by sitting Judges improves the justice delivery system.

Seminars

Law academics have frequently been resource persons in judges' seminars and conferences within Tanzania. For the moment, we shall refer to such one conference, which was held in Dar es Salaam where the author was involved.

The author was invited to deliver a public lecture to a dignified meeting of Judges from EAC Partner States in 2012. The meeting was styled in high-sounding words as 'Training Programme on Leadership Skills for Chief Justices, Judge Presidents, Principal Judges, Heads of High Court Divisions and All Judges with

⁴⁷ Currently, one Judge of the High Court is pursuing the PhD degree studies.

⁴⁸ Justice Feleshi was until recently the Principal Judge until his recent appointment as Attorney General of the United Republic of Tanzania.

⁴⁹ Justice Utamwa is currently Judge in Charge of the Iringa Zone.

Administrative Responsibilities', which was organized by the East African Judicial Education Committee, East African Community.⁵⁰ The author's lecture titled "Principles and Practices of Management in the East African Community: Best Practices for a Modern Judiciary" is printed in a publication of the Tanzania-German Centre for Eastern African Studies (TGCL), Constitutional Reform Processes and Integration in East Africa, edited by Johannes Dovelung, Kennedy Gastorn and Ulrike Wanitzek.⁵¹

Seminars in Cooperation with Trinity College, Dublin

Chief Justice Francis Nyalali⁵² and Professor William Binchy of Trinity College, Dublin, the Republic of Ireland came to an agreement for regular meetings of Tanzania and Irish Judges for professional exchanges mediated by academic lawyers. The Faculty of Law of the University of Dar es Salaam and Trinity College, Dublin were chosen as centres of these exchanges. Visits by Tanzania Judges to Ireland would be led by two UDSol law academics and Professor Binchy would lead visits by Irish Judges to Tanzania. The main subject of discussion was Human Rights. Participating Tanzania Judges usually ten to twelve each year were chosen by the Chief Justice. Tanzania Judges visited Ireland in 1997, 2005, 2007 and 2009 under the sponsorship of the Government of the Republic of Ireland. Irish Judges paid return visits in 1998, 1999, 2006, 2008 and 2010 again under the sponsorship of the Government of the Republic of Ireland. The author organized the conferences in Dar es Salaam in 2006, 2008 and 2010 at which several UDSol law academics participated as resource persons.

⁵⁰ 23rd October, 2012, Protea Hotel Courtyard, Dar es Salaam.

⁵¹ DUP, Dar es Salaam, p. 65-87.

⁵² Chief Justice, 1977-2000.

Likewise the author was the leader of delegations, with assistance of Palamagamba J.A. Kabudi, to Trinity College, Dublin. The conferences held in Dar es Salaam in 1998 and 1999 resulted in a publication titled *Human Rights, Constitutionalism and the Judiciary: Tanzanian and Irish Perspectives*⁵³ with the following UDSol law academics being among the contributors, Jwani Timothy Mwaikusa; Palamagamba J. Kabudi; Sengondo Mvungi; Khoti Kamanga; Ringo Willy Tenga; Rita Alice Mwaipopo; Issa G. Shivji; Angelo M. Mapunda; Harrison G. Mwakyembe; Hamid Nassoro; Chris Maina Peter; Fauz Twaib; F.D.A. Luoga and the author. The publication was co-funded by the School of Law, Trinity College Dublin and the Law School, Griffith College, Dublin.

The last conference held in Dar es Salaam in 2010⁵⁴ resulted in a publication titled *Administration of Justice in Tanzania*.⁵⁵ UDSol contributors were Sifuni Ernest Mchome; Sengondo Edmund Mvungi; Dean Palamagamba J.A. Kabudi; Chris Maina Peter; Khoti Kamanga and the author.⁵⁶ It should be pointed out, for the benefit of UDSol law academics, that the EAC and the Judiciary paid these seminars' resource persons honoraria. Further, it is public knowledge that public lecturers receive higher amounts of honoraria than other resource persons.

⁵³ Edited by William Binchy and Catherine Finnegan and published in 2006 by Clarus Press, Dublin.

⁵⁴ Professor William Binchy retired in 2010.

⁵⁵ Edited by the author and printed in 2013 by lawAfrica, Dar es Salaam.

⁵⁶ The author's paper titled "Human Rights Perspectives Regarding the Institution of Criminal Proceedings in Subordinate Courts in Tanzania" was published in full in Kanywanyi, J.L.K., U. Wanitzek, A. Nahayo and J. Dovelung, (Ed.) 2014), *Regional Integration and Law, East African and European Perspectives*, TGCL Series 4, p. 99.

Amicus Curiae

In some selected appeals, the Chief Justice or Bench appointed to hear an appeal may decide to take advantage of an Advocate who does not represent a party to the appeal. Such Advocate is styled *amicus curiae*. Law academics frequently assume this role in the Court of Appeal of Tanzania. Chris Maina Peter; Palamagamba J. Kabudi; Jwani T. Mwaikusa; and Bonaventure I. Rutinwa. The author has appeared in four appeals as *amicus curiae*. In the last appeal, *The Attorney General v. Jeremia Mtobesya*,⁵⁷ the author and Chris Maina Peter. Our briefs (not submissions) to the Court have been reprinted in the *Zanzibar Yearbook of Law*.⁵⁸ By reading the Judgment of the Court in each appeal, one may discern influence, if any of any, of *amicus curiae* on the Court of Appeal.

Previously, *amicus curiae* provided service for honour only. However, recently, the Registrar of the Court of Appeal of Tanzania decided to pay honoraria to *amicus curiae* at an amount he or she determines.

Developing Capacities for the University of Dar es Salaam (UDSM)

Our lives begin to end the day we become silent about things that matter.

Martin Luther King Jr.

The University authority constantly looks at the UDSol as a natural spot for skilled manpower. Accordingly, law academics often serve in senior positions in the University administration. Without

⁵⁷ Civil Appeal No. 65 of 2016. The Full Bench consisted of Luanda, JA, Mussa, JA, Mmilla, JA, Mugasha, JA and Mwambegele, JA.

⁵⁸ Volume 2, 2018, p. 335 and 348.

advertising to assessment of their performance which is a subject in itself, the following have served at the University administration: F.D. Luoga, the Governor of the Bank of Tanzania served as Deputy Director, Undergraduate Studies, Corporate Counsel and Secretary to Council and later Deputy Vice-Chancellor (Academic), a post currently held by Bonaventure Ishengoma Rutinwa. Palamagamba J. Kabudi held the post of Corporate Counsel and Secretary to Council before he was nominated as a Member of Parliament and a Minister in the Government of the United Republic. Thereafter, Saudin J. Mwakaje succeeded to the post of Corporate Counsel and Secretary to Council. L.X. Mbunda and R.A. Mwaipopo also served in the position of Acting Corporate Counsel and Secretary to Council. Dean Majamba served as Deputy Director for Postgraduate Studies (2009-2012). T. Mwenegoha served as the Intellectual Property Manager of the University until her appointment as Judge of the High Court. Finally, Issa G. Shivji served in the Mwalimu Julius Nyerere Professorial Chair in Pan African Studies from 2008 – 2013.

The author had also served as Chief Administrative Officer of the University 1982-1987. While on these appointments, UDSoL law academics receive salaries as academics according to their ranks. The UDSoL Dean's position in the University can be stated briefly. The Dean is always considered as legal advisor of the University Senate.⁵⁹ As such, the Dean must carry in his or her bosom all Rules and Regulations of the University including all previous decisions of the University Council and Senate. It is a heavy responsibility. A researchable topic is whether intervention of

⁵⁹ The Corporate Counsel and Secretary to Council sits in the University Senate but he has right of audience. Prof Palamagamba J.A. Kabudi confided in me that as Corporate Counsel he would not advise the Vice Chancellor in public, he would do so in writing.

UDSoL law academics in senior positions in the University leads to change in the top-down statist structure⁶⁰ of the UDSM, which was erected by the University of Dar es Salaam Act, 1970.

Developing Capacities of Law Academics for other Tanzania/EAC Universities

In a speech at a Lawyers' Day in 2006, Prof. Kanywanyi reflected on UDSoL's challenge of training staff for other Universities. He stated,

Since we are a 'Law Faculty of PhDs,' as it were, and, one may say, a pioneer in the field of legal education in East Africa generally and Tanzania particularly, we are challenged to provide academic leadership to these other Faculties in the Sub-region and the country. They need to train their newly recruited Tutorial Assistants at University Faculties of high reputation or with real intent. We are one such University Faculty. We should gear ourselves up to meet the challenge.⁶¹

In 2008 during the deanship of Prof. Sifuni E. Mchome the UDSoL answered the challenge by taking a bold decision to develop capacities for other Universities in Tanzania and the East African Community (EAC). Accordingly, UDSoL has admitted students specifically from these Universities for the PhD degree. The result has been phenomenon. The following list may not be exhaustive: Dr. Adelardus Lubango Kilangi (Saint Augustine University of Tanzania, SAUT); Dr. Aron Kinunda (University of Dodoma,

⁶⁰ Fimbo, G.M. (ed.), *Fifty Years of Legal Education in Tanzania: Development of the LL.B. Curriculum*, op. cit. p. 15.

⁶¹ Kanywanyi, J.L., Problems and Challenges Facing Lawyers in the Faculty of Law, Speech at UDSoL Lawyers' DAY on Saturday 16th September, 2006 at Nkrumah Hall, UDSM, 2006 (unpublished).

UDOM); Dr. Ryoba Marwa; Dr. George Bakari, Tengeru Community Development Training Institute (TCDI); (UDOM); Dr. Hamza Ismail Abdulrahman (Institute for Tax Administration, ITA); Dr. Sisti J. Mramba (Tumaini University Dar es Salaam College, TUDARCO); Dr. Tasco R. Luambano (Mzumbe University); Dr. Ferdinand M. Temba (Mzumbe University); Dr. Denis Bikesha (Rwanda); Dr. Flavian Zeijja (Makerere University Business School); Dr. Felix Otieno Odhiambo (Catholic University of East Africa, CUEA Nairobi); Dr. Grace Kamugisha Kazoba (Institute of Finance Management, IFM); Dr. Anthony Mzurikwao (Tanzania Institute of Accountancy); Dr. Mary Caroline Levira (Ruaha University College, RUCO); Dr. Lilian Mongela (RUCO); and Dr. Paul Kihwelo (Open University of Tanzania, OUT).

The last three listed above were elevated to the post of Judge of the High Court of Tanzania after graduation while the first graduate was appointed Attorney General of the United Republic and subsequently, Tanzania Ambassador while Dr. George Bakari is a Rector at TCDI.

Developing Capacities for the Public Service and the Legal Profession

Two notable activities under this heading shall be addressed, namely, teaching postgraduate programmes PhD, Taught LL.M., Postgraduate Diploma in Law, Specialized Postgraduate in Law and hosting of the Law School of Tanzania (LST).

Doctor of Philosophy Law (PhD Law)

Having seen UDSol's capacity to supervise postgraduate students, members of the public service and legal profession have seized the opportunity to register for LL.M. and PhD. The following candidates from the public sector have graduated with the PhD degree: Dr.

Edward G. Hosea (Prevention and Combating Corruption Bureau, PCCB); Dr. Adam Juma Mambi (Law Reform Commission of Tanzania, LRCT) sponsored by the German Academic Exchange Service (DAAD) and TGCL; Dr. Abdulrahman O.J. Kaniki (Tanzania Police Force); Dr. Elias Tenson Mwashuuya (then-Fair Competition Commission- now Tanzania Petroleum Development Corporation); Dr. Yahya K. Hamad (Clerk of the Zanzibar House of Representatives); and Dr. Abduel G. Kitururu (Advocate in private legal practice). The second PhD graduate in the list was elevated to Judge of the High Court after graduation.

Taught LL.M

Taught LL.M., commenced in 1999/10 academic year⁶² in the era of marketization.⁶³ It is extremely popular among public sector employees and Advocates in private practice and law academics find it attractive and lucrative. It is taught in the evening at the Mikocheni Campus of the University of Dar es Salaam. The duration of the programme is eighteen months, combining coursework and a Graduate Essay.⁶⁴ The schedule is designed to allow attendance by students in full time employment.⁶⁵ The following Taught LL.M programmes may be pursued, that is to say, Taught LL.M. in Corporate and Commercial Law; Taught LL.M. in Taxation; Taught

⁶² University of Dar es Salaam Postgraduate Prospectus, 2010/2011-2011/2012, p. 119.

⁶³ University of Dar es Salaam Faculty of Law, Five Year Rolling Strategic Plan 1999/2000-2003/2004, Strategic Objective No. 1: Learning Environment and Faculty Products Improved, Strategies (c) Devise programme (sic) that respond to the market needs, Activities: Review the Existing Programmes Considering Marketability and other Factors (Curriculum Review), p. 9.

⁶⁴ University of Dar es Salaam Postgraduate Prospectus, 2020/2021, p. 275.

⁶⁵ The Taught LL.M is not open to UDSOL TAs (prospective academic staff), this category must pursue LL.M by Thesis (24 months fulltime) or LL.M by coursework and dissertation (18 months fulltime).

LL.M. in Intellectual Property Law; Taught LL.M. in Procedural Law and International Legal Practice; Taught LL.M. in Regional Integration and East African Community Law; and Taught LL.M. in Oil and Gas Law. Other Master Programmes (Non-LL.M) are as follows, Master of Arts in Revenue Law and Administration (MARLA); Master of Migration and Refugee Law and Master of Intellectual Property (MIP).

Postgraduate Diploma in Law (PGDL) and Specialized Postgraduate Diploma in Law (SPGDL)

The Postgraduate Diploma in Law (PGDL) is by coursework and report. The duration is twelve-month full time. The Specialized Postgraduate Diploma in Law (SPGDL) is by coursework and report, its duration is twelve months full time. It is designed to provide specialized training in specific fields of law to holders of degrees other than the LL.B. The primary objective of the SPGDL is to familiarize the candidate with essentials of the law pertinent to one's area of professional work and responsibilities.⁶⁶ The collateral benefits to law academics with regard to the PhD degree have been pointed out. Greater benefits accrue to law academics with regard to the Taught LL.M. The UDSoL pays them teaching allowance per hour of teaching, allowances for transport, setting examinations per examination, invigilation, marking of examinations per script, and a sitting allowance at meetings of the Departmental Graduate Studies Committee.

Hosting the Law School of Tanzania

Before the Law School of Tanzania (LST) acquired its own premises in Sinza area of Dar es Salaam, Dean Sifuni Ernest

⁶⁶ University of Dar es Salaam Postgraduate Prospectus, 202/2021, p. 272.

Mchome negotiated successfully with the Government of the United Republic for the purpose of hosting LST. The Memorandum of Agreement (MOU) was signed in March 2008.⁶⁷ It was a God sent project for UDSoL law academics. For a handsome fee, UDSoL agreed to provide teaching facilities, to appoint tutors, to teach using LST curricula, to set examinations and to mark them. In addition, UDSoL would supervise the students while on internship. The first cohort was admitted in 2008. This arrangement was managed by an LST Coordination Committee consisting of five law academics.⁶⁸ The UDSoL, therefore, was the pioneer of the LST.

This project which lasted for two years enabled UDSoL to erect a third floor⁶⁹ and to fully furnish all offices and the Board Room on the third floor. Here too, there were collateral benefits such as teaching allowance per hour of teaching, seminars, marking final examinations, marking final practical exercises, marking individual continuous assessments, invigilation of examinations, invigilation of written practical exercises and invigilation of individual continuous assessments.⁷⁰ In addition law academics were paid a supervision allowance for students on internship.

⁶⁷ Mchome, S.E. (2009) University of Dar es Salaam Faculty of Law, The 2006/2009 Triennium, p. 16.

⁶⁸ The author was a member and Quality Controller. See Mchome, S.E. (2009) *ibid.* p. 12.

⁶⁹ The UDSoL (A.B Weston Building) was erected during 1962/63 academic year but its foundations were found to be as firm as ever and could comfortably carry additional load.

⁷⁰ Mchome, S. E. (2009), University of Dar es Salaam Faculty of Law, *op. cit.* p. 12 and 13.

Developing Capacities of the Public through the Certificate in Law

The things you do for yourself are gone when you are gone, but the things you do for others remain as your legacy.

Ndukwe Dike Kalu⁷¹

The Certificate in Law programme commenced during the tenure of Dean A.B. Weston.⁷² Specifically it commenced after the Arusha Declaration in 1967. It was intended for public and private sector employees who had obtained the School Certificate at Ordinary Level and who had been in employment for at least two years. The course also serves as route to join the undergraduate programme in the Faculty (LL.B) for those who pass their examinations with distinction. That is an added attraction to the programme over and above promotions in their places of work for those who do well.

The duration of the course was two years.⁷³ Initially, law academics from the Faculty of Law would teach the students at Lumumba Street in the City. The Programme served as a training platform for young law academics as well as the students themselves. A summary of entry requirements, courses and examinations after adoption of semesterisation can be found in the Prospectus 2002/2003.⁷⁴ As usual, there were collateral benefits for UDSOL law academics, namely, teaching allowance, invigilation allowance and examination allowance.

The Inspector General of Police (IGP) made the course compulsory for ranks of Police Officers which he specified. After negotiations

⁷¹ <https://www.overallmotivation.com/quotes/helping-others-quotes-helping-others/> (accessed on 15th October 2021).

⁷² 1961-1968.

⁷³ University of Dar es Salaam Faculty of Law 1978-1979 Hand Book, p. 19.

⁷⁴ University of Dar es Salaam Prospectus 2002/2003, p. 122.

with the Faculty of Law the University authority made two decisions. Firstly, the duration of the course for Police Officers would be one year. Secondly, Police Officers would be taught at the Police College, Kurasini. Later, the course was made compulsory for Prison Officer taught at Ukonga Prison Training College.

After widespread public demand the management and administration of the certificate in law course changed whereby accredited centres of instruction were established in identified regions throughout the country, in Zanzibar, Arusha, Mwanza, Mbeya and Dodoma, to mention but a few. This included a UDSoL centre. The Undergraduate Prospectus 2007/08-2009/10, p. 181 summarizes the current position as follows:

- 20.1 The programme is run by the Faculty through accredited centres. The University on recommendation of the Faculty Board shall announce the list of Centres which will be eligible to host the programme before the commencement of the admission process for each academic year.
- 20.2 It is the responsibility of the Faculty to recommend to Senate in which centre a candidate admitted in the programme is to undergo training.
- 20.3 All centres are subject to these regulations and those regulating the conduct and management of such centres in respect of the programme.
- 21.1 All candidates aspiring to join the programme must apply through the Faculty of Law for admission. No centre is allowed to register a candidate without the

admission letter issued to the candidate by the University of Dar es Salaam.⁷⁵

Collateral benefits to UDSOL law academics were summarized by Dean Mchome in 2009 as follows: instruction and conduct of seminars per hour for instructors for the Dar es Salaam centre and all other centres. With regard to all centres, UDSOL law academics would be paid allowances for setting examinations per examination paper, invigilation of examinations per examination, marking examinations per examination, and processing and handling examinations per semester.⁷⁶

Developing Capacities for the Government of the United Republic

The Government of the United Republic has of late turned to UDSOL law academics for appointment of Judges of the High Court and other strategically important offices. However, the focus of this section is the Attorney General's Chambers because of its role in law making. The Government of the United Republic views the UDSOL as its natural point of call. Besides elevating two UDSOL academics as Judges of the High Court⁷⁷ it has appointed Dr. Evaristo Longopa as Deputy Attorney General and Dr. Boniface Luhende as Deputy Solicitor General. These law academics were appointed between 2015 and 2021 a period when this country has witnessed draconic and oppressive laws and amendments passed by the National Assembly under certificates of urgency. Civilian

⁷⁵ University of Dar es Salaam Undergraduate Prospectus 2007/08-2009/10, p. 181-182.

⁷⁶ Mchome, S.E. (2009), University of Dar es Salaam Faculty of Law, *op. cit.* p. 10.

⁷⁷ Justice Dr. Juliana Masabo; and Justice Dr. Theodora Mwenegoha both now at the High Court of Tanzania at Dar es Salaam.

conduct has increasingly metamorphosed into criminal offences resulting in circumscription of civilian behaviour.⁷⁸

At the same time the State has been accused of human rights abuses (such as disappearance of persons) without restraint. It may be pointed out that during this period the Attorney General was an UDSoL PhD holder. Without appearing to be an iconoclast, I should be permitted to indulge in a daydream: Firstly, whether these appointments can lead to a consultative and inclusive law making process.⁷⁹ Secondly, whether with these appointments future principal and subsidiary legislation and State practices will restore and enhance the democratic space. Thirdly, whether with these appointments of UDSoL law academics, an alternative to the broken criminal justice system will be proposed.

IV INTERNATIONALISATION OF THE FACULTY/SCHOOL

The purpose of learning is growth, and our minds, unlike our bodies, can continue growing as we continue to live.

Morris Adler

Internationalisation here means working in or with Universities outside Tanzania or international institutions. Avenues of internationalisation can be summarised as follows: Firstly, UDSoL law academics participate in international meetings and

⁷⁸ See p. 28 below.

⁷⁹ See *Jamhuri ya Muungano wa Tanzania, Bunge Maalum, (2014), KATIBA INAYOPENDEKEZWA, Oktoba 2014, Ibara ya 135 Ibara ndogo ya (3) inayosomeka, "Wakati wa kuandaa muswada wa sharia, Serikali ya Jamhuri ya Muungano, Kamati ya Bunge Kikundi cha Wabunge au Mbunge atahakikisha kwamba anawashirikisha wananchi kwa ajili ya kupata maoni na mapendekezo juu ya muswada huo."*

conferences. Secondly, they publish law books as well as reviewed academic papers in the *Eastern Africa Law Review*. This Journal is published by the UDSoL with an International Advisory Board. The other avenue of publication is the *Zanzibar Yearbook of Law* (ZYBL), which is edited by a UDSoL law academic, Chris Maina Peter, (Professor Emeritus). It is published yearly. It has an International Editorial Advisory Board and a Peer Review Board.

Thirdly, in 2004, UDSoL hosted the 13th African Human Rights Moot Court Competition on 2nd to 7th August, 2004.⁸⁰ The sponsors were the University of Dar es Salaam, Dar es Salaam Airports Handling Company (DAHACO); Dar es Salaam Stock Exchange (DSE), Royal Embassy of Finland; Royal Danish Embassy; and Royal Embassy of Sweden.⁸¹

Fourthly, UDSoL has been active in establishing links with other Universities under which academic programmes were started. The following may be mentioned: Human Rights Resources Unit (HURRU) in collaboration with the University of Warwick, UK; the Law of the Sea Centre under a 1995 link agreement with the University of Ghent, Belgium; the Centre for the Study of Forced Migration (CSFM) established in 1999 with funding from the Danish International Development Agency (DANIDA).

Fifth, the Tanzania-German Centre for Eastern African Studies (TGCL) was established in 2008 at UDSoL on a competitive basis through the efforts of Dean Sifuni E. Mchome. The German Academic Exchange Service (DAAD) provides funds. Its

⁸⁰ Under the guidance of Dean Prof. Ibrahim Hamisi Juma. Sifuni E. Mchome was Convener of the Coordination Committee.

⁸¹ See Report on the Implementation of the Project, Faculty of Law, University of Dar es Salaam, 2005 p. 7.

inauguration took place in Nkrumah Hall on 4th September, 2008.⁸² In the Preface to TGCL's first publication the editors stated:

Through its postgraduate programme the TGCL seeks to enable aspiring lawyers and law students from member countries of the East African Community (EAC), i.e. Burundi, Kenya, Rwanda, Tanzania and Uganda, to assume leadership positions in various fields.

Since inception of TGCL postgraduate programme supervisors have UDSOL law academics. Over ten candidates have graduated with PhD including Dr. Grace Kamugisha Kazoba Ms (Tanzania); Dr. Denis Bikesha (Rwanda); Dr. Sheillah Nyanzi (Uganda); Dr. Abddha Japhet Odhiambo (Kenya); Dr. Alex Odhiambo (Kenya); Dr. Stephen P. Mang'erere Aming'a (Kenya); Dr. Elijah Oluoch Asher's (Kenya; Jomo Kenyatta University of Agriculture); Kalekwa Kasanga (Tanzania) and; Mahadhi Juma Maalim (Tanzania). A researchable topic is whether the PhD Theses have disseminated East African Community (EAC) law and have served the EAC integration agenda.

Sixth, law academics are invited to serve in international bodies and institutions. Issa G. Shivji was a Visiting Professor, College of Law, The Ohio State University, Columbus, Ohio, USA, 1984. In 1988 I.G. Shivji spent a sabbatical leave at the Faculty of Law, University of Zimbabwe with sponsorship of the Council for the Development of Economic and Social Research in Africa (CODESRIA).⁸³ Asha Rose Migiro, Ms., has served as UN Deputy Secretary General for five years, she is now Tanzania High Commissioner to the United

⁸² Speeches made on that occasion were published by TGCL's first publication, *Justice and Dignity for All, Current Issues of Human Rights in Tanzania*.

⁸³ The research output was a publication, Shivji, I.G., *The Concept of Human Rights in Africa*, CODESRIA Book Series, London, 1989.

Kingdom. Chris Maina Peter did his sabbatical teaching at the Raoul Wallenberg Institute on Human Rights and Humanitarian Law at the Faculty of Law of University of Lund, Sweden in 2006-2007. He has also been a Visiting Professor at various Universities including Gujarat National Law University Gujarat, India, 2014; China University of Political Science and Law (CUPL); Institute of Human Rights and Humanitarian Law, Beijing, China, July 2020; and the Central European University (CEU), Legal Studies Department, Budapest, Hungary, May 2010; and Universities of Bayreuth and Hamburg both in Germany. He was African Union's Representative in the African Union and European Union Experts' Discussion on the Interpretation of the Principle of Universal Jurisdiction and its Application by Some European Union (EU) Member States on Africa and African Peoples, April 2000. He also represented the African Union (AU) as an Observer at the *Lockerbie Trial* at the High Court of Scotland, Edinburgh, Scotland, United Kingdom in April, 2009. At the United Nations he has served as a member of the United Nations Committee on Elimination of all Forms of Racial Discrimination (CERD) 2008-2012 and is now a member of the UN International Law Commission (ILC) 2012 to date.

J.L. Kanywanyi was a Visiting Research Scholar at the Scandinavian Institute of African Affairs, Uppsala, Sweden and the University of Bayreuth, Federal Republic of Germany; Hamudi I. Majamba was a Visiting Lecturer, International Development Law Institute, Rome, Italy, June, 2001; Visiting Scholar University of Bayreuth, Germany, Institute of African Studies and Faculty of Law, Business Administration and Economics, November, 2012. The author was a Fulbright Visiting Research Scholar at the Centre for Urban Policy Research, Rutgers, The State University of New Jersey, New Brunswick, New Jersey, USA, April to August, 1982.

In addition he was a Visiting Research Scholar at the School of Law, Birbeck College, University of London, 1985; a Research Fellow at the Institute of Social Studies (ISS), The Hague, The Netherlands, June to December, 1993⁸⁴ a Visiting Research Scholar at the University of Warwick, UK, June 1996.⁸⁵

In June 2014 the author was a Distinguished Ogendo Lecturer where he delivered the inaugural Okoth Ogendo Memorial Lecture at the School of Law – University of Nairobi.⁸⁶ Kennedy Gastorn has served as Secretary General of the Asian-African Legal Consultative Organization (AALCO), New Delhi, 2017-2020; in 2020 he was appointed Tanzania Ambassador and the Permanent Representative of the United Republic of Tanzania to the UN. He was elected Vice-Chairman of the 45th UN General Assembly in September 2021.

One researchable topic is whether intervention by UDSOL law academics has influenced decisions and decision-making processes of international institutions, which are dominated by the Big Powers. The second researchable topic relates to intellectual property rights, that is to say, should copyright in a book be vested in the author, the host University or the University of Dar es Salaam.

⁸⁴ The research output is a book published belatedly, Fimbo, G.M., *Multipartyism, Constitutions & the Law in Africa*, lawAfrica, Nairobi, 2013.

⁸⁵ The research output is a paper, Fimbo, G.M., 'Land Tenure and Land Relations: Restatement or Reform Through Case Law?' research report submitted to the Advisory Group on Draft Land Law Act, Ministry of Lands, June 1996, p. 1 – 28

⁸⁶ The inaugural Memorial Lecture titled 'In Search of Thematic Unity in Land Law: Tenure Security' was published in Kameri-Mbote, P., and Odote, C., (2017), *The Gallant Academic, Essays in Honour of H W O Okoth-Ogendo*, School of Law – University of Nairobi, p. 57 as well as in the Volume 4 *Zanzibar Yearbook of Law*, 2014, p. 227

V PUBLIC SERVICE

What counts in life is not the mere fact we have lived. It is what difference we have made to the lives of others that will determine the significance of the life we lead.

Nelson Mandela⁸⁷

The UDSol has excelled in rendering public service by way of legal aid to the public, inputs to Government papers, draft policies and Bills, membership of Commissions and Boards of public corporations and in establishing an agency for human rights protection.

Legal Aid and Assistance

Legal Aid Committee

In response to the Arusha Declaration of February 1967 the Faculty of Law established the Legal Aid Committee in June 1967. In November 1967 it opened a legal aid clinic at Magomeni Community Centre at which students participated under staff supervision.⁸⁸ Further, the Committee organised legal aid camps in

⁸⁷ <https://unfoundation.org/blog/post/nelson-mandela-quotes-we-love/> (Accessed 15th October 2021).

⁸⁸ Fimbo, G.M., (2008) Memorial Session for Professor Arthur Brian Weston, Dean, Faculty of Law, 1961-1968, Nyerere Lecture Theatre, Tuesday 1st July 2008 at 3.00 pm., p. 10. In subsequent years the Committee was hosted at the ruling party's – Chama Cha Mapinduzi (CCM) also at Magomeni when the Kinondoni District Commissioner was Christopher Liundi. With the introduction of multiparty democracy in the country in 1992 the Legal Aid Committee could no longer use the CCM facility and had to return to the School of Law building which is not very convenient to the members of the public. It is worth noting that after being appointed Regional Commissioner for Kigoma, Hon. Liundi invited the Legal Aid Committee to Kigoma to conduct some legal aid camps in the region.

selected areas of Tanzania.⁸⁹ The Committee under Commissioner Asina Omari, Ms., is still active. Members of the public who seek legal aid come to the UDSol building every Friday afternoon.

The Legal Aid Committee undertook three notable cases in the High Court and in the Court of Appeal, that is to say, *Martha Michael Wejja v. The Attorney General*,⁹⁰ (an election petition), *Scolastica Benedict v. Martin Benedict*,⁹¹ (the residential right of a widow in the matrimonial home). The third case is *Lekengere Faru Parutu Kamunyu and 52 Others v. Minister for Tourism, Natural Resources and Environment and 3 Others*,⁹² (the right of customary residents in a Game Reserve). Thereafter, the Committee took a policy decision against court representation for Committee clients.

The Committee produced many documents in English and Swahili. The author was able to lay hands on the following: *Essays on Law and Society*; *A reader of the Sunday Newspaper*, Silvanus J. Liwewa responded, after reading it:

The information the committee is providing is no doubt very educative and will provide a valuable insight into the sort of information needed by many.

However, there is the need for organising relationship between students, labour, patriotic intellectuals and other groups desirous of positive change. Isolation of

⁸⁹ The author was Guest of Honour at one legal aid camp in Morogoro in 1983 where I found the following law academics in action, P. B. Mihyo, M.R.M. Lamwai, Adam Bakari and M. K. B. Wambali.

⁹⁰ [1982] TLR 35, in the High Court I. G. Shivji and the author drafted the pleadings and appeared for the Petitioner, Martha. I.G. Shivji appeared for Martha in the Court of Appeal.

⁹¹ [1993] TLR 1, G.M. Fimbo appeared for Scolastica in the Court of Appeal.

⁹² [2000] TLR 160, in the High Court, Ibrahim H. Juma and Sifuni E. Mchome drafted the pleadings and appeared for the Plaintiffs and appeared for the Appellants in the Court of Appeal in sessions held in Arusha, Tanzania..

these groups from each other not only distorts prospects of the struggle but also weakens it.

For instance, it is necessary for our academicians to reach beyond the University and cultivate relations with ordinary peasants and workers.⁹³

During the chairmanship of Chris Maina Peter, the Legal Aid Committee perfected production of many pamphlets in Swahili titled *HAKI*, including *Demokrasia na Utawala Bora katika Vyama Vingji; Haki za Binadamu Tanzania; Tume ya Haki za Binadamu na Utawala Bora; Sheria ya Ndoa Nchini Tanzania; and Haki za Watoto Tanzania*. Finally, in 2015 the Committee under the chairmanship of Ms. Asina A. Omari, cooperated with the Legal Services Facility (LSF) in publishing a research report titled *University Based Legal Aid Clinics: Prospects in Enhancing Access to Justice*.

Inputs to Government Papers

Silent citizens may be perfect subjects for an authoritarian ruler; they would be a disaster for a democracy

Robert A. Dahl⁹⁴

UDSoL law academics have, individually or through the Dean, made penetrating and constructive written contributions on Government papers from time to time.

⁹³ Legal Aid Committee (194), *Essays on Law and Society*, p. 87.

⁹⁴ <http://whatisavoteworth.org/tasks/> (accessed on 15th October 2021).

Constitutional Review Commission 2013

The most significant contributions related to the Constitutional Review Commission Project whereby the UDSOL spearheaded establishment of the Law Academics Constitutional Forum, which met in the University of Dar es Salaam.⁹⁵ The comments and proposals were submitted to the Constitutional Review Commission on 28th January, 2013. When the Commission published its initial proposals, *Rasimu ya Katiba ya Jamhuri ya Muungano wa Tanzania 2013 (Rasimu I)* on 3rd June, 2013, the Law Academics Constitutional Forum met again and on 31st August, 2013 submitted to the Constitutional Review Commission further comments. A summary of the proposals has been printed in a TGCL Publication, *Constitutional Reform Processes and Integration in East Africa* edited by Johannes Dovelung, Kennedy Gastorn and Ulrike Wanitzek.⁹⁶ H.I. Majamba and the author provided editorial services. In addition UDSOL published, in Swahili, a booklet, *Maoni Kuhusu Rasimu ya Pili ya Katiba*. Names of all law academics who attended the meetings have been printed at 92-94. The author signed the booklet on 25th February, 2014.

Other Government Papers and Policies

Dean Majamba has, in cooperation with law academics and on their behalf, submitted to the Government of the United Republic comments and proposals on various Government papers: Statistics Regulations, 2016, reorganization of the legal profession, the National Legal Policy 2018 (*Sera ya Taifa ya Sheria*) and the National Legal Training Curriculum (May, 2021).

⁹⁵ Prof. B.I. Rutinwa was Dean of the University of Dar es Salaam School of Law.

⁹⁶ TGCL Series 3, p. 183-210.

UDSoL Law academics have, individually or in groups, submitted comments on a wide range of subjects before Government policies were announced: National Land Policy (1995) – I.G. Shivji and G.M. Fimbo, the National Social Security Policy (2008) – J.L. Kanywanyi and the National Employment Policy (2008) – B.I. Rutinwa. With regard to human rights two policies may be stated: the first policy is the *Sera ya Habari na Utangazaji* (National Information Policy) (Oct 2003) – Sengondo E.A. Mvungi. The second one is civilianisation of public prosecutions whose architect is Sifuni E. Mchome. In the area of environment and natural resources conservation law, Dean Majamba, Dean Juma and Dean Kabudi played a significant role in the promulgation of the Environmental Policy and the Environmental Management Act (2014). Deans Majamba and Kabudi were also instrumental in the enactment of the corpus of wildlife legislation. F.D.A.M Luoga has continued to play an important role in directing policy and legislative reforms in Taxation.

UDSoL Law Academics in National Commissions

UDSoL law academics are frequently appointed members or chairpersons of Board of Directors of public institutions. However, this essay does not discuss public institutions. It will address membership of selected National Commissions, namely, the Presidential Commission of Inquiry into Land Matters, the Constitutional Review Commission, the Constituent Assembly and the National Electoral Commission. The National Electoral Commission has been given a comparatively more comprehensive coverage due to its critical role and the evolution of the law governing its conduct of business.

Presidential Commission of Inquiry into Land Matters

The Commission whose chairperson was Prof. I.G. Shivji was announced on the 3rd January, 1991 and the Commissioners were given their commission on the 14th January, 1991 together with the Terms of Reference. It submitted its report on 11th November, 1992. It was not until 1994 that the report was published in two volumes.⁹⁷ This report became the basis for the National Land Policy 1995 and two pieces of legislation, the Land Act 1999 and the Village Land Act 1999.

Constitutional Review Commission

The following law academics served as members of the Commission: Dr. P.J.A. Kabudi, Associate Professor and Dr. S.E.A. Mvungi, Senior Lecturer and former Dean while I R. Mandi, (Lecturer) served as a Researcher of the Constitutional Review Commission. The Commission produced five documents in whose production the above law academics participated, these are, *Mwongozo Kuhusu Muundo, Utaratibu wa Kupata Wajumbe wa Mabaraza ya Katiba ya Wilaya (Mamlaka za Serikali za Mitaa) na Uendeshaji Wake* (not dated), *Rasimu ya Katiba ya Jamhuri ya Muungano wa Tanzania, 2013 (Rasimu I)*, *Rasimu ya Katiba ya Jamhuri ya Muungano wa Tanzania, Disemba, 2013 (Rasimu II)*, *Randama ya Rasimu ya Katiba, Februari 2014* and *Bango Kitita la Randama ya Rasimu ya Katiba ya Jamhuri ya Muungano wa Tanzania, Febuari, 2014*. The academic content of these reports is pervasive and self-evident.

⁹⁷ United Republic of Tanzania, Ministry of Lands, Housing and Urban Report of the Presidential Commission of Inquiry into Land Matters, Volume I, Land Policy and Land Tenure Structure (sic) p. 1.

Constituent Assembly

Only one law academic, Dr. Tulia Ackson, Senior Lecturer, was a member of the Constituent Assembly, which was convened in 2014. It elected, as its Chairman, Samuel J. Sitta, former Minister of Justice and Constitutional Affairs in the Government of the United Republic and former Speaker of the National Assembly. At the conclusion of its deliberations, the Constituent Assembly produced a path-breaking document, *Katiba Inayopendekezwa* in October 2014.⁹⁸ The author believes that Dr. Tulia Ackson contributed immensely and positively since she was an active member of the Law Academics Constitutional Forum. To crown it all, she was a member of the Drafting Committee of the Constituent Assembly.

Katiba Inayopendekezwa adopted numerous recommendations of the Constitutional Review Commission. It contains 296 Articles and three Schedules. Its wealth is discernible by comparing it with the Constitution of the United Republic of Tanzania 1977 which had 95 Articles when it was adopted on 26th April, 1977 and 152 Articles in its 2005 Edition.⁹⁹ It carries, among others, provisions for authority of Tanzania citizens, by way of a referendum, to amend the Constitution or to annul the Union of Tanganyika and Zanzibar; reduction of Union Matters from twenty two (22) to sixteen (16), an Independent Electoral Commission (*Tume Huru ya Uchaguzi*) whereby citizens may apply for membership, independent candidates in elections, Presidential election results to be

⁹⁸ See Fimbo, G.M., 'Tuijadili Katiba Inayopendekezwa,' Dar es Salaam, 2020 (unpublished). It is important to note that Katiba Pendekwezwa was adopted to the Constituent Assembly comprising of the ruling party inclined members as all the opposition members formed in to Ukawa had boycotted the Assembly by then.

⁹⁹ It is worth noting that the wide unfettered powers of the president in the 1977 Constitution (Article 37(1)) were retained in *Katiba Pendekwezwa, 2014* (Article 82). Both provisions provides that the President is not bound by any advice given to him or her by anybody.

challenged in Court by a Presidential candidate, institutions for Democratic Governance and Human Rights whose members have immunity from removal, Zanzibar's capacity to enter into international agreements and Zanzibar's capacity to borrow from international financial institutions with guarantee by the Government of the United Republic.¹⁰⁰

Electoral Commission of the United Republic of Tanzania

Commissioner Asina A. Omari, (Assistant Lecturer) has been a member of the Electoral Commission, popularly known as the National Electoral Commission (NEC),¹⁰¹ since 2015. During this period and under the apparent tutelage of the NEC a general election was held in 2015 and a caricature of general election in 2020. In the latter general election, problems were reported at every stage of the general election, that is to say, nomination of candidates, election campaigns, election agents, voting, counting of votes, declaration of results and selection of women for Special Seats in the National Assembly from a Party list of one political party, *Chama cha Demokrasia na Maendeleo* (CHADEMA).

The NEC produced two reports in 2016 and 2021 on 2015 and 2020 Presidential elections, elections of Members of Parliament and election of Councillors. The Commissioners' signatures appear at page xx of the 2016 report and page xv of the 2021 report. Both reports fail to carry statements of account of funds. This is intriguing in one respect: at the conclusion of business of the general election of 2020 it was announced that the NEC had surrendered to the Treasury billions of shillings of what it considered surplus funds. Yet

¹⁰⁰ The Constituency Assembly rejected the Commission's recommendation of a Federal Structure for the Union.

¹⁰¹ This name is not in the Constitution of the United Republic (Article 74), the Elections Act 1985 or the National Elections Act Cap 343 R E 2015.

in its report for the 2020 general election, the NEC recommends that it should hire its own staff at the local government level.¹⁰² The same recommendation was made as early as April 1995 by local consultants¹⁰³ and the Government in the 1995 amendment of the Elections Act 1985 acted it upon. Currently, City Directors, Municipal Directors, Town Directors perform the function of Returning Officers and District Executive Directors as directed by the National Elections Act subsection (1) of Section 7.¹⁰⁴ These officers are not employees of the NEC and they owe no allegiance to the NEC. The members of the Commission sit pitifully at the headquarters awaiting election results, which have been compiled by these officers and of which the Commission has no opportunity to verify. We wish to make two observations with regard to this recommendation. Firstly, it is an admission that the NEC does not execute its Constitutional mandate of conduct and supervision of a general election.¹⁰⁵ It is abdication of responsibility or dereliction of

¹⁰² *Jamhuri ya Muungano ya Tanzania, Tume ya Taifa ya Uchaguzi (2021), Taarifa ya Uchaguzi wa Rais, Wabunge na Madiwani wa Mwaka 2020, uk. 108 (ii), "kuwe na watendaji wa Tume hadi ngazi ya halmashauri."*

¹⁰³ United Republic of Tanzania, (1995) Ministry of Justice and Constitutional Affairs, Report of Short Term Consultancy on Electoral Law and Procedures of Tanzania, p. 27. The report was submitted to the Minister, Hon. Samuel J. Sitta on 3rd April 1995. See also Fimbo, G.M.; A.J. Liviga and C. A. Ayoka (2008) 'Review of the Legal and Regulatory Framework for Political Parties and Functions of the Office of the Registrar of Political Parties,' UNDP Consultancy on the Theme: Deepening Democracy in Tanzania Programme, submitted to UNDP Dar es Salaam, February 2008, p. 14.

¹⁰⁴ Cap 343 RE 2015 as amended by Act No. 8 of 1995, No. 8 of 2000, No. 13 of 2004 and No. 7 of 2010.

¹⁰⁵ *Katiba ya Jamhuri ya Muungano wa Tanzania ya Mwaka 1977 ibara ya 76(1), "Majukumu ya Tume ya Uchaguzi yatakuwa ni- ... (b) kusimamia na kuratibu uendeshaji wa uchaguzi wa Rais na Wabunge ... (d) kusimamia na kuratibu uandikishaji wa wapiga kura na uendeshaji wa uchaguzi wa madiwani ..."* (refer to the Article 76 (1) of the Constitution of the United Republic of Tanzania, 1977 for an English translation).

duty imposed by the Constitution.¹⁰⁶ If this pattern continues, large numbers of people are likely to be shed from the electoral process and politics. Secondly, the recommendation is perplexing in view of the provisions of subsection (2), (3) and (4) which are reproduced below. Before we reproduce these provisions we wish to engage in an examination of the history of Sections 7 and 8 of the Elections Act, which is short and remarkable. It is this. In 1985 when the Elections Act¹⁰⁷ was enacted under a One Party State these were quite progressive by granting power to the Commission to appoint Returning Officers. The Sections read:

7. Every City, Municipal or Town Director and every District Development Director shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Returning Officer.
8. (1) The Commission shall appoint by office or name a Returning Officer for each constituency.
(2) Each Returning Officer shall appoint by office such number of Assistant Returning Officers as he may think fit.

Act No. 13 of 1990 made a significant amendment by divesting the Commission power to appoint Returning Officers. These Sections read:

7. Every City, Municipal or Town Director and every District Executive Director shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Returning Officer.

¹⁰⁶ Where a provision of legislation is inconsistent with the Constitution, it is always advisable to take a line of action which is consistent with the Constitution.

¹⁰⁷ Act No 1 of 1985.

8. (1) Every District Administrative Officer shall be the Returning Officer for the constituency or constituencies in the district in relation to which he is the District Administrative Officer.
- (3) Each Returning Officer shall appoint by Office such number of Assistant Returning Officers as he may think fit.

In March 1992 the Electoral Commission under the chairmanship of Justice Lameck M. Mfalila had made a sarcastic observation on automatic appointment of District Administrative Officers as Returning Officers. The members collectively lamented:

*Uzoefu tulioupata kwa uchaguzi uliopita umeonyesha kwamba mazingira ya kazi za Afisa wa Wilaya ni tofauti na mazingira ya kazi za Msimamizi wa Uchaguzi. Kutokana na tofauti hizo baadhi ya watu wanaweza kumudu madaraka yao kama Maafisa wa Wilaya lakini hawawezi kumudu kuyabeba madaraka ya Usimamizi wa Uchaguzi.*¹⁰⁸

[Free Translation: The experience we have obtained from the last election reveals that the working environment of the District officer is different with that of an election officer. As a result of these differences, some people may manage their roles as District officers but cannot do the same for duties of an election officer.]

¹⁰⁸ *Tume ya Uchaguzi, Taarifa ya Tume ya Uchaguzi Kuhusu Uchaguzi Mkuu wa Mwaka 1990, uk. 205* (Report of the Election Commission on the conduct of Elections, 1990 p. 205).

When multipartyism was reintroduced in Tanzania in 1992 and after the report of the short term consultancy referred to above and immediately before the 1995 general election, the Elections Act 1985 was amended by Act No. 8 of 1995. The result was that Section 7 vested power to the Electoral Commission to appoint Returning Officers. It read:

7. The Electoral Commission shall appoint for every election in every constituency a Returning Officer and such number of Assistant Returning Officers as the Commission may think necessary for the purpose of conducting an election in the constituency, and may appoint a Returning Officer for more than one constituency.

After the amendments by Acts Nos. 8 of 2000, 13 of 2004 and 7 of 2010, the Commission still retains power to appoint Returning Officers, Assistant Returning Officers and other staff despite the wording of subsection (1). Section 7 now reads:

- 7.(1) For purposes of an election held under this Act every City Director, Municipal Director, Town Director and District Executive Director shall be a returning Officer for the purposes of conducting an election in a constituency and such Returning Officer may be for more than one constituency.
- (2) Notwithstanding subsection (1), the Commission may appoint by office or name from amongst public officers, such number of Returning Officers or Assistant Returning Officers for the purpose of conducting an election in a constituency.

- (3) Notwithstanding the provisions of subsection (1) and (2) the Commission may, where circumstances so require and by notice published in the Gazette, appoint any person holding a public office by name or by office to be a Returning Officer in any constituency instead of the one referred to in subsections (1) and (2), and where such person is so appointed the City Director, Municipal Director, Town Director and District Executive Director or an official, as the case may be, shall cease to be a Returning Officer or an Assistant Returning Officer of that constituency in such election.
- (4) The Returning Officer may, subject to Section 56 and to the direction of the Director of Elections, appoint such staff as may be necessary for the purposes of conducting an election in the constituency.

One may be permitted to soliloquize, why subsections (2), (3) and (4) of Section 7 were not invoked by the Electoral Commission in the 2015 or 2020 before a general election? Alternatively, what is the basis of the Commission's inertia in working for the restoration of Section 7 as it read after the amendment by Act No. 8 of 1995 as reproduced above?

In concluding this Section, I shall identify two researchable topics: the first researchable topic which may appear simplistic to some readers is whether participation by UDSolL law academics has influenced the conduct of deliberations in or decisions of the above bodies. Secondly, whether these reports exhibit genuine concern to alleviate the plight of what are euphemistically referred to as *wanyonge (the downtrodden)*.

UDSoL Law Academics Form Non-Governmental Organizations

The Legal and Human Rights Centre

In 1995 five young law academics, Dr. C.R. Mahalu, Dr. R.W. Tenga, Dr. S.E.A. Mvungi, Dr. P.J.A. Kabudi and Dr. I.H. Juma,¹⁰⁹ conceived a novel idea of establishing the Legal and Human Rights Centre (LHRC). The Centre is a private autonomous, voluntary, non-governmental, non-partisan and non-profit sharing organisation envisioning a just and equitable society. The Mission of LHRC states:

To empower the public, promote, reinforce and safeguard human rights and good governance in Tanzania through legal and civic education and information; sound legal research and advice; monitoring and following-up human rights violations; and advocacy for reforms of policies, laws and practices in conformity with international human rights standards.¹¹⁰

It has four offices, two in Dar es Salaam, one in Arusha and another in Dodoma. The Head Office is located at the Justice Lugakingira House in Kijitonyama Area, Dar es Salaam.¹¹¹ The LHRC has published numerous human rights reports. Its latest report is titled *Tanzania Human Rights Report 2020, Human Rights Protection and the Threat Posed By Covid19 in Tanzania*. On freedom of expression, it reports that the major obstacle in effective realization

¹⁰⁹ Names were supplied to me by Dr. R.W. Tenga.

¹¹⁰ Legal and Human Rights Centre, (2018), Expert Analysis on the Constitutional Review Impasse in Tanzania, Dar es Salaam, p. iv

¹¹¹ Legal and Human Rights Centre, (2021), Human Rights Protection and the Threat Posed by COVID 19 in Tanzania, Dar es Salaam, p. xi

of freedom of expression is the introduction of different pieces of legislation and amendments of freedom of expression laws in the past six years. It lists these laws to be Media Services Act, 2016, the Cybercrimes Act, 2015 and the Electronic and Postal Communications (Online Content) Regulations, 2020. It states:

Analysis of these laws by LHRC and other stakeholders has revealed failure of the laws to meet international standards on freedom of expression, particularly the tests for restrictions of this fundamental human right.¹¹²

In May 2018 it published what it called “Expert Analysis on the Constitutional Review Impasse in Tanzania” which identifies three alternative approaches that can be taken to put the constitutional review process on track again. A summary of these approaches runs as follows:

Firstly, is to revive the constitutional review process by returning to the last, unfinished business, which was the holding of a referendum (following the necessary amendments to the Referendum Act) and promulgation of a new Constitution;

Secondly, is to reconvene the Constituent Assembly which adopted the ‘Proposed Constitution’ i.e., ‘**Katiba Inayopendekezwa;**’ and

¹¹² Legal and Human Rights Centre, (2021), Tanzania Human Rights Report, 2020, op. cit. p. 34.

Thirdly, to appoint a Committee of Experts (CoE) as the first step towards a referendum and promulgation of a new Constitution.¹¹³

The LHRC has indulged in public interest litigation. It has taken up and filed in the High Court of Tanzania many cases over the years. The Centre's existence to date owes to the ingenuity and boldness of these five law academics as well as foresight of its Board of Directors.¹¹⁴

The Land Rights Research & Resources Institute

In the same year of 1995 Issa G. Shivji, Wilbert B. Kapinga and George Hadjiyavanis established the Land Rights Research and Resources Institute (LARRRI or HAKIARDHI) whose aims are:

To advance, promote and research into land rights of small peasants and pastoralists with a view to providing information and knowledge so as to facilitate equitable and socially just access to, control over, land for production of food and other basic needs.

To research into amicable means of resolving land disputes among and between small land users and villagers.

To provide and organize on request short courses on land tenure and land rights.

¹¹³ Legal and Human Rights Centre, (2018), Expert Analysis on the Constitutional Review Impasse in Tanzania, op. cit., p. 15. The author is of the view that approach No. 1 above is feasible.

¹¹⁴ The current Chair of the Board is Hon. Chief Justice Retired Barnabas Albert Samatta.

To organize and sponsor conferences, seminars, workshops and meetings.¹¹⁵

Among the research outputs are two publications; *Not Yet Democracy: Reforming Land Tenure in Tanzania and Maasai rights in Ngorongoro, Tanzania*, both published by HAKIARDHI and the International Institute for Environment and Development (IIED), Dryland Programme.

VI LEGAL CONSULTANCY

We do ourselves the most good doing something for others.

Horace Mann

The Faculty of Law established the Legal Consultancy Services Committee and under it many consultancies have been undertaken including hosting the LST discussed above. In this Section I shall deal with consultancies for making legislation, refresher courses and training programmes.

Principal and Subsidiary Legislation

Consultancies undertaken under the Legal Consultancy Services Committee have led to the making of various legislation such as the Urban Planning Act 2007, Land Use Planning Act 2007,¹¹⁶ the

¹¹⁵ Shivji, I.G., and Kapinga, W. B. (1998), *Maasai rights in Ngorongoro, Tanzania*, IIED/HARKI ARDHI, Dar es Salaam.

¹¹⁶ This consultancy was multidisciplinary, it involved the following: G.M. Fimbo, (Lead Consultant), Z. S. Gondwe, A.S. Kauzeni (IRA), R.V. Makaramba and T. Nkya (Ardhi Institute). The Consultancy was prepared for the Ministry of Lands and Human Settlements Development, 97 Sections and Four Schedules, May 2003.

Urban Planning Regulations,¹¹⁷ the Employment and Labour Relations Act, 2004 and the Labour Institutions Act, 2004.

Individual consultancies have been done quietly and without fanfare. We shall disclose some with permission of the participants who were involved: Land Act 1999, Village Land Act 1999, Land Regulations 2001 and Village Land Regulations 2001 (G.M. Fimbo), Land Disputes Courts Act, 2002 (G.M. Fimbo and R.W. Tenga), Unit Titles Act 2008 (R.W. Tenga), Wildlife Act, 2004, Wildlife Management Areas Regulations, 2004, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Implementation Regulations, 2005, Wildlife Conservation (Non- Consumptive Wildlife Tourism) Regulations, 2006 (H.I. Majamba). P.J.A. Kabudi was a Legal Consultant for the Drafting of the new Forestry Law and new Beekeeping Law, 1998/99, the Bill for the Wildlife Act, 2003, the Environmental Management Act 2004 and the Environmental Management (Environmental Experts) Regulations, 2005. Similarly, law academics have participated in the making of Zanzibar legislation: Elder Persons Affairs Act No. 2 of 2020 (C.M. Peter), Employment Act No 11 of 2005, (C.K. Mtaki and B.I. Rutinwa), Labour Relations Act No 1 of 2005 (B.I. Rutinwa). Further, they have participated in the drafting of amendments to Zanzibar legislation: Occupational and Health Safety Act No 8 of 2005, Workers Compensation Act No. 5 of 2005, Zanzibar Social Security Fund Act No 2 of 2005 (C.K. Mtaki and B.I. Rutinwa). It should be pointed out that a client, by agreement, retains intellectual property rights. In relation to consultancies generally,

¹¹⁷ This consultancy was composed of G.M. Fimbo, Lead Consultant, Aphonce Kyessi (Ardhi University), James Jesse and Ebenezer Mshana. Messrs. E. Longopa and L. Mussa were Research Assistants. The final report and 15 sets of Regulations were submitted to the Ministry of Lands, Housing and Human Settlements Development in February 2013.

the University authority states that three main governing principles apply, namely:

- i. Academic staff owe their primary professional commitment to the University;
- ii. Academic staff should ensure that the nature of outside consulting work undertaken should in no way detract from the prestige of the University or their professional stature;
- iii. Academic staff are given great freedom in scheduling their activities with the understanding that their external activities will enhance the quality of their direct contribution to the University.¹¹⁸

A researchable topic is whether there is a true balance between basic research on the one hand and policy research/applied research on the other.

Refresher Courses and Training Programmes

Between 1990 and 1996 the Department of Economic Law¹¹⁹ conducted Refresher Courses on a yearly basis in Arusha, Mbeya and Mwanza. In December 1990 the author attended and presented a paper in Arusha.¹²⁰ The one week workshops were

¹¹⁸ University of Dar es Salaam, University Consultancy Bureau, Consultancy Policy and Procedures, April, 2005, p. 15.

¹¹⁹ Credit should go to the following Heads of Department, Dr. Adam Bakari (decd) and Prof. N.N.N. Nditi (decd).

¹²⁰ Fimbo, G.M., (1990), 'Corporation Secretaries and Legal Profession,' paper for Refresher Course for Corporation Secretaries organized by the Department of Economic Law, Faculty of Law University of Dar es Salaam at Arusha, 10th December, 1990 (unpublished), p. 1-10.

held for Corporation Secretaries in public corporations at a fee which adequately compensated the efforts of resource persons.

Further, in 1992 the same department conducted a training programme for Tanzania women for one week, 13th – 24th July, 1992 at Mbeya. It was called a TFTW Training Programme and the sponsor was no other than the Canadian Training Fund for Tanzanian Women. One of the signatories of certificates of attendance was A.M. Mapunda (for the Faculty of Law).¹²¹

In sum, legal consultancies under the Legal Consultancy Services Committee are normally sourced by the Dean's office, Heads of Department and by individual law academics. They involve many law academics and require competence in the subject area. Sometimes the client may require law academics to work with other academics whom it designates. Every client would issue Terms of Reference (TOR). To the extent that the client lays down strict timelines, consultancies demand dedication and proper management in order to produce satisfactory product. Our advice lies in six respects. Firstly, every law academic should specialize and find the right niche for himself or herself in a subject area. Secondly, the Dean, Heads of Department and senior law academics should be vigilant in seeking and attracting consultancies and in conception of new projects. Third, a School Handbook or Prospectus, the Website and pamphlets should showcase the UDSolL competences. Fourthly, all UDSolL law academics should keep in touch with officers in government and the private sector. Fifth, every law academic should keep two CVs, one for the UDSM and the other for consultancies. Clients often provide formats of CVs to be submitted. Lastly, every law academic should possess a business card which details qualifications, area(s) of

¹²¹ Prof. A.M. Mapunda told me that he was Acting Dean of the Faculty of Law.

specialization and the UDSoL address. A law academic who undertakes legal practice should prepare an additional business card.

There are two main challenges which face UDSoL law academics, namely, private legal practice¹²² and party politics short of engaging in the national electoral process. Whereas engagement in the electoral process is regulated by national legislation, ordinary politicking is not. One may recall intense discussion on this issue among members of the University of Dar es Salaam Staff Assembly (UDASA) after the multiparty system was re-introduced in 1992. I would consider that the three principles which regulate consultancy and stated above¹²³ should equally apply to private legal practice and engagement in party politics.

When everything is said, the remaining researchable topic is whether UDSoL law academics deserve an attractive remuneration package which is different from other academics in the University of Dar es Salaam.

VII THE UNIVERSITY OF DAR ES SALAAM SCHOOL OF LAW FAMILY

It is time for us to stand and cheer for the doer, the achiever, the one who recognizes the challenge and does something about it.

Vince Lombardi¹²⁴

¹²² In 1998 the Attorney General, A.J. Chenge advised that UDSoL law academics who wish to undertake private legal practice should establish law firms under the law or join established law firms.

¹²³ P. 31.

¹²⁴ <https://www.keepinspiring.me/vince-lombardi-quotes/> (Accessed on 15th October, 2021).

I feel honoured to shed light on the UDSoL family. I dare say that it is the Age of Renaissance. Dean Hamudi Ismail Majamba was appointed in 2015. Since then he has revitalized the UDSoL through staff seminars, Teach-Ins, Breakfast Talks, revival of a funeral policy, revitalization of the Website and creation of a WhatsApp group. Even the Accounts Office has become friendly in paying allowances of UDSoL law academics promptly. It is amazing how the family spirit and congeniality have been energized and built. Some of these activities deserve close examination.

Dean Majamba conceived and implemented Breakfast Talks, Teach-Ins and Annual Staff Meetings as soon as he became Dean. In addition he revived staff seminars. These are intellectual discourses at selected topics and intervals. Several such talks have been held:

Breakfast Talks

Several breakfast talks have been held: 'An Intellectual Journey with my Teachers, Essay in Honour of Professor Yash Pal Ghai,' in 2016 by I.G. Shivji, 'Collaborative Writing of Legal Texts for Law Students on 13th August, 2016 by G.M. Fimbo, 'Mgongo Fimbo's Miscellany at Law, An Exposition of the Court of Appeal Decisions on Procedural Laws' on 2.12. 2017 by G.M. Fimbo, Recollections on Teaching & Administration at UDSL on 8th February, 2019 by Dean H.I. Majamba, 57th Faculty Anniversary on 25.10.2018 by Dean Majamba, Overview on the History, Legal and Institutional Framework of SADC on 24.8.2019 by K. Kamanga and 58th Faculty Anniversary on 25.10.2019 by Dean Majamba.

Several breakfast talks have been held to celebrate birthday anniversaries of senior UDSoL law academics who turned 70 years old and above. These were held for the late J.L. Kanywanyi on 5th

November 2018 (80 years), 5th November, 2019 (81 years), 5th November, 2020 (82 years), the late Nicholas N. Nditi on 3rd January, 2020 (70 years), L.P. Shaidi on 10th February, 2020 (70 years) and A.M. Mapunda (70 years). The significance of the breakfast talk on 16th March, 2020 is that it was to celebrate appointment of four Professor Emeriti, I.G. Shivji, C.M. Peter, G.M. Fimbo and the late J.L. Kanywanyi.¹²⁵

Teach-In

Two Teach-Ins may be reported here: the first one was staged on 13th April, 2019 following a tug of war between the National Assembly and the Controller and Auditor General (CAG). All the speakers were drawn from the UDSOL. A publication on this is in place.¹²⁶ The second Teach-In on Local Government Elections was staged on 23rd August, 2019.

Annual Conference and Annual Staff Meetings

At the Annual Conference of the University of Dar es Salaam School of Law on 19th January, 2019 at 9.30 am there was a presentation by the author, 'Law Academics and the University of Dar es Salaam Staff Code of Conduct.' This presentation was made seven years after adoption and promulgation of the Code of Conduct by the University Authority in May 2012 but received in the Dean's office on 22nd May 2018. There has now been established an Annual Staff Meeting, an event that is held just before the

¹²⁵ Professor Emeriti were formally presented at the Graduation Ceremony in Nkrumah Hall on 4th August, 2020. The Professor Emeritus/Emerita Rules were drafted by Dean H.I. Majamba and approved by the 255th UDSM Council at its Meeting held on 4th July, 2019. Rule 4(1) states in part: No salary shall be paid to a Professor Emeritus/Emerita ...

¹²⁶ See Fimbo, G.M., and C. Ngaiza (2019) *The Controller and Auditor General in the National Assembly*, published by the University of Dar es Salaam School of Law.

commencement of an academic year, usually after the examination process has been completed. Members of staff freely and openly reminisce and discuss critical issues that emerged during the year and thereafter engage in a social get together.

Staff Seminars

Before concluding this article which has been composed with enthusiasm, I shall turn to the kernel of academic life, namely staff seminars. Three of these deserve mention. Firstly, a staff seminar held on 30th April, 2019 on the subject of Retirement and Post Retirement. The second celebrated the 59th anniversary of the Faculty of Law/School of Law on 25th October, 2020. At the third staff seminar a launching ceremony of a special issue of the African Review was performed. The African Review which is published by the Department of Political Science and Public Administration in this University. This issue was devoted to EAC law whereby seven UDSol law academics contributed articles.¹²⁷

Staff Welfare

A short statement on staff welfare would suffice here. Dean Majamba has been unwavering. He closely follows up staff development issues of young law academics. He monitors each stage reached in research and writing of PhD Theses of UDSol law academics who are registered in this University and foreign Universities. Regarding non-academic issues, namely, buildings and the University campus we shall paraphrase as follows:

Weekly management meetings have been held since Dean Majamba came to the helm. These have now been formally

¹²⁷ Volume 45 No. 2 *The African Review, A Journal of African Politics, Development and International Affairs*, (Special Issue) December 2018, DUP, Dar es Salaam, 2018.

institutionalized. Administrative Officers, Accounts and ICT personnel meet every Monday of the week. The Dean, Associate Dean or Heads of Departments chairs the meetings on a rotational basis. Staff welfare, administrative and academic matters across the divide are discussed; records of the meetings are kept and shared with all Heads of Departments and Coordinators and strict follow-ups made to ensure matters agreed in the meetings are taken care of.

From the outside, the surrounding compounds of UDSoL A.B. Weston building and the Mikocheni Campus are clean and well kept. The Mkwajuni Road, leading to the UDSoL has now been clearly marked, renovated and tarmacked until the parking area at the A.B. Weston Building. The insides of the buildings are scrupulously clean and attractive. Every guest is treated to an enticing revolving structure of 3-D portraits of the founding Professor Emeriti of the UDSoL and the University: J.L. Kanywanyi; I.G. Shivji; C.M. Peter and the author. The offices are well furnished with desktops connected to Network & Internet and Wi-Fi, which are promptly serviced by a resident Systems Administrator in the event of challenges.

VIII CONCLUSION

Once the inevitabilities are challenged we begin gathering our resources for a journey of hope. If there are no easy answers there are still available and discoverable hard answers, and it is these that we now learn to make and share

Raymond Williams (Towards 2000)¹²⁸

¹²⁸ <https://www.opendemocracy.net/en/we-live-in-revolutionary-times-but-what-does-this-mean/> (accessed on 15th October, 2021).

In this essay in commemoration of the 60th Anniversary of the Faculty of Law I have provided a comprehensive chronicle of the UDSoL (formerly the Faculty of Law). Law academics have been part of the history of UDSoL and have made that history. I feel pride in being part of this history.¹²⁹

Like a historian who chooses his theme, the period and the facts relevant his theme, I chose my theme, I chose the period and I chose the facts. I discussed how law academics seized upon the PhD requirement to make history. They have trotted the world over in order to acquire knowledge and to endeavour to generate new knowledge. In that process they internationalized the UDSoL. I have shown how UDSoL law academics with the PhD degree strove to develop capacities of the University of Dar es Salaam, other Universities in Tanzania and the EAC Partners States, the public sector, the Judiciary and the legal profession. I seized an opportunity to present a critique of the National Commissions in which UDSoL law academics serve or have served. At appropriate stages, I identified researchable topics in order to motivate the general reader to move with me in my intellectual journey. Let us, together, attempt to find 'hard answers.' In the narrative I included discussion of collateral benefits of UDSoL law academics regarding postgraduate teaching, public lectures, consultancies and projects. In part, this narrative I intended to motivate every UDSoL law academic to look back with nostalgia. In the end, I restated Dean Majamba's steps in building congeniality at the UDSoL. Thus, every UDSoL law academic is entitled to face the future with fortitude, hope and magnanimity.

¹²⁹ The author was appointed a Tutorial Assistant and, therefore, a law academic with effect from April 1969.