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**REPORT ON THE NATIONAL RULE OF LAW STAKEHOLDERS FORUM**  
**“STRENGTHENING THE RULE OF LAW IN TANZANIA”**

**December 10 – 11, 2015**  
Seascope Hotel, Dar es Salaam, Tanzania



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## Executive Summary

The National Rule of Law Stakeholders Forum was the first such forum to be organised in Tanzania. It was organized with the support of the International Development Law Organization (IDLO). The Forum was organized in the context of the United Nations 2030 Agenda for Sustainable Development. The Forum was also one of the strategies discussed as a possible entry point for IDLO's engagement to strengthen the Legal and Justice Sector Actors to advance the rule of law in the short and long term in Tanzania during IDLO's scoping mission (August 4-7, 2015) led by IDLO's Prof. Makau Mutua and Ms Enid Muthoni. During the scoping mission different actors highlighted various challenges facing the rule of law sector in Tanzania such as lack of structured forum for actors' engagement with duty bearers and for strategic advocacy with Government on key issues that impact the rule of law; lack of adequate capacities (human resources, financial resources, etc.) to deliver on their mandates hence lack of optimal contribution of the sector players into the many ongoing reforms and other processes taking place within the country. In this regard, the Forum may be considered as a first response by IDLO on needs identified during the scoping mission.

Other challenges include inadequate constitutional, legislative and policy framework for robust rule of law and to ensure access to justice and rights for all especially the most marginalized; declining standards of legal education and the resultant erosion of the legal profession due to the liberalization of the legal education sector without the attendant strengthening of the capacities of the regulatory agencies and revamping of curricula resulting in varied standards of training and instruction of lawyers with little control over the quality of the legal professionals; lack of competence based continuing legal education courses and curriculum for practicing lawyers; expensive commercial justice partly due to limited alternative dispute resolution mechanisms, lack of small claims courts, case backlog, and poorly regulated court brokers; corruption and unethical conduct of some officers in the legal and justice sector; declining public trust in the legal and judicial systems; and limited access to legal aid that is affordable and reliable, and the non-recognition of paralegals.

The objectives of the forum were therefore geared at bringing stakeholders together for structured dialogue and engagement on the issues affecting the legal and justice sector, with the aim of enhancing the voice of the actors and allow concerted efforts in addressing sector challenges. The forum was also intended to act as the coordinating forum for the stakeholders in the sector to enhance their interventions, enhance coverage and avoid duplication of efforts in addressing sector challenges. The Forum served also as a platform to collect experience on rule of law and development issues that can inform the upcoming Africa conference on the Rule of Law.

The forum was structured along five major thematic areas namely, Institutional Reform, Constitutional and Legal Reforms, Governance, Democracy and Human Rights, Environment, natural Resources and the Extractive Industry and lastly Partnership and Financing for Development.

Each thematic area constituted one panel or session with presentations on a related topic. The focus of each presentation was to illustrate challenges and opportunities related to the theme to ensure the realization or promotion of the rule of law as a goal and as an enabler for sustainable development. Presentations were followed by plenary discussion or open dialogue, with questions and input from the audience led by a moderator. Moderators refrained from acting as discussants or summarizing presentations made instead only picked up key issues to steer the discussion along those issues.

Under the theme Institutional Reform, stakeholders were challenged to re-think the concept of Rule of Law, which has to serve the social, economic and environmental dimensions in order to achieve development goals. Discussion also focused on judicial reform, and the extent to which the judiciary facilitates access to justice in Tanzania. Judicial accountability was also a key area of focus under this theme, with emphasis made on the need to comply with available mechanisms as well as the concept of judicial performance as a means of enhancing judicial accountability. Importance was laid on the need to ensure that Rule of Law is aligned with the global Sustainable Development Goals so that Rule of Law will in turn serve to eradicate poverty, build peaceful, just societies and empower the vulnerable in improving their access to justice, governance and non-discrimination.

The second theme covered by the forum was that of Constitutional and Legal Reforms with presentations and discussions being centred on legal education and Rule of Law, legal practice training and constitutionalism and Rule of Law in Tanzania. Key challenges affecting the three areas were identified including, the need to focus on Rule of Law in the training of today's legal practitioners, particularly in the current socio-economic environment, the need to strengthen the role of the Council of Legal Education in Tanzania in order to improve legal practice training and with reference to constitutionalism, the need to analyse Rule of Law within its proper context more so while bearing in mind the fact that different economic and political eras have shaped the concept of Rule of law over time. Rule of Law was noted to be particularly crucial to the Constitution-making process in Tanzania.

The third area of the forum's focus was on Access to Justice and Human Rights in Tanzania. In this regard, challenges were noted in respect of good governance and the protection of human rights, particularly because access to justice is strongly linked to governance and protection of human rights. For access to justice to become a reality there is need to address shortcomings such as lack of awareness on human rights, distribution of legal services, infrastructure inadequacies and legal technicalities. This panel addressed itself to the emerging area of competition and consumer protection, noting that a lot of input was necessary in order to remedy prevailing challenges in the sector, more so, the inaccessibility of the Fair Competition Commission by ordinary consumers. There was also need to address and remedy the state-led approach to consumer protection. This panel also addressed the issue of Gender Based Violence, noting that major challenges in this area arose due to the presence of a legal framework that was still largely gender insensitive, inadequate coordination and among different institutions tasked with gender matters, scarcity of resources and inadequate personnel.

The Environment, Natural Resources and the Extractive Industry was the fourth major theme of the forum. Presentations centred on transparency and accountability in the extractives industry, with specific focus on the role of the three arms of government in ensuring transparency and accountability in the industry. Fiscal regimes, taxation and revenue management with regard to the extractives industry were also discussed by this panel, with diverse challenges being identified including the complexities of designing appropriate tax regimes, investment of revenue management, unpreparedness of the economy to handle revenue flows from the industry as well as complexities of securing transparency and accountability in the industry. A third dimension was introduced to this panel, dealing with gender perspectives in the extractive industry, more so, the challenges affecting women in the industry and the opportunities available to remedy these shortcomings.

The final theme of the forum was on Partnership and Financing for Development which discussed accountability in government expenditure. Emphasis was laid on the need to make sure that public money is spent in the most economical and efficient way to achieve the intended benefits for the public. Different challenges were

illustrated, especially non-compliance with public laws and regulations, delays and under-release of funds and non-compliance with the provisions of the Public Procurement Act. This panel also discussed Illicit Financial Flows in Tanzania, noting that corruption was a primary motivation and facilitator of illicit financial flows. It was noted that illicit financial flows take place through tax evasion, embezzlement of government revenue and misrepresentation of trade invoices among others. The biggest challenge remains in creating an enforcement mechanism that is able to respond promptly to stem and stop illicit financial flows.

In the resolutions and way forward, the stakeholders agreed that the forum should be a permanent feature to be held annually as the coordinating forum for stakeholders in the justice sector. It was agreed that there is need to come up with innovative and sustainable ways to remain relevant in the Rule of Law discussion. Papers presented at the forum will be reviewed with the aim of identifying challenges as well as opportunities available for partnership and action measures in the Rule of Law agenda.

## 1. OPENING AND INTRODUCTORY SESSION

### 1.1 REMARKS FROM THE ORGANIZER – Ms. ENID MUTHONI, COUNTRY DIRECTOR IDLO KENYA

The forum began with welcoming remarks from Ms Enid Muthoni (Country Director, IDLO Kenya) on behalf of the International Development Law Organisation (IDLO) who were the organisers of the forum. The IDLO is the only international intergovernmental organisation focused solely on rule of law, peace and institutional development. Ms Muthoni's address highlighted the key role of rule of law as a cornerstone of justice and social development. The welcome note highlighted the long history of the IDLO's work in Africa, with work spread across diverse programs touching on rule of law – Access to Justice, Institutional Strengthening, energy and sustainable development.

This was the first Rule of Law Stakeholders forum in Tanzania, bringing together all actors relevant to the rule of law agenda in order to discuss matters affecting legal issues and justice. The IDLO had held talks with stakeholders in rule of law in Tanzania. The resulting discussions agreed on the need to bring stakeholders to dialogue on challenges and the way forward. It was therefore expected that the national Forum would; steer discussions on national good practices, identify gaps and identify potential areas in which partnerships can be pursued; inform IDLO's African initiative on a rule of law forum in 2016; inform the agenda on sustainable development goals; develop home grown strategies to address challenges in upholding rule of law and agree on a way forward in terms of partnering and bringing on board other stakeholders at the national level in order to push the rule of law agenda.

### 1.2 REMARKS FROM SELECTED DEVELOPMENT PARTNERS WORKING ON RULE OF LAW RELATED PROJECTS IN TANZANIA: MR. KEES GROENENDIJK, FUND MANAGER, LEGAL SERVICES FACILITY (LSF), TANZANIA

The Forum was also addressed by Mr. Kees Groenendijk on behalf of selected development partners working on projects related to Rule of Law in Tanzania. , Mr. Kees Groenendijk from the Legal Services Facility (LSF) began by introducing the LSF as a basket fund, co-funded by DANIDA and DFID and has been operational since 2012. LSF was set up as a demand side-support mechanism aiming to enhance civil society legal services through grant making and capacity development, and to promote legislation, regulation and recognition of legal aid and its providers, including paralegals.

He highlighted the definition of access to justice which the LSF uses as being the ability of women and men to seek and obtain remedies for grievances and disputes, through formal and informal institutions of justice, in compliance with internationally accepted human rights standards. The focal point of this definition is the particular reference to ‘the ability of women and men’ to access justice. The UN Commission for Legal Empowerment of the Poor described empowerment as a process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interest as citizens and economic actors.

The Commission highlighted provisions for reform and implementation including the right to legal identity, repealing or modifying discriminatory laws, strengthening the work of civil society organisations, supporting alternative dispute resolution mechanisms, supporting paralegals, creating accessible judicial and land administration systems that recognise and integrate customary and informal legal procedures, and focusing on legal empowerment of specific groups such as women or indigenous populations. All of these and more are addressed by the LSF through its grant making capacity development and other support to legal service providers. Four result areas are considered crucial in access to justice; increasing accessibility of legal services, particularly for women; promoting legally empowered communities, particularly for women; creating a conducive environment for legal aid and legal empowerment and contributing to institutional sustainability of civil society legal services.

Mr. Kees Groenendijk highlighted the achievements of LSF so far; the number of districts in which basic legal services are provided increased from 40 in 2012 to 168 in 2015. In each district on mainland Tanzania, a paralegal unit has been established with at least 25 well trained volunteer paralegals, and paralegal training being done under the auspices of the Tanganyika Law Society (TLS), which guarantees quality both in training content and delivery. Presently, there are 4000 operational paralegals. In 2015, the paralegals dealt with more than 50000 individual grievances or disputes through case-based legal aid.

Legal empowerment of women is demonstrated by increased protection of women’s rights to land, property, safety, security, access to policy, decision-making and business opportunities. Qualitative data confirms that people who have been using paralegal services are significantly more satisfied with the process toward justice, the outcomes and solutions reached as well as the costs incurred in the entire process as compared to those incurred through use of other paths in the quest for justice.

In his concluding remarks, Mr. Kees Groenendijk noted that civil society organisations which are supported properly are able to make a substantial contribution towards increasing access to justice for vulnerable populations. He also expressed hope that the interest of stakeholders in this undertaking toward increasing access to justice had been awakened or stimulated.

### 1.3 REMARKS FROM THE SPECIAL GUEST – H.E. BENJAMIN WILLIAM MKAPA – FORMER PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA (1995 – 2005)

The 3<sup>rd</sup> President of the United Republic of Tanzania, H.E. Benjamin William Mkapa, was in attendance and addressed the gathering of participants present. In his address the former Head of State highlighted Tanzania’s commitment to the cause of Rule of Law, pointing out that as a concept, rule of law has grown, and anchors

the state and society around legal rules. He pointed out that everybody present is a stakeholder of the Rule of Law, with the capacity to influence change in their spheres of interest.

His address went on to define Rule of Law, using the definition advanced by the UN, in which Rule of Law is defined as a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

It was espoused that by way of this definition, Rule of Law should be a way of life for all governments. It is a fundamental principle of government. Rule of Law was also advanced as forming part of the development agenda, with the former Head of State emphasising the importance of rule of law in access to justice, particularly because both Rule of Law and access to justice are enshrined in the Constitution through the Bill of Rights. Rule of Law was pointed out as being indispensable in the quest for development, and on a national level, its importance is evident through its inclusion in the National Development Vision 2025, in which it forms an integral part.

The former president went on to highlight the five goals of Vision 2025 as being; high quality livelihood; peace, stability and unity; good governance; a well-educated and learning society and a competitive economy capable of producing sustainable growth and shared benefits. He also informed the forum that Rule of Law, together with good governance, was one of the factors guiding the achievement of vision 2025.

It was advanced that African governments face many challenges in their aspiration to enhance and practice Rule of Law, notably in relation to constraints presented by rules of political engagement as well as challenges arising from the extent to which citizens understand the scope of their responsibilities. Further, development partners are seen to offer technical solutions that fail to meet local needs. The former president called upon all stakeholders present to develop home-driven solutions if meaningful gains are to be achieved.

He also emphasised the need for Africa to promote good governance and rule of law, which promotes legal empowerment of the people. Strategies were proposed to develop inclusive programs to make the law work for everyone. The four pillars proposed for legal empowerment of the poor are; Access to Justice and Rule of Law, property rights, labour rights and business rights. It was noted that these rights can only be enjoyed where people already have and enjoy a legal identity. It was pointed out that African states should be committed to facilitating access to justice, and protecting minorities and vulnerable groups in order to achieve social sustainability. In his concluding remarks, the former Head of State called upon stakeholders to resist the temptation of looking at Rule of Law only from the perspective of what government can do.

#### 1.4 OPENING SPEECH BY THE GUEST OF HONOUR: ATTORNEY GENERAL OF THE UNITED REPUBLIC OF TANZANIA, HON. GEORGE MASAJU (M.P)

The Attorney General of the United Republic of Tanzania, Hon. George Masaju was present to deliver the Forum's opening speech. The Attorney General began, on behalf of the Government of the United Republic of Tanzania, by welcoming all stakeholders present to the forum. He also thanked H.E. Benjamin William Mkapa,

the former President of the United Republic of Tanzania, for making the forum possible as a Patron of the planned IDLO African Conference, in collaboration with Prof. Kennedy Gastorn, the Head of Public Law Department of the University of Dar es Salaam and the IDLO. He emphasised appreciation for President Mkapa's unwavering support, readiness and commitment to the Rule of Law. Hon. Masaju also commended the IDLO for supporting the forum, adding his hope that the IDLO would find interesting areas and institutions to work with in Tanzania despite the absence of a national IDLO office.

He pointed out that the forum brought together different actors for structured dialogue and engagement on pertinent Rule of Law issues affecting the legal and justice sector. He pointed out that the forum had also been convened in the backdrop of the UN 2030 agenda for sustainable development, as well as Tanzania's vision 2025. The forum was therefore to act as a common forum for stakeholders to enhance their interventions and coverage in addressing sectoral challenges as well as a way of preparing for the upcoming African Conference on the Rule of Law to be held in the coming year.

Hon. Masaju then proceeded to discuss Rule of Law and Sustainable Development in Tanzania. His introduction began by quoting the definition of Rule of Law by the United Nations which defines Rule of Law as **"A principle of governance in which all persons, institutions and entities, public and private are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires as well, measure to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision making, legal certainty, avoidance of arbitrariness and procedural and legal transparency"**.

Stakeholders were informed that Tanzania is a staunch believer of the Rule of Law. As a member of the UN, Tanzania fully supported the processes that led to the adoption of the UN Secretary General's Report on Road to Dignity 2030, aimed at ending poverty, transforming all lives and protecting the planet. The Agenda is particularly welcome as it provides a renewed hope for Tanzania to reflect on the achievements and challenges and reflect on how these goals could be used to turn the challenges and constraints into opportunities as the country strives to attain the 2025 National Vision. He emphasised the commitment by Tanzania to building a society which is governed by the rule of law and not rule by law, aware of the fact that if Tanzania attains the rule of the law, then the road to sustainable development will be easier. This was why immediately after independence, war was declared against ignorance, poverty and disease immediately after independence. Various development plans and programmes were formulated and implemented, aimed at expanding and strengthening social services, such as education, health, water, communication and transport, agriculture and economy at large.

Hon. Masaju highlighted that the Constitution of the United Republic of Tanzania, 1977, incorporated the Bill of Rights, which placed the dignity and rights of the man and his development at the centre of its application and enforcement. The constitution is thus structured for realisation of the Rule of the Law and peoples' development as the fight against ignorance, poverty and disease continues. The Rule of Law was pointed out as being a prerequisite to sustainable development of any nation. To this end, Tanzania has in place constitutional, legal and regulatory frameworks that support attainment of the Rule of Law as essential to development.

The paper demonstrated that Rule of Law has been placed at the heart of the social contract between the state and individuals. The Rule of Law was shown as emanating from the Constitution, which in turn derived its

legitimacy from the will of the people. Hon. Masaju noted that the concept of equality before the law and fairness are well emphasised under Article 12 and 13 of the Constitution as both substantive and procedural rights, meaning that no person is above the law in Tanzania. It was informed to all present that the Constitutional Structure of Tanzania is based upon the principle of separation of powers, as per Article 4 of the Constitution. Under this set up, no arm of government is allowed to interfere with the exercise of the functions of the others, so that in this way, checks and balances are exercised.

The presentation went on to highlight the roles of the respective arms of government, beginning with the Executive, responsible for enforcing the laws enacted by Parliament. The legislature, with its legislative and oversight role, was shown as capable of being used as a tool of applying rule of law in order to attain sustainable development. When discussing the role of the legislature, Hon. Masaju pointed out that the current drafting style in which Bills are drafted both in English and Kiswahili enhanced access to justice because knowing rights begins with full understanding of the provisions contained in various laws. In discussing the role of the final arm of the government, namely the judiciary, Hon. Masaju's paper argued that a well-functioning, efficient, and independent judiciary is a cornerstone to achieving Rule of Law and sustainable development. A strong judiciary, with the right expertise and integrity, is core to the rule of law, constitutionalism, interpretation and enforcement of laws. Without an effective judiciary, it was argued that the result would be a Constitution without Constitutionalism which would in turn undermine the Rule of Law and development.

An impartial judiciary creates a conducive environment for Courts to play an important role in guaranteeing equitable access to economic and social opportunities, investor confidence as well as furthering the development of the legal concepts in the area of sustainable development. The need for strengthening other equally important legal institutions such as the Attorney General's Chambers which can also play an important role in dispute settlement, law and order enforcement, promotion and protection of investment for national interest. Hon Masaju expressed hope that these issues would be dealt with at length during the plenary presentations and discussions.

The presentation talked of the UN 2030 Agenda for Sustainable Development which recognises that equal access to justice and participation have a central role to play in the fight against poverty. There is therefore a need to make progress in overcoming poverty so that the poor can enjoy the rule of law and functioning institutions of justice. The National Strategy for Economic Growth and Reduction of Poverty as well as the National Vision 2025 puts the country at a strategic position to address these issues effectively. The two documents reaffirm the importance of access to justice for sustainable development, through according priority towards economic growth and income, poverty reduction, quality of life, social well-being as well as good governance and accountability.

Hon Masaju discussed the importance of promoting and protecting human rights, since these constitute the bedrock and broader framework for attaining sustainable development. For the Rule of Law to be attained, the government has to take further steps to promote equal rights of women and men, ratification of core human right treaties, economic empowerment of women and girls, elimination of all forms of harmful traditional practices and negative cultural tendencies, the promotion of gender equality and adoption of affirmative action programs, adoption of outreach human rights awareness programs, legal representation and provision of legal aid for the poor. Also crucial was the need to end all forms of discrimination and removal of all bottlenecks that prevent women and men from fully participating in economic, political and public life. He stressed

the need to promote the enjoyment of these rights in a manner that is reflective of the long established norms, culture and values.

It was noted that environment, natural resources and the extractive industry are central to sustainable development. If these are managed sustainably, transparently and on the basis of Rule of Law, they can be the engine as well as a platform for peace and justice. While the natural resources provide the much needed revenue for development, extracting them can have devastating effects on the environment. Further, the very natural resources from extractive industries can become a catalyst for anarchy, civil war, environmental degradation and underdevelopment, if they are not well utilised.

There must be laws in place that are clear and require companies to carry out their business in an accountable and transparent manner, disclosing their profits and losses while requiring companies to pay due regard to the protection of the environment. The Rule of Law should aim to improve the current situation by introducing legal reforms that strengthen and improve domestic and international systems of governance and regulation. Articles 9 and 27 of the Constitution provide guidance on the duty to protect the natural resources and public property of the United Republic of Tanzania. Transparency is also crucial. Where public private partnership programs are in place, and benefitting the government, local communities and companies, the local communities are more willing to work with companies in the extractive industry rather than sabotaging them as they benefit from joint projects and create income. There is need to ensure greater transparency in the natural extractive industry so that in return the sector should be able to support and stimulate employment, affordable social services and proper development through the Rule of Law.

Hon Masaju discussed Rule of Law in light of the vice of corruption, saying that the Rule of Law helps to reduce space for corruption, which is essential to the achievement of the sustainable development goals. He emphasised the need to foster a culture of transparency by building strong and accountable institutions. Institutions such as the Prevention and Combating of Corruption Bureau of Tanzania were shown to have the potential to act as a catalyst for curbing development by curbing corrupt tendencies.

In his last remarks, the Attorney General addressed the issue of resource mobilisation as a pillar to sustainable development. Without resources, Rule of Law will remain to be mere rhetoric. The two are mutually reinforcing. In the context of partnership and financing for development, there is need of mobilising resources in order to attain the needed meaningful economic transformation in general. He emphasised the need for the appropriate authorities to ensure that resources are mobilised and revenue collected as planned. The role of the private sector and the development partners cannot be overlooked in this regard.

He concluded by saying that the goal of promoting peaceful and inclusive societies for sustainable development can only be achieved if stakeholders are all determined to work in partnership. He noted that the participants represented at the forum were diverse and inclusive, and expressed confidence that whatever would be discussed at the forum would enrich all present and be a beacon of change where change is lacking and a pillar of strengthen the good practices where such were being carried out. He pointed out that the Government of Tanzania was eagerly looking forward to the results of the present Forum.

## 2. SESSION I: THEME: INSTITUTIONAL REFORMS

This session addressed the issue of institutional reforms in relation to rule of law. It focused on the judiciary as a central institution in the promotion of the rule of law. The presentation was made by Hon. Justice Prof. Ibrahim H. Juma, the Justice of the Court of Appeal of Tanzania. The paper was titled 'Rule of Law, Recent Judicial Reforms and Sustainable Development in Tanzania: Challenges and Opportunities'.

### 2.1 HON. JUSTICE. PROF. IBRAHIM H. JUMA, COURT OF APPEAL OF TANZANIA - RULE OF LAW, RECENT JUDICIAL REFORMS AND SUSTAINABLE DEVELOPMENT IN TANZANIA: CHALLENGES AND OPPORTUNITIES

Justice Prof. Juma began his presentation by calling upon the participants to re-think the concept of Rule of Law from its inception which can be traced back to 1885 in the days of A.V. Dicey. The concept has since been interpreted to accommodate changes in society. In his introductory remarks, it was pointed out that Rule of Law has been thought of in a narrow sense, and there is need to re-think not just the purpose of the law, but also of rule of law. The paper proceeded to discuss Rule of Law in light of the 2030 UN Agenda, with the aim of looking into the role played by the judiciary in Rule of Law, as well as the role played by Rule of Law in sustainable development. Justice Prof. Juma informed stakeholders present that concepts of Rule of Law are widespread, and the judiciary alone cannot be the sole driver of Rule of Law. If anything, the judiciary is confined and limited to the cases presented to it.

The presentation made note of the role of Rule of Law in serving the social, economic and environmental dimensions in a balanced way, adding that the Sustainable Development Goals (SDGS) did not include political goals. This therefore calls upon the law to address itself to the social, economic and environmental dimensions, thus necessitating the importance of putting Rule of Law within context, and giving it a specified purpose.

The participants were called upon to examine and enquire what role the law is to play in achieving the above results, with the main question being whether the law was able to produce lawyers capable of enriching society. Reference was made to the opening address by the former President H.E. Benjamin Mkapa, with particular reference to the definition of Rule of Law, and the Tanzania Vision 2025 agenda of having Tanzania being globally competitive. Justice Prof. Juma emphasised the need of the law and of Rule of Law being geared towards ensuring participation in the global economy.

It was pointed out that most lawyers and indeed, most people, are only interested in the outcome of cases but not on the reasoning behind these outcomes, and as a result, it becomes easy to miss out on a lot. In the *Simon Manyaki* case, the court discussed the importance of adhering to the rules of natural justice and the integral role these rules play in relation to the Rule of Law. The courts issued a reminder that the rules of natural justice are a key part of the administrative and judicial process.

Other decisions which are relevant to the discussion on Rule of Law are the *Byombalirwa* case as well as the *Legal and Human Rights Centre v Hon. Mizengo Pinda* case. In the former, the matter arose out of the issue of legislation relating to economic saboteurs. It was a quick piece of legislation that took away procedural rights. Despite the circumstances, courts still found the space to expand the horizon of Rule of Law by strongly illustrating the dangers of enacting popular legislation that took away Human Rights principles, and calling upon the legal fraternity not to aim at being populist but instead follow Rule of Law. The *Legal and Human Rights*

*Centre* case, served to open the doors for courts to enquire into what goes on in Parliament, more so in relation to the freedom of Members of Parliament being free to speak whatever they wished against whoever they wished. This case also gave the courts a forum through which to address the issue of ouster clauses.

The paper went on to discuss the issue of Rule of Law and Judicial Reforms in Tanzania. According to Justice Prof. Juma, judicial reforms are always continuous. Reference was made to the Bomani Report, which was hailed as a very diagnostic study of problems affecting the legal sector, and served to inform the judicial reform process. The Bomani Report identified the following as some of the challenges affecting the legal sector: inordinate delay, limited access to justice, corruption, unethical conduct, outdated systems and lack of responsiveness, low levels of public trust in the legal system, low morale among legal personnel in the public sector and inadequate expertise.

It was noted that reforms are expensive to undertake. This is why the reform process was undertaken in piece meal. One of the major outcomes of this report was the Judicial Administration Act of 2011, which established, among others: having a judicial fund managed by judiciary, establishment of judiciary service, administrative functions and provisions made to specifically empower the Chief Justice to call officers to submit returns, as well as initiate investigations into complaints regarding the disposal of cases.

The judiciary has also undertaken reforms touching on access to justice and Rule of Law. In particular was the enforcement of The Law of the Child (Juvenile Courts Rules) 2014; Basic Rights and Duties Enforcement Procedure; Judicial Review Procedures with guiding rules on certiorari and mandamus) and Legal Aid Criminal Proceedings Act of 1969.

Other reforms in the offing include the plan to expand space for access to justice by establishing small claims courts, even though this has not yet materialised due to various challenges. The Rules for Judicial Conduct have also been prepared. This is a draft code of conduct for the judiciary. These rules acknowledge that the reputation of courts is at times tainted by the conduct of advocates. These rules are therefore designed to guide professional conduct and etiquette of advocates. Court brokers also reflect on the judiciary with accusations against court brokers indicating that court brokers have often attached property that was more valuable than the decretal amount, the auctioning of high value property at throw-away prices and charging of exorbitant fees for services rendered. Due to this, the Association of Court Brokers was involved in discussions regarding the draft rules for judicial conduct.

Rule of Law also touches on accountability and this cannot be ignored in relation to the judiciary. It was pointed out that the judiciary can only win confidence by being accountable for its exercise of power. The presentation highlighted the accountability mechanisms under the Judicial Services Commission, but also observed that people do not always comply with available mechanisms. Stakeholders were taken through the concept of judicial performance as a way of enhancing judicial accountability. In this regard, the Chief Justice issued a directive on the ideal lifespan of cases at the High Court and subordinate courts thereto. The Chief Justice also issued a directive on the number of cases that each judge or magistrate is supposed to decide. The Judicial Statistical Dashboard system is also meant to inform the judiciary on old or pending cases.

In his concluding remarks, Justice Prof. Juma called upon legal practitioners to reconcile Rule of Law with the 2030 Sustainable Development Agenda. Lawyers were especially called upon to expand their reading to other social and developmental documents in order to reconcile Rule of Law with the wider development agenda.

Justice Prof. Juma highlighted that the purpose of the law and Rule of Law is to; eradicate poverty (particularly because law enforcement is made difficult or impossible where poverty prevails); building peaceful, just and inclusive society, empowering the vulnerable, improving access to justice governance and non-discrimination, protection of the planet and natural resources and promoting literacy.

### 2.1.1 PLENARY DISCUSSION

During plenary discussion with stakeholders, the following issues were brought up (a) the persistence of problems in implementation despite the existence of good laws, (b) the role of the court administrator as opposed to the registrar, (c) inappropriate pressure on judicial officers to dispose cases, (d) low levels of public trust in the judiciary and how this can be resolved, (e) the speed of judicial reforms in relation to other partner entities that work with the judiciary including the prosecutions and police departments, (f) the extent to which reform is happening as far as other areas of the legal sector are concerned especially because reforms appear to be sporadic and non-comprehensive, (g) financial reforms in the judiciary, (h) accountability of the judiciary to the people, (i) monitoring of cases disposed, (j) the establishment of small claims courts, and (k) expert training for judicial officers.

In response to the above questions, Justice Prof. Juma informed stakeholders present that shortcomings did not just apply to the judiciary but cut across to the entire public sector. He informed participants that training programs for new staff were being rolled out at the Institute of Judicial Administration in Lushoto, and continuous legal education especially in new and emerging areas was being carried out. Regarding the establishment of small courts, stakeholders were informed that these courts would only come into effect after the amendment of the Magistrates Courts Act. The small claims court is meant to have simpler procedures than primary and district courts. The idea is to decongest normal courts. The idea is not to establish them across the country, but rather, only in the areas that have high demand for these courts.

Concerning the issue of case disposal, Justice Prof. Juma explained that the establishment of life spans for cases was for the purpose of calculating the average time taken for the disposal of a case. Once the median time is established, then the judiciary will be able to enforce the rules regarding disposal of cases. This strategy is meant to be a management tool, though the quantity of cases disposed is not the sole deciding factor.

There was consensus from the floor and the panel that the quality of judgments needs to be good so that judicial officers are not merely disposing cases out of the pressure to deliver numbers. Stakeholders were also informed that the monitoring of the judiciary was not with the view of imposing functions, but also to identify gaps that necessitate further training.

Regarding court fees, stakeholders were informed that these have no bearing on judicial funding. Court fees go to the government, while funding for the judiciary comes directly from treasury. In relation to accountability, it was noted that a lot of complaints arising against judicial officers are not properly taken through the complaints process, with many complaints being filed but complainants later failing to present evidence in support of their claims. Currently, a survey is being carried out in 20 districts in order to get public perceptions of the judiciary. It is hoped that this survey will inform the judicial reform process in the long run.

It was agreed that comprehensive reforms must be undertaken. The major challenge however, remains to be that of funding. Relevant stakeholder empowerment is crucial to the reform process, so that all actors involved in the justice system are subject to reform. Another challenge that affected the reform process was the fact

that some rules cannot be changed without amending the enabling/primary legislation, while others required extensive consultation with the relevant ministries. These shortcomings only serve to further slowdown the reform process.

### 3. SESSION II: THEME: CONSTITUTIONAL AND LEGAL REFORMS

The second panel at the forum was tasked with discussing the opportunities and challenges surrounding constitutional and legal reforms. Three presentations were made to this effect. The first touched on Legal Education and Rule of Law in Tanzania, the second discussed Legal Practice Training and Rule of Law in Tanzania, while the third discussed Constitutionalism and Rule of Law in Tanzania.

#### 3.1 PROF. GAMALIEL M. FIMBO - LEGAL EDUCATION AND RULE OF LAW IN TANZANIA: CHALLENGES AND OPPORTUNITIES

Prof. Fimbo largely analysed four issues (a) an exposition of Rule of Law, (b) legal education during the periods of nationalist developmentalism and liberalisation, (c) an assessment of the environment in which the law academic operates and (d) some elements of cooperation in legal education.

Making reference to the case of *Chumchua s/o Marwa v Officer in charge of Musoma Prison & the Attorney General*<sup>1</sup>, Prof. Fimbo relied on the definition of Rule of Law espoused in this case, where the trial judge stated:

“I believe that the Rule of Law means more than acting in accordance with the law. The Rule of Law must mean fairness of the government. Rule of Law should extend to the examination of the contents of the laws to see whether the letter conforms to the ideal; and that the law does not give the government too much power. The Rule of Law is opposed to the rule of arbitrary power. The Rule of Law requires that the government should be subject to the law rather than the law be subject to the government. If the law is wide enough to justify a dictatorship then there is no rule of law. Therefore, if the Rule of Law all it means is that the government will operate in accordance with the law, the doctrine of Rule of Law becomes a betrayal of the individual if the laws themselves are not fair but oppressive and degrading. The Courts have to bridge the yawning gap between the letter of the law and the reality in the field of Rule of Law.”

From the above, it was noted that for Rule of Law to be applicable, the government must act in accordance with the law, the law must be fair and should not grant arbitrary power to the governments. Apart from this, courts are also required to come to the aid of the individual.

It was from this background that the presentation then moved to interrogate the role of the law academic in the context of the Rule of Law. In this regard, the paper discussed legal education in two eras (i) the period of nationalist developmentalism (1961-1985), and (ii) the period under liberalisation (1985 to date). In the former, the ideology of developmentalism viewed the state as a father figure and omnipotent provider. There existed a monopoly in terms of provision of legal education, as well as monopoly of employment in the public sector, more so the judiciary, Attorney General’s Chambers, parastatal organisations, government offices and the Tanzania Legal Corporation (TLC). The liberalisation phase was characterised by World Bank ideology,

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<sup>1</sup> Misc. Criminal Cause No. 2 of 1988.

which put forward the private sector as the engine of growth, making several prescriptions including; civil service reform, local government reform, hand in hand with privatisation of parastatal organisations including the Tanzania Legal Corporation, liberalisation and marketisation of higher education and a new employment policy which envisaged the private sector to be the major employer.

In the formative years, law academics were expected to perform three tasks; to impart knowledge of the law as it exists, to impart that knowledge against the social and economic backgrounds of East African countries and to make the law graduates problem solvers. Courses were taught in a way that would portray its past and current socio-economic dimensions. The immediate objective at the inception of the Faculty of Law at the University of Dar es Salaam was the provision of adequate legal manpower for the needs of government institutions in Africa. The pursuit of this goal was based on the awareness that in countries emerging from long periods of political domination, a critical and fundamental evaluation of the inherited system of law and justice was a pressing need, in order to ensure its sustainability to the changed and changing economic conditions.

Legal education under liberalisation saw the birth of the University of Dar es Salaam's Institutional Transformation Program (ITP) in 1993/4 as a result of liberalisation policies. The ITP was anchored upon the University of Dar es Salaam Corporate Strategic Plan (CSP), the latter of which contained a mission statement that also anticipated liberalisation of higher education. In many respects, this mission statement projected the University of Dar es Salaam as outward looking and a centre for developing entrepreneurship. The guidelines issued by the University in 2007 required all courses to be structured in modular form, with the main consideration being the new economic environment. It was acknowledged that the market led economic policies that the country had put in place demanded a new type of lawyer capable of delivering legal services required by the globalising market. It was therefore necessary to have competent professional lawyers capable of meeting the challenges of the market.

Quoting from Prof. Issa Shivji, Prof. Fimbo painted a rather bleak picture regarding this new breed of lawyers. It was put forward that the new lawyer was one who would be involved as consultant to draft legislation on privatisation; setting up enabling institutional frameworks in which corporate capital could function without hindrance. The legal elite was therefore involved in drafting contracts to enable corporate capital to exploit underground minerals and over ground bio-resources. It was involved in facilitating commodification of education and health, water and energy, customary land and traditional medicinal plants, being involved in drafting intellectual property laws to protect modified seed plasma and herbal medicines, knowledge of which was looted from peasants and pastoralists of the Fourth World.

In the quest to interrogate the role of the law academic in the context of the Rule of Law, it was necessary to also highlight the environment in which these lawyers operate. Stakeholders present were informed that legal education was undertaken within the framework of a constitution which was the remnant of the one party state under which the President was a monarchist, with all powers of government being vested in him. Appointment of judges of the High Court and Court of Appeal is neither transparent nor competitive and election to the office of the President cannot be challenges in a court of law. Members of the National Electoral Commission are appointed by the President. The recent constitution making process was dominated by the President and politicians, since the Constituent Assembly were not elected by the people. The current generation of lawyers were also seen to be moving away from traditional law jobs to more non-law jobs in multinationals and international organisations, NGOs and politics.

As part of the discussion regarding the challenges facing the Faculties of law in Tanzania, Prof. Fimbo pointed out the following as the main challenges (a) it is imperative that in the current socio-economic environment, law academics should focus upon the Rule of Law, (b) although the new employment policy anticipates that the private sector will be the major employer, the doctrine of the Rule of Law must be disseminated to all, (c) the requirements of the National Legal Training Curriculum, 2010, the Government of the United Republic of Tanzania is now dictating to all Faculties of Law in Tanzania on the content of the LL.B degree; (d) the Treaty for the Establishment of the East African Community allows initiatives on legal training and free movement of labour; and (e) the faculties of law and the EAC constitute an opportunity for cooperative efforts in dissemination of the doctrine of the Rule of Law.

### 3.2 HON. JUSTICE DR. GERALD A.M. NDIKA AND MR. GOODLUCK P. CHUWA - LEGAL PRACTICE TRAINING AND RULE OF LAW IN TANZANIA: CHALLENGES AND OPPORTUNITIES

This presentation was premised on the assumption that Rule of Law requires competent personnel at all levels of the judicial process (investigators, prosecutors, judges and defence lawyers). It also presupposed that all actors in the justice system have quality training, with quality referring to students, lecturers, facilities and processes (training methodology, materials and assessment tools).

In the introductory part, the presenter introduced participants to the different models of legal practice training. He highlighted the model used in the United States of America, the United Kingdom as well as the approach adopted by the Partner States of the East African Community. It was mentioned that from 1961 up until 2008, the practice training in Tanzania was for lawyers to go through a period of internship upon completion of the LL.B program and appear for the oral bar exams for them to qualify to practice law as advocates. Post 2008 however, there were calls for reform the process through recommendations tabled in the Msekwa Report. This saw, among others, the establishment of the Legal Sector Reform Program (LSRP) which then led to the creation of the Law School of Tanzania by virtue of Cap 425 of the Laws of the United Republic of Tanzania.

The paper discussed the role of the Council for Legal Education, noting that the missing link was the absence of the Council of Legal Education in the law School of Tanzania as well as in the Faculties of Law. It was noted that the Council of Legal Education is currently inactive, giving no input to the development of rules. It was also noted that currently, the Council of Legal Education does not control, monitor or supervise legal education. As such it was proposed that the Council should approve LL.B qualifications and foreign LL.B degrees, monitor curricula and regularly review performance of law training institutions. The Council should have a more prominent role. A comparison of the Councils for Legal Education in Kenya, Uganda and Tanzania revealed that the Council for Legal Education in Kenya and Uganda were very active, with the Ugandan one even administering bar examinations.

It was also recalled that stakeholders, drawn from the Council of Legal Education, Judicial Service Commission and Deans of Faculties of Law met in 2012 and even though proposals were advanced concerning strengthening the role of the Council for Legal Education, none of them has been acted on. Other proposals that were made in order to improve legal education training centred on changing the training methodology by developing core and non-core courses, modules and non-modules, use of lectures and assignments, learning by doing and engaging students in field placements in law firms, the judiciary, civil society, as well as private and public sector offices with practical legal elements.

The existing challenges highlighted include (a) the low pass rate of 12-31% at first sitting of bar exams, (b) the increasing number of law graduates stemming in from over 10 faculties of law in Tanzania, plus regional universities which have increased enrolment, (c) quality versus quantity where there is inconsistency in the LL.B programs offered by different institutions thus affecting the quality of knowledge and expertise being transmitted, (d) the increased number of foreign applicants to the Law School of Tanzania, and (e) the need to ensure that the Law School was not a dumping ground for applicants who had failed the bar exams in their own countries.

Some of the suggested proposals in regard to the above challenges include (a) curriculum review, (b) the introduction of pre-entry exams, (c) introduction of specialised programs including English language, judicial training and legislative drafting, (d) introduction of regional centres of the Law School for candidates coming from outside Dar es Salaam and (e) the introduction of evening programs.

### 3.3 PROF. PALAMAGAMBA J. KABUDI - CONSTITUTIONALISM AND RULE OF LAW IN TANZANIA: CHALLENGES AND OPPORTUNITIES

Prof. Kabudi discussed the concept of constitutionalism in general and in the context of Tanzania and concluded by discussing transformative constitutionalism. According to him, Constitutionalism and Rule of Law have been issues of concern since the 1960s, evidenced by the Rule of Law Forum held in Lagos, Nigeria in 1961. The Forum discussed Human Rights and Rule of Law, leading to another Forum that was held in 1963. Rule of Law was also an issue of concern in the 1970s and 80s due to gross violations against Human Rights that was prominent in those days. Rule of Law is still an issue in the present neo-liberal era, even though the focus is now strongly on development.

Constitutionalism and Rule of Law are resilient themes in Africa, despite the continent not having achieved the aspirations it envisaged as captured in the Banjul Charter of 1982. The essence of Rule of Law is to ensure protection from arbitrary government and enable people to enjoy human dignity, the driver of the focus being to eradicate poverty and go a step further by creating legal empowerment of poor people. This was also the driving force that led to the development of the Millennium Development Goals (MDGs). Constitutionalism was defined by De Smith as comprising a set of minimum standards, government being accountable, carrying out elections at wide sphere and in regular intervals and the existence of free political space.

Concerning Rule of Law, Prof. Kabudi chose to rely on the theory espoused by Klaus Stehn, who stated that Rule of Law is based on a chain of ideas covering the constitution, law, justice, human dignity and legal certainty. Based on this, the elements of Rule of Law are; a constitutional state characterised by the existence of the constitution as the supreme legal norm; human dignity, equality and liberty which collectively form the basis for all other rights; separation and control of government authority; legality, which is characterised by the law being the basis for all state functions; legitimacy' judicial protection which is evidenced by the existence of an independent judiciary and the prohibition of excessive or arbitrary use of government authority.

Prof. Kabudi emphasized that it is important to analyse Rule of Law within its proper context, and in this respect, there are key eras that are worth discussing. The first is the colonial era, which featured lack of democratic culture and institutions, lack of access to justice to native Africans and subordination of customary law, which was not considered law in the first place. The second era through which to analyse the concept of Rule

of Law is the post-colonial era which was characterised by weak institutions, some of which were deliberately created or run as weak institutions, the existence of a one-party state, a dysfunctional economy due to the global economic system or due to the country's own making; corruption, ethical deficits and the promotion of political power instead of development as the key agenda.

According to him, Tanzania's experience as pertains to Constitutionalism and Rule of Law is characterised by nation building being the primary agenda in the 1960s. The end result of this was the creation of strong individuals as opposed to strong governments. There was also the existence of a one party state and even though multi-partyism was later re-introduced, it was limited because the leaders of the opposition at the time simply broke away from the ruling party. The Constitutional amendment of 1995 was in essence a re-writing of the constitution.

Concerning Rule of Law, some of the gains include the creation of a 2 term presidential limit, the sharing of Presidential power with the Prime Minister, directive principles of state and the removal of all claw back clauses from the Bill of Rights in 2005. From 1992 up until 2010, the quest has been to have a transformative constitution based on views gathered from the public during the constitutional review process. In his concluding remarks, Prof. Kabudi emphasised that the biggest challenge remains on how to deal with the deficiencies in the proposed constitution.

### 3.4 PLENARY DISCUSSION

The presentations from this panel elicited a number questions. Regarding Constitutionalism and Rule of Law in Tanzania, three issues were raised on (a) how to deal with the flaws in the Constitution, and particularly, how to remove power from individuals and vest it in institutions, (b) how the office of the Prime Minister is stronger than that of the President as presented by Prof Kabudi, (c) whether the recent Constitutional review process in Tanzania should be revisited afresh, including debating anew. It was noted by the participant that the idea of a referendum was being mooted, and question was raised on whether this was viable and if so under what legal provision.

Prof. Kabudi was at hand to address the questions raised by participants. In response to the issue about transfer of power from individuals to institutions, Prof. Kabudi informed participants that one of the concerns of the Constitutional Review Commission of Tanzania was how to remove power from individuals to institutions. He admitted that decentralising power was a particularly daunting task, noting that lawyers deal with structures, while politicians deal with systems, although it is essential to have both reconciled. Prof. Kabudi was of the view that for institutions to be strengthened, Permanent Secretaries were to be the executive officers, the Cabinet Secretariat was to be the think tank of government (as is the experience with Italy, Belgium and Japan) and a strong and ethical public service needed to be in place. On the question of the office of the Prime Minister being stronger than the President, reference was made to Article 51 and 55 of the Constitution of the United Republic of Tanzania 1977. It was argued that the Prime Minister draws his strength from the fact that (s)he is selected from the party with most seats in Parliament. In answer to the final question, Prof. Kabudi pointed out that there was no legal framework to finalise the process. He was of the view that having a referendum on a bad draft would be unnecessarily expensive. He stressed the need to re-design the process for completion, because it was largely political. For this to take place, he opined that it was necessary for another piece of legislation to be drafted or the existing legislation of the Constitutional Reform Processes be amended.

Prof. Fimbo was also asked as to whether the existing legal training and education in Tanzania is capable of producing a society-conscious lawyer. Prof. Fimbo emphasised that society-conscious lawyers are dependent on the teachers training them and on their supervisors who determine what is inculcated in the student.

Mr. Chuwa was asked whether extending the time spent at law school was the best solution for improving legal training and whether the system was forcing people to go through law school simply to get jobs yet these people might not necessarily be interested in becoming advocates. It was also proposed that there was need to re-think the model for legal training, more so to even consider adopting the American system which requires students to have a degree before embarking on LL.B studies. It was also recommended that exams at the Law School of Tanzania be conducted by the Council for Legal Education as it is currently done in Uganda and Kenya. This will act as a quality control measure so that a person teaching is not the one setting exam and marking. This is necessary as the Law School of Tanzania is accused for unfairly failing students, among others.

Mr Chuwa responded to some questions that if a pre-entry exam was introduced, it may serve to sift candidates and thus negate the need to have to extend the time candidates spend in learning at the Law School. On the issue of forcing law graduates to go through Law School in order to get jobs, Mr. Chuwa said that it was the position of law and made reference to Section 12(3) of the Law School of Tanzania Act.

#### 4. SESSION III: THEME: ACCESS TO JUSTICE AND HUMAN RIGHTS

The third panel was tasked with discussing Governance, Democracy and Human Rights. The three papers presented touched on Access to justice, Competition and Consumer Protection in Tanzania and Gender Based Violence and Children's Desks in Tanzania. Governance, Democracy and Human Rights are key areas of concern in relation to the concept of Rule of Law, and indeed cannot be separated from Rule of Law.

##### 4.1 HON. DR. KEVIN MANDUPI - ACCESS TO JUSTICE AND HUMAN RIGHTS IN TANZANIA: CHALLENGES AND OPPORTUNITIES

Dr. Mandopi gave an overview of access to justice in Tanzania, and more so within the context of good governance and the protection of Human Rights. He emphasised the close relationship between good governance, human rights and access to justice, pointing out that where there is good governance, there is protection of Human Rights and where Human Rights are protected, there is access to justice.

Dr. Mandopi discussed key elements of good governance, noting that it is, among other things, participatory, transparent, ensures political, social and economic policies are achieved and embraces inclusive decision-making. Concerning Human Rights, Dr. Mandopi argued that they were not gifts from the state, acknowledging that there are different rights within the sphere of Human Rights including political rights; right of economic life- which includes the right to work and provide services, the right to property and freedom of movement; indigenous people's rights; rights of children and vulnerable groups and collective rights. Key to all these however, is the concept of equality of rights which entails equality before the law and equal protection by the law.

Emphasising the link between good governance and human rights, Dr. Mandopi discussed the obligations within good governance that require protection of Human Rights, showing that good governance is essential to the realisation of human rights. He also pointed out that access to justice is a right, to persons affected by

government actions. Access to justice is characterised by; the aggrieved party having a forum to air their grievances; the forum availed to the aggrieved party should be able to provide an appropriate remedy; the forum should be free from technicalities and the aggrieved party should be free from fear, and should be subjected to a fair trial.

There are several challenges that hamper access to justice. These challenges were identified as being; limited awareness on human rights and good governance; legal services not being evenly distributed, a phenomenon caused by the presence of most legal services and related offices being located in towns and cities, leaving rural areas largely in deficit of legal services; exorbitant court fees; lack of inadequate infrastructure, most notable being the absence of High Courts in all regions; legal technicalities especially with regard to *locus standi* and interest to sue. Law enforcement was also presented as a challenge, especially with regard to extra-judicial killings, inordinate delay in presenting criminal matters before court and post mortem reports giving contrary opinions (cause of death has in some instances been stated as natural death when in actual sense the deceased bears marks and signs of having been beaten to death). Another way in which law enforcement was viewed as a challenge to access to justice resulted from members of the public taking the law into their own hands, often characterised by mob (in)justice and other acts of violence against persons suspected or known to have engaged in criminal conduct.

#### 4.2 PROF. N.N. NDITTI - COMPETITION AND CONSUMER PROTECTION IN TANZANIA: CHALLENGES AND OPPORTUNITIES

Prof. Nditi noted that competition and consumer protection are increasingly gaining prominence in as far as business and economic rights are concerned. He pointed out that free or perfect competition is an ideal situation, because in the actual sense it does not exist. Imperfect competition is more prevalent and is indeed the actual situation on the ground. Consumers are greatly disadvantaged and require protection from malpractice such as anti-competitive agreements; abuse of dominant position as well as mergers and acquisitions whose purpose is to defeat competition. The presentation also defined the term consumer, looking at the consumer in a protective, technical sense. Consumers are poor, ignorant and credulous, easily believing everything they are told, more so through advertisement. Such people are in need of legal protection from sharp commercial practices.

Prof. Nditi informed stakeholders present that Tanzania has a state-led approach to consumer protection, because it is the state that passes and enforces protective laws. The Fair Competition Act was passed with the aim of regulating businesses against themselves. The element of consumer protection was not clear. The Amendment Act was passed in 2015, though it is not yet operational. The Amendment Act notwithstanding, it is still important to consider whether state-led consumer protection is the best option, considering that the state has an interest in commerce, and the state imposes and administers taxes. Prof. Nditi argued that the best agent for consumer protection is the consumer, through consumer associations.

The following issues were pointed as challenges to the quest for achieving consumer protection: the state-led approach to consumer protection; merging consumer protection with fair business regulation (Kenya was cited as an example, with reference being made to its comprehensive Consumer Protection Act); the absence of a private litigation mechanism in the Fair Competition Act; the absence of a litigation mechanism in the Act (complaints can only be heard at the Fair Competition Commission); consumers, who are poor, ignorant and credulous; inaccessibility of the Fair Competition Commission and courts by consumers, particularly because the process is expensive and time-consuming.

#### 4.3 MS ANNE MALIPULA - GENDER BASED VIOLENCE AND GENDER AND CHILDREN DESKS IN TANZANIA

This presentation touched on gender issues and human rights, discussing the steps and gains made in addressing gender equality in Tanzania and combating Gender Based Violence. The paper made note of the fact that women and children were most vulnerable to Gender Based Violence. Ms. Malipula defined gender based crimes or violence as types of crimes that result in or are likely to result in physical, sexual, economical and psychological harm or suffering to individuals, mostly women and children. Physical violence was defined to refer to intentional use of physical force with the potential to cause death, disability, injury, or harm. Sexual violence was defined as referring to the use of physical force to compel a person to engage into a sexual act against her/his will, attempted or completed sex acts without her/his will or understanding, or abusive sexual contact. Psychological or emotional violence was defined as involving trauma to the individual caused by acts, threats of acts, or coercive tactics. Economic violence includes denial of right to own property and denial of access to money or other basic resources.

In her paper, she pointed out that gender crimes are covered under international humanitarian, criminal and human rights law. She noted that the widespread inclusion of prohibitions of this violence in international and regional treaties as well as its prevalence in the national legislation of the majority of states indicates that these prohibitions represent a consensus in the international community about the normative force of prohibitions on Gender Based Violence and violence against children.

Tanzania is a signatory to a number of regional and international conventions and commitments on Gender Based Violence and Violence against Children. Some of these instruments are as follows the Universal Declaration on Human Rights, CEDAW (1979), the African Charter on Human and People's Rights, Convention on the Rights of the Child and African Charter on the Rights and Welfare of the Child.

The paper then moved to discussing Gender and Children Desks in Tanzania. The Ministry of Community Development, Gender and Children formulated the National Gender Policy of 2000 whose core objective was to ensure that the gender perspective is mainstreamed into all policies, programs and strategies. The national machinery therefore initiated the establishment of gender focal points in ministries, independent government departments, regional and local authorities. The focal points are responsible for gender mainstreaming in their respective plans and programs, while working with the national machinery, which has a coordinating role in gender development.

The challenges noted were the fact that the legal framework is still not gender sensitive; the inadequate coordination by different institutions; scarcity of resources; lack of support from men in supporting the fight against GBV and inadequate personnel. Concerning opportunities, it was noted that there was opportunity to improve response to GBV issues and that these were brought about through improved access to justice, alignment of gender mainstreaming with Sustainable Development Goals and increased knowledge on GBV among citizens.

#### 4.4 PLENARY DISCUSSION

Plenty of questions were raised to presenters from this panel including the following. On Competition law, participants asked on the role of the East African Community in the competition process, and in particular, how

Tanzanians are protected in light of the integration process; what approach should be adopted to ensure that consumers are protected; what can be done to make the Fair Competition Commission more accessible especially by the common mwananchi (citizen); how far the government is in terms of keeping up with the challenges of liberalisation particularly because there is an imperfect market; why is there no consumer protection association in Tanzania.

Prof. Nditi responded to the above questions by stating, among others, that there is an East African Community Fair Competition Act which is in force but not operational. As such, only the national legislation is applicable with respect to Tanzania. Concerning the approach to be adopted for consumer protection, Prof. Nditi highlighted that the state should be involved, but state efforts ought also to be backed up by independent Consumer Associations. He also recommended on the need to establish small claims tribunals. With regard to the extent to which challenges have been addressed, Prof. Nditi was of the view that the Fair Competition Commission was doing well in terms of business to business level, but the same could not be said concerning the commission's performance at business to consumer level since it was largely inaccessible by consumers. Concerning the inexistence of an association for consumer protection, Prof. Nditi informed participants that such an association had been set up in the early nineties, and that it agitated for inclusion of consumer protection provisions in the fair Competition Act. Unfortunately, the association was unable to take off because it was denied registration.

Dr Mandopi's presentation also elicited questions from participants. One such question regarded creating awareness on Human Rights, and whether it was actually the role of the government to do this. Second question was with regard to legal aid and whether legal aid was to be availed only in criminal cases or whether it was to cover a wider spectrum. A third question was with regard to extra judicial killings and whether CHRAGG had considered using the office of the coroner. The final question was on execution of court decrees against government.

Dr. Mandopi answered that government was the one to create awareness and promote legal aid, even though the general perception is that the CHRAGG should be the watchdog. He asserted that it was indeed the responsibility of all stakeholders to promote awareness on the protection and promotion of Human Rights. He also noted that inquests are usually carried out, though problems arise when the cause of death is listed as natural despite a body bearing obvious signs of injury. He highlighted that the CHRAGG only takes up complaints when all local remedies have been exhausted, and that CHRAGG has broad investigative powers. He also admitted that despite being powerful, the Commission is slow.

## 5. SESSION IV: THEME: ENVIRONMENT, NATURAL RESOURCES AND THE EXTRACTIVE INDUSTRY

The first panel to sit on day two of the forum was tasked with discussing Rule of Law within the context of Environment, natural resources and the extractives industry.

### 5.1 DR. A. KILANGI - GOVERNANCE AND RULE OF LAW IN EXTRACTIVE INDUSTRY IN TANZANIA: CHALLENGES AND OPPORTUNITIES

The presentation by Dr. Aderladus Kilangi, former President of the African Union Commission on International Law addressed governance in the extractive industry by highlighting and analysing the roles of the different arms of government in the extractive industry. He pointed out that government efforts in developing good

governance for natural resources are based on Development Vision 2025. Other efforts draw their influence from the Natural Resource Charter, the expert panel advising government on natural resource governance, focus of the expert panel report on oil, gas and mining as well as the legislative framework governing fiscal regime and revenue management issues.

## 5.2 PROF. HAMUDI MAJAMBA - FISCAL REGIME AND REVENUE MANAGEMENT IN THE EXTRACTIVE INDUSTRY TANZANIA: CHALLENGES AND OPPORTUNITIES

Prof. Majamba began by acknowledging that the extractive industry is complicated and diverse, with complex components. Fiscal regime design and revenue management both entail finances and are also not simplistic in nature. He gave an overview of new legislation passed in respect to the extractive industry. These are the Petroleum Act, 2015, the Oil and Gas Revenue Act, 2015 and the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015.

With regards to fiscal regimes and revenue management, the presentation brought out three key issues namely (a) the source of finances or how finances are obtained, (b) the manner in which finances are handled and (c) how interests are to be balanced, especially between International Oil Companies, Governments and Indigenous Communities. It was noted that taxation was a key element in this regards since the legal framework is what determines the ability of the government to secure fiscal returns from the extractive sector. Key problem areas in this regard emanated from the complexities of increasing the tax base, ensuring tax is collected, properly addressing exemptions and tax holidays, transfer pricing, tax collection and tax evasion. It was noted that key lessons concerning fiscal regimes have been drawn from the mining industry. Currently, the fiscal regime in the oil and gas sector targets different revenue streams of operating firms including royalties, production share, income tax, signature bonus and capital gains tax. It was also noted that the major taxes, such as income tax, value added tax and excise duty operate on narrow tax bases.

He highlighted that experiences from tax revenue productivity in the mining sector led to repeated outcry that the sector was not contributing commensurately. Taxation in the mining sector was not based on clear principles and this raised outcry which led to a re-examination of the tax system. Some of the recommendations proposed with regard to fiscal regime included the need to ensure tax regimes and contractual terms are designed in a way that enables government realise the maximum potential value of the country's resources in a manner that is consistent with attracting investment. Prof. Majamba also recommended examination of the full costs and benefits of tax exemptions as well as review of the tax exemption policy especially if net costs are significant. Where regulations are time-bound, it was recommended that these be enforced to ensure compliance. It was further recommended that mapping of current institutions involved in tax policy be carried out and cash flows be properly monitored.

With regard to revenue management, Prof. Majamba noted that preparing for revenues that can be earned from the industry is critical. As such, decisions must be made concerning allocation of revenue from the industry. The presentation brought out three primary concerns; the first was on managing expectations, the second touched on preparedness of the economy to deal with the wealth boom, and finally, the issue of sustainability, which entails taking future generations into account when exploiting exhaustible natural resources. He pointed out that the economy can also be unprepared to effectively respond to additional expenditures which can arise from resource revenue, resulting in insufficient absorptive capacity and lead to asset bubbles, inflation or 'Dutch disease.'

It was noted that, currently, resource revenues are not reported separately from the general budget, making it difficult to determine just how much of the country's oil and gas wealth is being depleted. It is therefore difficult to ascertain how much the country should be investing. The Oil and Gas Revenue Management Act has fiscal rules to guide spending and saving decisions. It also establishes the gas fund, with the primary goal of ensuring that; fiscal and macroeconomic stability is maintained, financing of investment in oil and gas is guaranteed, social and economic development is enhanced and resource for future generations is safeguarded.

Recommendations made with regard to revenue management were; to ensure that resource revenues are invested to achieve optimal and equitable outcomes for both current and future generations, to establish clear macro-fiscal frameworks with fiscal rules for managing revenues from oil and gas operations, to establish a Gas Revenue Fund which needs to be preceded by policy and high-level rules, detailed operational guidelines and institution building before revenues flow in. It was also proposed that the process take into account rule of law issues by ensuring participation of all stakeholders, rights to access to information, ownership and decision making at all levels. The process should also focus on sustainable development principles enshrined in international and local laws. Training in fiscal and revenue management issues is required, and further, benefit sharing mechanisms must be transparently discussed with local communities and entrenched in law.

### 5.3 MRS MARGARET RUGAMBWA - GENDER DIMENSIONS OF THE EXTRACTIVE INDUSTRY: CHALLENGES AND OPPORTUNITIES

The paper began by giving a brief background concerning gender within the context of the extractive industry. Mrs Rugambwa pointed out that the extractive industry is playing a big role in the Tanzanian Economy, with its contribution to GDP rising up to 3.6% in 2011. With the recent discovery of gas, it is expected that its contribution to the GDP will be higher, and that the extractive industry will be a key driver of the economy, eagerly awaited to liberate Tanzania from poverty. This view is not unique to Tanzania, but also across Eastern and Southern Africa where large scale discovery of valuable extractive resources, especially oil and gas, presents great potential for shared economic growth which has the potential to drastically reduce poverty levels in these countries.

With such high expectations, if the extractive industry sector is not managed in a transparent and equitable manner, there are risks of severe negative consequences including environmental degradation, economic disturbances and population displacement and accelerated levels of inequality and poverty. The issue of ensuring equitable growth is central to the Rule of Law and legitimises the existence and meaningfulness of the theme for the forum, the Rule of Law.

It was pointed out that Tanzania was still suffering a huge gender gap in the livelihoods of men and women and between urban and rural areas. Income poverty is rampant in rural as well as urban areas where a number of households survive on one meal a day. Unemployment was noted as being high among women in the urban areas whereas in rural areas, with an agricultural based economy, women were noted as making up the largest percentage of the labour force, despite merely owning any means of production in the sector (land, equipment, etc.). This reality makes women's income skewed in favour of men, resulting in women remaining poorer.

Mrs Rugambwa highlighted that some of the benefits expected from the extractive industry are increased and better employment, better livelihoods for both urban and rural dwellers, and increased business transactions

among others. One key question the paper sought to investigate was whether these expected benefits would be realised in the current gender-discriminative environment.

While bringing out the gender issues in the extractive industries, the presenter considered gender bias in the extractive industry along three areas. First, the distribution of risks involved. This is associated with general harassment of women, violent conflicts arising in dislocated communities, Gender Based Violence and spread of HIV/AIDS, all of which affect women more than men. The second issue was the costs for extractive industry, which are associated with family and social disruptions of displaced communities, environmental degradation, loss of employment and loss of agricultural land and income. These were also seen as impacting women more than they do men. The third area of concern was related to the benefits of the extractive industry, which revolve around employment and increased business transactions that solely benefits men, reflective of the gender stereotypes and traditional masculine image of the extractive industry, lack of technical expertise among women, gender biased employment policies in the industry and restricted career development for women. The overall effect was that men have better access to the benefits of the industry, while the costs of the industry, particularly family and social disruption were felt mostly by the women.

It was noted that there is need to integrate gender dimensions into the extractive sector to ensure that resource-led development is transparent and that benefits from the sector are equitably shared. It was emphasised that efforts were required to address the contribution of resource wealth towards inclusive growth, equitable poverty reduction and gender equality. More specifically, there was need for more consideration in the extractive industry value chain particularly concerning involvement and consultations of women in the value chain so as to ensure their needs and concerns are taken on board. This covers; exploration, contracting licensing, operations and extraction, value addition, tax and royalty collection and revenue distribution and management where women and men face different needs and opportunities. It was noted that women are disadvantaged due to their exclusion from the value chain and due to their limited capacity to take advantage of productive opportunities within it. There was also need to involve women when disseminating information on the fate of communities, timing, and opportunities given for vocational training among others, in order to integrate the needs of women. There is an inadequate legal framework, policies and programs that consider women's needs and that aims at protecting their rights. Women have limited access to resources, lack political voice, and are greatly affected by power relations between the genders in households and communities.

Worth noting is the different impacts and opportunities for women in the extractive industry sector depending on whether they are taking place within a large scale or small scale context. Large scale extractive operations were seen to be characterised by displacement of communities at the expense of farming which is the mainstay of women's economic activities and household livelihoods; compensation being awarded to heads of households, typically men, with women having no voice in accessing the benefits or making spending decisions; women turning to alternative employment including commercial sex; changes in social dynamics in mining areas by mining operations leading to increased community conflict and increased social and health concerns, especially domestic violence, sexual abuse and harassment, alcoholism, increase rates of HIV and AIDS, in turn raising security concerns for women and children in communities; participation of women in the large scale operations is very low due to gender stereotypes and traditional masculine image, lack of technical expertise among women, assignment to lower level jobs, gender biased recruitment and employment policies and restricted career development opportunities for women.

Organisations operating in the extractive industry have tried to remedy this through Corporate Social Responsibility (CSR) which seeks to mitigate the negative impacts of these organisation's operations. Companies need to mainstream gender perspectives into their community engagement policies. The private sector should increase awareness, capacity and willingness to meaningfully integrate gender perspectives into their CSR work and corporate policies and throughout the value chain.

The challenges experienced by women, arising out of artisanal and small scale mining emerge through; men being engaged directly in the mining itself; women serving as labourers, providers of goods and services and workers responsible for household chores; challenges arising out of those involved in operations being part-time workers, engaged in secondary labour-intensive processing activities with direct exposure to dangerous, substances such as mercury; inefficient and poor health & safety standards and negative environmental impacts; lack of legal regulations since artisanal and small scale mining is not considered formal.

Despite the challenges highlighted above, there exists plenty of room for opportunities in this area, more particularly through; economic empowerment of women via enterprise development; integration of gender equality in national policies and regulatory frameworks, and programs in private and public branches of the extractive industry; government ensuring governance and accountability conditions offer incentives for investors cognisant of the key role of women and gender equality in regulatory frameworks, policies, operations and programs; removing discriminatory employment practices, increasing access to capacity building and financing initiatives and engaging women in community consultations and decision making positions will equip women better to actively participate in and exploit the economic potential within the various value chains in the extractive industry.

Equality between women and men is smart economics, smart business, and an essential ingredient in poverty reduction. Corporate Social Responsibility is one avenue for private sector to contributor to gender equality. However, revision of corporate policies, operations and investment strategies (e.g. gas for domestic use) are important. Lack of data and knowledge on the gender dimensions of specific extractive industry value chains hampers evidence-based policy dialogue on gender impacts from extractive industry projects. There is also need to explore opportunities for women's economic empowerment through value additions as well as spin-off economies and linkages to other sectors.

The paper also presented practical considerations for improving women's benefits from small scale and artisanal mining namely; having complementary skills training for women/girls such as management and accounting; developing financial packages which suit women's needs (collateral, lean interest rates, etc.); introducing appropriate labour saving and safe technologies (e.g. gas for cooking); including women in the development of regulations and policies; recognising health and safety issues affecting women in artisanal mining including impacts on their children and challenging social norms that prevent women from participating in and benefiting from artisanal mining.

In her concluding remarks, Mrs Rugambwa proposed the following recommendations; that mining legislations and policies should include specific provisions on gender equality and equity to empower women in the mining sector; that government must develop and implement programs to increase women's participation in the extractive sector and ensure the retention of skilled women in the sector including through affirmative action; that government must introduce communication and sensitization programs to remove cultural barriers preventing women's effective participation in and contribution to the mining sector in line with CEDAW 1979; that

government must involve women in the adoption of extractive policies and introduce punitive policies aimed at discouraging gender discrimination in the extractive industry; that government ensures that existing associations of women in mining are given adequate support, such as organisational and financial resources, including direct funding; ensuring that these groups also include rural women groups; providing women miners with extra security measures against violence, sexual abuse and harassment. Government and companies must also promote capacity building deliberately targeted women and girls.

#### 5.4 PLENARY DISCUSSION

There were plenty of questions that came up as a result of the presentations delivered by this panel. The following were the main issues raised what should be done to ensure that resources are extracted and result in a win-win situation. So far, Tanzania has been too generous in allowing foreign investors to exploit resources without sufficiently safeguarding national interests; whether the extractive industry can be a panacea to the unemployment problem currently facing Tanzania; how dispute resolution in the extractives industry is handled; and whether Tanzania is in a position to ensure that the oil boom does not become the oil doom; how far corporate social responsibility from International Oil Companies has been applied especially in helping vulnerable groups and women; what should be done to ensure that the public feels that the resources are helping them, particularly because the extractive industry is meant to be a key player in promoting Sustainable Development Goals; the extent to which contracts between private investors and government are accessible by members of the public.

In response to the question of royalties being too generous, Dr. Kilangi responded by admitting that there was truth in the assertion that Tanzania was too generous with royalties. He pointed out however, that royalties were only a small percentage of the income (3-7%). Other taxes include corporate tax which can go up to 30%. In response to the question on dispute settlement, Dr. Kilangi pointed out that there are several dynamics involved, including international law. He also noted that African countries lose out in the field of international investment law, sometimes due to Bilateral Investment Treaties signed years before MDAs.

In relation to corporate social responsibility, Dr. Kilangi informed participants that modalities for regulating the field have been proposed, and some of these proposals entail having the communities decide what area they would want corporate social responsibility to be rolled out in. Concerning access to information, participants were informed that initially, mining contracts were not open to the public. Mining companies relied on a not so widely developed principle on confidentiality of investment contractors. The new Extractive Industry Transparency Initiative Act of 2015 of Tanzania now obliges the minister to make all contracts public.

Prof. Majamba was also at hand to respond to the numerous questions raised about the extractive industry. He began by informing stakeholders present that expertise at national level was still being developed. He stated that the country is still relying on International Oil Companies to lay the foundation, but efforts at developing capacity are in place. On the extractive industry providing employment, the new laws in place have set out provisions on local content regulation. On the question of oil boom becoming oil doom, he stated that the issue cannot be discussed outside the context of political economy. All conflicts were in essence about oil and securing energy. The political environment must always be considered in discussing any financial or economic aspects in the oil/extractive industry. He also commented on benefit sharing, stating that there must be equitable sharing. The government ought therefore, to speak for local communities when negotiating with International Oil Companies.

## 6. SESSION V: THEME: PARTNERSHIP AND FINANCING FOR DEVELOPMENT

This panel at the forum was tasked with discussing partnership and financing for development.

### 6.1 MR. SELEMAN MBUTUKA - ACCOUNTABILITY IN GOVERNMENT EXPENDITURE: CHALLENGES AND OPPORTUNITIES

Mr. Mbutuka began by defining accountability, stating that accountability is about ensuring that those making decisions and delivering services are answerable to them. Further, public accountability initiatives ensure that public money is spent in the most economical and efficient way to achieve the intended benefits for the public. He also gave a brief highlight of the oversight pyramid in Tanzania with its four primary actors and stages namely Parliament, External Audit, Internal Audit and Internal Control. It was noted that Control and Accountability cycle, typically begins at the stage of internal audit of a public sector. The public body in question is then required to submit its reports to the Supreme Audit Institution, which then prepares audit reports that are submitted to Parliament. Parliament as an oversight body primarily has the role of exerting democratic control regarding government expenditure. Government is then tasked with issuing recommendations to the concerned public body following receipt of the audit reports. The public body will then make the audit reports public.

The typical parliamentary model, also known as the Westminster model has four basic elements in the audit cycle, that is government requests and parliament grants funds, the Supreme Audit Institution examines spending and reports to parliament, the Public Accounts Committee (PAC) holds sessions and issues its report upon which government responds to PAC recommendations, and the cycle begins again.

Mr Mbutuka gave participants an overview of the accountability process in Tanzania. The first stage in the cycle is initiated when government prepares and presents its budget to Parliament for approval, and also responds to recommendations proposed to it by the PAC and Controller and Auditor General (CAG). Parliament is then required to scrutinise and approve funds for government, after which the government will then implement approved budgets and prepare accounts. The next stage involves the CAG auditing these accounts, examining government spending and responding to Parliament. The Parliamentary Oversight Committee (PAC, LAAC) will then meet to discuss the CAG report and make recommendations whereupon the PAC will then report to parliament, and the cycle will begin afresh.

Concerning National Audit Office (NAO) and accountability in government expenditure, it was shown that the primary aim was to ensure that government delivers as per the set priorities and that spending of public resources is done effectively and efficiently in the sense that spending should achieve value for money. Public sector spending is therefore governed by relevant laws and regulations and it has effective arrangements/control to ensure strict adherence and compliance. NAOs provide reasonable assurance through external audits, and thus audits become a critical element of accountability in government expenditure. By making audit reports public, there is increased pressure on government to be accountable to the electorate, while at the same time, such public reporting of audit reports serves to empower the citizens to demand accountable government expenditure.

Section 12 of the Public Audit Act, 2008 empowers the CAG to make recommendations as he considers necessary for better management of public resources, including revision of any regulations, directives or instructions

issued under the relevant laws. The CAG may also make recommendations to prevent or minimize unproductive expenditure of public monies, and may make recommendations to avert loss resulting from negligence, carelessness, theft, dishonesty, fraud and corruption relating to public monies and resources.

Naturally, there are challenges in the pursuit of accountability in government expenditure. One of these is laxity and inadequate controls and ineffective oversight of governance mechanisms. The result of this is that room is created for abuse, corruptive practices and misuse of public resources. Lack of proper accounting records such as missing or unsupported expenditures, loss of public resources through such things as paying ghost workers, excessive travel costs and the like, ineffective legal frameworks, inadequate risk management frameworks and substandard projects and service delivery are all direct results of the inadequacies in the legal framework.

Another challenge is evidenced in noncompliance with public laws and regulations. This is seen where there is spending against approved plans and budgets as a result of delays, failure to release funds or partial release of funds and laxity in controls. This challenge is also characterised by non-compliance with the Public Procurement Act and Regulations of 2011. MDAs also face budgetary constraints, caused by delays and under release or non-release of funds, which negatively impacts on the implementation and supervision of projects. Incomplete projects then result in cost overruns and pile-up of arrears, all of which jointly serve to complicate accountability in expenditure. Other challenges to the accountability process are; management of override controls and failure to take or delay in taking appropriate actions against those who violate principles of accountability or those that engage in misuse of public funds.

Despite the challenges, it emerged that there was plenty of opportunity for improvement, most notably through; setting a strong tone from the top through leading by example, laying emphasis on strict compliance with laws and regulations, having a strong leadership which supports principles of accountability and by having an attitude of zero tolerance towards misuse of funds, negligence and abuse of office; focusing on internal revenue mobilisation and cost cutting strategies; taking appropriate actions on POC and CAG recommendations; improving records management systems such as the use of ICT infrastructure; improving the government rewarding system; engaging high scrutiny when appointing those charged with governance; continual improvement of internal controls and government mechanism and by upholding ethics and governance principles.

## 6.2 PROF. LEONARD SHAJDI - ILLICIT FINANCIAL FLOWS IN TANZANIA: CHALLENGES AND OPPORTUNITIES

The paper began by defining the concept of illicit financial flows as illegal movements of money or capital from one country to another. A movement of money is termed an illicit flow where funds are illegally earned, transferred and/or utilised. Prof. Shajdi highlighted the sources of illicit financial flows as tax evasion and the use of tax havens; trade mis-invoicing; corruption; drug trafficking; money laundering; smuggling of natural resources especially minerals, trophies and embezzlement as well as human trafficking, though the latter is not very pronounced in Tanzania.

Corruption was noted as being a major facilitator of illicit financial flows. Other contributors to the problem are; laxity in law enforcement, weak regulation and poor governance. According to a UNDP report cited in the presentation, capital flight is a symptom and partly an outcome of breakdown in governance both in the originating country as well as in the international financial system. It is the result of corruption, dysfunctional regulation and weak enforcement of rules at the national and international levels.

When discussing the extent of the problem, Prof. Shaidi pointed out the devastating effects illicit financial flows have on the economies of developing countries, with Sub-Saharan Africa noted as suffering the biggest losses. In 2012, more than USD 991.2 Billion left developing countries in illicit financial flows, which amount was greater than the combined total of foreign direct investment and net official development assistance which these economies received that year. A 2013 report by Global Financial Integrity (GFI) indicates that even after all types of financial flows have been accounted for including investments, remittances, debt forgiveness and natural resource exports, Africa still remains a net creditor to the world. In a study of eight developing countries carried out by the UNDP, Tanzania emerged as one of the countries that were net creditors to the rest of the world, in the sense that their assets represented by the stock of capital flight (with compound interest) exceeded their liabilities *vis a vis* the rest of the world as measured by the stock of external debt in 2010.

Despite Tanzania being endowed with vast natural resources, corruption, mismanagement and incompetence has caused the country to remain poor and dependant on foreign aid. The presentation highlighted some major scams that display the extent of corruption and mismanagement. Among these was the Commodity Import Support Schemes (CIS), from the 1980s and early 1990s which was designed to assist parastatal organisation with foreign exchange problems to enable them to import goods and spare parts to support their operations and later refund the loaned money to the Bank of Tanzania. This scheme was abused over the years and considerable amounts of money landed in private hands with no refunds to government. Other notable scams that involved huge amounts of money include the External Payment Arrears Account (EPA) in 2005-6; the Richmond scam from 2005-8 and most recently, the 2014 Escrow scam in which the USD 180 Million was transferred from the Central Bank of Tanzania account and distributed illegally among government officials. The account was jointly opened by the Tanzania National Electric Supply Company (TANESCO) and Independent Power Tanzania Limited (IPTL) pending a tussle over capacity charges between the two in local courts and international tribunal.

Another avenue that is globally noted to harbour corruption is in the area of defence procurement. The defence sector is widely acknowledged as one of the most corrupt in the international arena. It is shrouded in secrecy because it is intimately linked to national security, which provides ample opportunity for corruption often beyond the investigative jurisdictions of the police and anti-corruption agents. The unusually deep connection between arms producers, middlemen, dealers and high profile political establishments serve to facilitate corruption in defence procurements. In Sub-Saharan Africa, the prevalence of strong executive decision making systems contribute to limiting transparency and open debate on how public resources are expended on defence procurement, and Tanzania is not exempted from this culture.

In his concluding remarks, Prof. Shaidi pointed out that the illicit financial flows created capital flight that was extremely detrimental to the country. This was done through; eroding the tax base through tax evasion and tax avoidance; embezzlement of government revenue; retarding economic growth; destabilising the financial system and legitimate trade; perpetuating poverty for lack of investment capital; the prevalence of corruption and a weak regulatory framework and law enforcement regime; facilitation of organised crime, money laundering and terrorism; dependency on foreign aid and its negative consequences; the widening gap between the rich and poor and compromised democracy and rule of law through monopolisation of political power by a select clique of people with tainted wealth.

While discussing the way forward, Prof. Shaidi noted that Tanzania has a comprehensive legal and regulatory framework for combating crimes which generate illicit or tainted money. The Prevention and Combating of Corruption Act was updated in 2007. The Anti-Money Laundering Act and its Regulations have been comprehensively reviewed to match with international standards. The Financial Intelligence Unit is also in place. A law for Comprehensive Assets Recovery is also in place. The Cybercrimes Act and Electronic Transactions Act were also recently passed. Based on the above, the institutions, laws and regulations intended to combat illicit financial flows are already in place. However, there is need to raise awareness of the people to the existence of the problem of illicit financial flows and its consequences. Prof. Shaidi emphasised on the importance of building research, investigative and analytical capacities of relevant institutions at national level to be able to combat the problem. Regional and international cooperation is also essential in the fight against illicit financial flows. These measures need bold policy political interventions evidenced through political will and determination.

### 6.3 PLENARY DISCUSSION

The panel presentations elicited an array of questions from stakeholders including the following (a) what solutions available to remedy government inaction in response to Illicit Financial Flows and especially where money is misappropriated to only a few people; (b) whether the problem of Illicit Financial Flows was ethical, legal or due to lack of an enforcement mechanism and what remedy was available to recover funds that have been embezzled and especially where such money is stored in foreign banks. On concerning audit, question was raised concerning sections of the public sector exempt from the audit mandate of the SAI, and the concern was also expressed about the Public Procurement Act being a major loophole through which government money was siphoned. Also enquiries were raised concerning disciplinary measure against rogue accountants and auditors and the best way to handle procurement of defence equipment, particularly because the arrangements involved are secret.

Mr. Mbuttuka took pointed out that management letters were not meant for public consumption, and further, that where a request for special audit is done, then audit is carried out and the report of this audit is given to the enquiring party and such reports are generally not public. Regarding disciplinary action against rogue accountants and auditors, Mr Mbuttuka informed participants that where there is any misconduct, the CAG must share information with the PCCB, and the Directorate of Public Prosecutions for the relevant action to be undertaken.

Prof. Shaidi responded to questions addressed to him by stating that institutions should be created and empowered to do their work. For instance, if the Financial Intelligence Unit is responsible to the public, then the same should be reflected in its output. He emphasised that there was serious need for reform. His proposed solution to addressing the issue of opaque operations surrounding purchase of defence equipment was to have in place a committee of persons that can be trusted and that have integrity, so that the committee is tasked with overseeing defence equipment deals. He argued that the process cannot be so secret as to be done without some degree of accountability.

## 7. RESOLUTIONS AND WAY FORWARD

This session was co-chaired by Prof. Romuald Haule and Ms Enid Muthoni. After thanking all stakeholders for their participation, it was pointed out that the forum had been engaging, fruitful and beneficial. This final panel was basically tasked with three responsibilities:

- (a) identifying expectations which were expressed at the beginning of the Forum and what has been achieved from the forum;
- (b) identifying opportunities for partnerships and initiatives for Rule of Law; and
- (c) Identifying the best way of owning the national Fora on Rule of Law particularly because the IDLO seeks to strengthen the governments and support home grown initiatives, including bringing together other stakeholders for partnership.

The first issue to be addressed entailed evaluating whether the objectives of the forum had been achieved. The national convenor for the forum, Prof. Kennedy Gastorn was invited to take the stakeholders through the forum objectives namely (a) to bring together all the actors for structured dialogue and engagement on the issued affecting the legal and justice sector, in order to enhance the voice of the actors and ensure concerted efforts in addressing sector challenges, (b) to act as the coordinating forum for the stakeholders in the sector to enhance their interventions, enhance coverage and avoid duplication of efforts in addressing sector challenges, and (c) the forum to act as a common forum for intervening in and contributing to important national issues and processes in the justice and legal sector including participation in the upcoming Africa conference on the Rule of Law.

Having highlighted the objectives, participants as stakeholders were invited to make contributions regarding the way forward. It was acknowledged that the gathering was a National Forum meant to bring all actors. It was however noted that Zanzibar had unique challenges concerning Rule of Law, and it was proposed that IDLO find it necessary to have a similar forum for Zanzibar stakeholders. It was also proposed that time allocated for the forum be extended for panellists to fully present their papers, as it was noted that in some panels, presenters had to move through their papers quickly since the time allocated was not enough. It was suggested that this could be corrected by having one theme and then dealing with it exhaustively.

The participants adopted the forum as a permanent feature to be held annually as the coordinating forum for stakeholders in the justice sector so as to enhance thematic and geographical coverage and interventions. Participants unanimously agreed that this Forum shall act as the coordinating forum for the stakeholders in the sector to enhance their interventions, enhance coverage and avoid duplication of efforts in addressing sector challenges, and act as a common forum for intervening in and contributing to important national issues and processes in the justice and legal sector including participation in the upcoming Africa conference on the Rule of Law.

Stakeholders were in agreement that there is need to come up with innovative and sustainable ways to remain relevant to influence and be able to effectively contribute to reforms in the Rule of Law. As a starting point for the next forum, it was proposed that a small committee be set up to recommend how the forum should best be run and managed, identify institutions and necessary intervention activities that may be pursued in promotion of rule of law in Tanzania but also bring all the institutions together just as the present forum had done. It was also recommended that forum should be open to all stakeholders in the justice sector without limitations.

It was agreed that the most important thing was to come up with tangible resolutions, proposals and recommendations going forward.

It was recommended that IDLO should analyse this report and papers presented at this forum in view of the gaps identified, and find possible areas of programming from the opportunities discussed in the forum presentations.

It was also agreed that a single email address will be set up by the National Convenor to engage with participants as a channel of communication through which to share discussions and presentations delivered at the forum and other strategies on rule of law initiatives. The email will also be a good opportunity to network and build existing partnerships.

It was agreed that all papers presented should be published in a single volume (as a manuscript, book or special series of a journal) and be shared with all participating institutions.

Prof. Kennedy Gastorn, the IDLO Rule of Law Forum National Convenor, was unanimously selected as the central focal point for the forum in coordinating rule of law stakeholders such as the judiciary, academic institutions, legal practical training, law societies, civil society organisations, the Directorate of Public Prosecutions, Attorney General's Chambers, and law enforcement organs for these Fora.

## Appendix A: LIST OF PARTICIPANTS

S/N	Name	Institution
1	H.E. Benjamin William Mkapa, Former President of the United Republic of Tanzania	Tanzania
2	Hon. George Masaju (M.P), Attorney General of the United Republic of Tanzania	Attorney General's Chambers, Dar es Salaam
3	Hon. Justice Omari Othman Makungu, Chief Justice of Zanzibar	Judiciary, Zanzibar
4	Hon. Justice Prof. Hamisi I. Juma, Court of Appeal of Tanzania	Judiciary, Tanzania
5	Hon. Abdulrahman Kaniki, Deputy Inspector General of Police, Tanzania	Police, Tanzania
6	Mr. Saleh Mubarak, Principal State Attorney, Zanzibar	Attorney General's Chambers, Zan- zibar
7	Hon. Ms Asina Omari, Commissioner, National Election Commission and Chairperson, Legal Aid Committee, University of Dar es Salaam School of Law	National Election Commission (NEC)
8	Hon. Dr. Kevin Mandopi, Commissioner, Commission for Human Rights and Good Governance	Commission for Human Rights and Good Governance (CHRAGG)
9	Ms Anne Malipula, Senior State Attorney, Directorate of Public Prosecutions (DPP)	Attorney General's Chambers, Dar es Salaam
10	Mr. Patience K. Ntwina, Assistant Director, Department of Public Legal Services	Ministry of Constitutional and Legal Affairs
11	Mr. Abdallah Mtibora, Second Secretary	Ministry of Foreign Affairs, East Af- rica, Regional and International Co- operation
12	Hon. Philip Mangula, Chairperson, Tanzania Centre for Democracy (TCD) and Deputy Chairperson - Mainland, Chama Cha Mapinduzi (CCM)	Tanzania Centre for Democracy (TCD)
13	Prof. Hamudi I. Majamba, Dean, University of Dar es Salaam School of Law	University of Dar es Salaam School of Law
14	Prof. Chris Maina Peter, Chairperson, Zanzibar Legal Services Centre Board	Zanzibar Legal Services Centre/ Uni- versity of Dar es Salaam School of Law
15	Prof. Gamaliel M. Fimbo, Professor, Department of Economic Law	University of Dar es Salaam School of Law
16	Prof. Nicholas N. Nditi, Head, Department of Economic Law	University of Dar es Salaam School of Law
17	Prof. Leonard .P. Shaidi, Professor of Law, Department of Public Law	University of Dar es Salaam School of Law

18	Prof. Josephat L. Kanywanyi, Professor of Law, Department of Economic Law	University of Dar es Salaam School of Law
19	Prof. Palamagamba J. Kabudi, Former Member of the Constitutional Review Commission of Tanzania; Corporate Counsel and Secretary to Council, University of Dar es Salaam	University of Dar es Salaam/ University of Dar es Salaam School of Law
20	Mr Kees Groenendijk, CEO/Fund Manager, Legal Services Facility	Legal Services Facility (LSF), Dar es Salaam
21	Mr. Omar Said Shabani, Chief Executive Officer, Zanzibar Law Society (ZLS)	Zanzibar Law Society (ZLS)
22	Hon. Mathias Lungw'echa, Chairperson, District and Land Housing Tribunal, Mwanza	District Land and Housing Tribunal, Mwanza
23	Ms. Neema B. Mwita, St Augustine University, Mwanza	St Augustine University, Mwanza
24	Mr. Seleman A. Mbuttuka, Deputy Auditor General, National Audit Office, Tanzania	National Audit Office of Tanzania (NAOT)
25	Dr. Mahadhi Juma, Former Deputy Minister, Foreign Affairs and International Cooperation, Tanzania	Zanzibar
26	Prof. Romuald Haule, Director, Institute of Comparative African and International Law, Songea	Institute of Comparative African and International Law
27	Prof. Luitfred X. Mbunda, Principal, College of Humanities and Social sciences, Dodoma	University of Dodoma
28	Mr. Daniel Lema, Coordinator, Legal Aid Secretariat, Dar es Salaam	Legal Aid Secretariat
29	Mr. Benedict Maige, Dean, Faculty of Law, Tumaini University Makumira, Arusha	Tumaini University Makumira, Arusha
30	Dr. Adelarudus Kilangi, Former President, African Union Commission on International Law; Principal, St Augustine University Centre, Arusha	St Augustine University Centre, Arusha
31	Dr. Lillian Mongella, Dean, Faculty of Law, Ruaha Catholic University, Iringa	Ruaha Catholic University, Iringa
32	Mrs Flora Masoy, Chairperson, Morogoro Paralegals Centre, Morogoro	Morogoro Paralegals Centre
33	Mr. Martin P. Massawe, Faculty of Law, Mzumbe University, Mzumbe	Mzumbe University
34	Mr. Ernest Charles, Faculty of Law, Sebastian Kolowa University, Lushoto	Sebastian Kolowa University
35	Dr. Tomasz Milej, German Academic Exchange Services (DAAD)	DAAD
36	Dr. Rita Mwaipopo, Department of Economic Law	University of Dar es Salaam School of Law

37	Dr. Evaristo Longopa, Department of Private Law	University of Dar es Salaam School of Law
38	Mr. Musa Laurean, Department of Private Law	University of Dar es Salaam School of Law
39	Mr. Benedicto Zenus, Police Force, Tanzania	Police Force, Tanzania
40	Ms. Hilda Tzeba, Department of Economic Law	University of Dar es Salaam School of Law
41	Ms. Pooja M. Karia Department of Economic Law	University of Dar es Salaam School of Law
42	Mr. Goodluch P. Chuwa, Law School of Tanzania	Law School of Tanzania
45	Mrs. Margret Rugambwa	UN Women, UNDP Tanzania
46	Ms Lorietha Laurean, Habari Maelezo	Habari Maelezo
47	Ms. Gaudensia Mngumi, The Guardian Limited	The Guardian Limited
48	Mr. Mark Mulwambo, Attorney General's Chambers, Dar es Salaam	Attorney General's Chambers, Dar es Salaam
49	Mr. Abuu Kimario, Attorney General's Chambers, Dar es Salaam	Attorney General's Chambers, Dar es Salaam
50	Mr. Carlos A. Miyonjo, Police Force Tanzania	Police, Tanzania
51	Mr. Haji Pandu Haji, Judiciary Zanzibar	Judiciary Zanzibar
<b>IDLO Team</b>		
52	Ms Enid Muthoni, Country Director, IDLO Kenya	IDLO
53	Ms Fiona Funke, IDLO's Communications Manager	IDLO
54	Ms Rea Chiongson, IDLO Gender Specialist	IDLO
55	Ms Barbara Kawira Japan, Program Associate, IDLO Kenya Field Office	IDLO
<b>Forum Secretariat</b>		
56	Ms Naomi Gichuki	
57	Mr. Frederick Kihwelo	
58	Ms. Jennifer Valerian	
59	Mr. Kaitu Antidius	
60	Prof. Kennedy Gastorn (Convenor)	

## Appendix B: PROGRAMME

<b>DAY ONE, THURSDAY 10<sup>TH</sup> DECEMBER, 2015</b>	
<b>Time</b>	<b>Activity – Particulars</b>
8:30 – 9:00	Arrival and Registration – All
9:00 – 9:30	Remarks from the Organizer – Ms. Enid Muthoni, Country Director IDLO Kenya
9:30.- 9:40	Remarks from Selected Development Partners working on Rule of Law related projects in Tanzania: Mr. Kees Groenendijk, Fund Manager, Legal Services Facility (LSF), Tanzania.
9:40 – 10:00	Remarks from the Special Guest – H.E. Benjamin William Mkapa – Former President of the United Republic of Tanzania (1995 – 2005).
10:00 – 10:30	Opening Speech by the Guest of Honour: Attorney General of the United Republic of Tanzania, Hon. George Masaju (M.P)
<b>10:30 – 11:00</b>	<b>Health Break/ Group Photo - All</b>
Session I 11:00 – 13:00 Theme: Institutional Reforms	<p>Panelist:</p> <ol style="list-style-type: none"> <li>1. Rule of Law, Recent Judicial Reforms and Sustainable Development in Tanzania: Challenges and Opportunities – Hon. Justice Prof. Ibrahim H. Juma, Court of Appeal of Tanzania.</li> </ol> <p>Moderator: Prof. Chris Maina Peter, Professor of Law and Chairperson, Zanzibar Legal Services Centre Board.</p>
<b>13:00 – 14:00</b>	<b>Lunch and Networking - All</b>
14:00 – 15:30 Session II Theme: Constitutional and Legal Reforms	<p>Panelists:</p> <ol style="list-style-type: none"> <li>2. Legal Education and Rule of Law in Tanzania: Challenges and Opportunities – Prof. G.M. Fimbo, Professor of Law, Department of Economic Law, University of Dar es Salaam.</li> <li>3. Legal Practice Training and Rule of Law in Tanzania: Challenges and Opportunities – Hon. Justice Dr. Gerald A.M. Ndika and Goodluck P. Chuwa, Law School of Tanzania.</li> <li>4. Constitutionalism and Rule of Law in Tanzania: Challenges and Opportunities - Prof. P.J. Kabudi, Corporate Counsel and Secretary to Council, University of Dar es Salaam, and Former Member of the Constitution Review Commission of Tanzania.</li> </ol> <p>Moderator: Hon. Asina Omary, Commissioner, National Election Commission of Tanzania</p>
<b>15:30 – 16:00</b>	<b>Health Break and Networking – All</b>

16:00 – 18:20 Session III Theme: Governance, Democracy and Human Rights	<p>Panelists:</p> <ol style="list-style-type: none"> <li>5. Access to Justice and Human Rights in Tanzania: Challenges and Opportunities – Hon. Dr. Kevin Mandopi, Commissioner, Commission for Human Rights and Good Governance in Tanzania.</li> <li>6. Competition and Consumer Protection in Tanzania: Challenges and Opportunities - Prof. N.N. Nditti, Head, Department of Economic Law.</li> <li>7. Gender Based Violence and Gender and Children Desks in Tanzania - Ms Anne Malipula, Directorate of Public Prosecutions, Tanzania</li> </ol> <p>Moderator: Prof. L.X. Mbunda, Principal College of Humanities and Social Sciences, University of Dodoma</p>
<b>DAY TWO, FRIDAY 11<sup>TH</sup> DECEMBER, 2015</b>	
<b>8:00 – 8:30</b>	<b>Arrival and Registration – All</b>
08:30 - 11:00 Session IV Theme: Environment, Natural Resources and Extractive Industry	<p>Panelists:</p> <ol style="list-style-type: none"> <li>8. Governance and Rule of law in Extractive Industry in Tanzania: Challenges and Opportunities - Dr. A. Kilangi, former President of African Union Commission on International Law.</li> <li>9. Fiscal Regime and Revenue Management in the Extractive Industry Tanzania: Challenges and Opportunities – Prof. Hamudi Majamba, Dean, University of Dar es Salaam School of Law.</li> <li>10. Gender Dimensions of the Extractive Industry: Challenges and Opportunities - Mrs Margaret Rugambwa, Gender Specialist, Tanzania (UN Women/UNDP Tanzania)</li> </ol> <p>Moderator: Dr. Lilian Mongella, Dean, Ruaha Catholic University Law School, Iringa.</p>
<b>11:00 – 11:30</b>	<b>Health Break and Networking – All</b>
11:30 – 13:30 Session V Theme: Partnership and Financing for Development	<p>Panelists:</p> <ol style="list-style-type: none"> <li>11. Accountability in Government Expenditure: Challenges and Opportunities – Mr. Seleman A. Mbutuka, Deputy Controller and Auditor General, Tanzania</li> <li>12. Illicit Financial Flows in Tanzania: Challenges and Opportunities – Prof. L.P. Shaidi, Professor of Criminal Law, Department of Public Law University of Dar es Salaam</li> </ol> <p>Moderator: Hon. Omar Othman Makungu, Chief Justice of Zanzibar</p>
<b>13:30 – 14:30</b>	<b>Lunch and Networking – All</b>
14:30 – 16:30 'Tanzania Rule of Law Programme'	<p>General Discussions and the Way Forward/ Key lessons and concrete interventions needed and the way forward – All</p> <p>Moderators: Prof. Romuald Haule, African Institute for Comparative and International Law, Songea and Ms Enid Muthoni, Country Director IDLO Kenya</p>

16:30 – 17:00 Closing Ceremony	Vote of Thanks: Ms Enid Muthoni, Country Director IDLO Kenya and Prof. Kennedy Gastorn, National Convener IDLO Rule of Law Stakeholders Forum
<b>17:00 – 19:00</b>	<b>Departure and Networking</b>

## Appendix C: PRESS RELEASE

### First National Forum on Rule of Law in Tanzania

(Dar es Salaam, Tanzania) 10 December 2015 –The International Development Law Organization (IDLO) is organizing a national Rule of Law Stakeholders Forum in Tanzania, bringing together for the first time a range of national actors to discuss issues affecting the legal and justice sector in the country.

“The Rule of Law Stakeholders Forum is an opportunity to facilitate dialogue for actors from different ends of the justice spectrum in Tanzania,” said IDLO representative Enid Muthoni.

Participants will discuss national good practice in the rule of law and identify areas for improvement and collaboration, with a view to enhancing the voice of legal and justice sector professionals and ensuring concerted efforts in addressing challenges.

Discussions will cover a range of issues affecting the legal and justice sector, including institutional reform; legal and constitutional reforms; governance, democracy and human rights; environment, natural resources and extractive industries; and partnerships and financing for development.

The Attorney General of the United Republic of Tanzania, Hon. George Masaju, and former President H.E. Benjamin William Mkapa are expected to address the opening session of the Forum.

Participants will include high and working level representatives of the justice sector and the judiciary of Tanzania, other government institutions and law enforcement agencies in the country, the business sector, law schools, bar associations, and civil society organizations, as well as representatives of international organizations and development institutions.

Outcomes and findings from this week’s Forum will also inform IDLO’s Africa Initiative on the Rule of Law and the 2030 Agenda for Sustainable Development.

The Forum is being held on Thursday 10 and Friday 11 December 2015 in Dar es Salaam.

\*\*\* ENDS \*\*\*

For further information, please contact

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## Notes to editors

The International Development Law Organization (IDLO) is the only intergovernmental organization exclusively devoted to promoting the rule of law. IDLO works to enable governments and empower people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity. Its programs, research and policy advocacy cover the spectrum of rule of law from peace and institution building to social development and economic recovery in countries emerging from conflict and striving towards democracy.

IDLO sees the rule of law as the cornerstone of peace, security, justice and development, as well as an integral part of sustainable development - underpinning social and economic progress and environmental protection with strong institutions and good governance, formal legal frameworks and legal empowerment of people, equal opportunity and equitable access to basic services, and due process and fair outcomes for all.

IDLO has a long and successful history of working in Africa, with an extensive and active alumni network. Sub-Saharan Africa is the second largest region for our work, after Asia; and 5 of our 30 member parties are Burkina Faso, Kenya, Mozambique, Senegal and Sudan.

Since 2009, as IDLO's work has expanded, the Organization has opened Africa country offices in Kenya, South Sudan, Somalia, Mali and most recently Liberia. The work in the region spans the breadth of rule of law initiatives, from more traditional institution-building and training, to access to justice programs especially for women, and sustainable development activities around energy and climate change.

IDLO has its headquarters in Rome, a Branch Office in The Hague, liaison offices for the United Nations in New York and Geneva, and country offices in Afghanistan, Honduras, Indonesia, Kenya, Kyrgyzstan, Liberia, Mali, Mongolia, Myanmar, Somalia, South Sudan and Tajikistan. Since its establishment in 1983, IDLO has worked with over 20,000 legal and justice professionals around the world.

Read IDLO's 2014 Annual Report [here](#).

Appendix D: A Group Photo with the Guest of Honour and Selected Delegations

