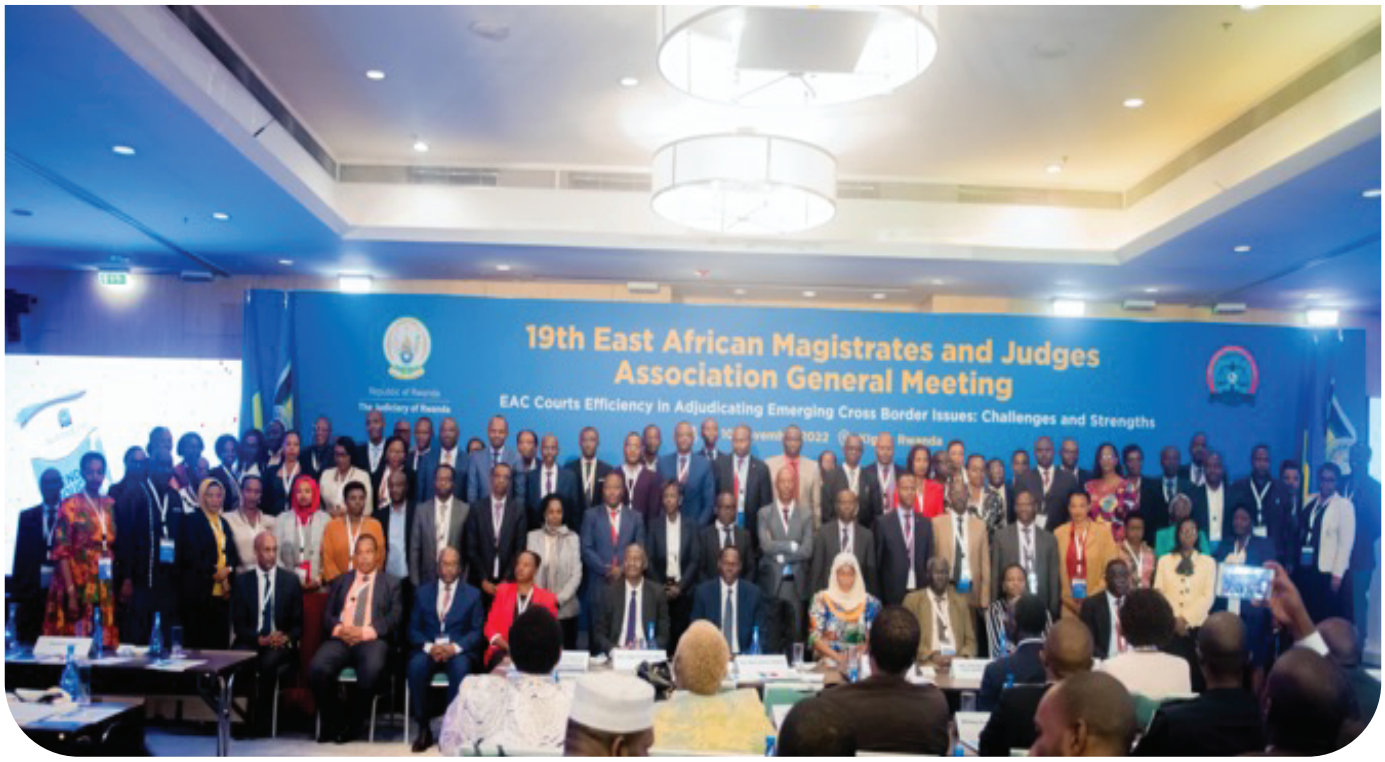
THE 19th EAMJA CONFERENCE

REPORT 2022



Marriot Hotel, Kigali, 7-10 November 2022

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LIST OF ABBREVIATION

ADR: Alternative Dispute Resolution

AoA: Articles of Association

AU: African Union

CJ: Chief Justice

CMJA: Commonwealth Magistrates and Judges Association

EAMJA: East Africa Judges and Magistrates Association

EAC: East African Community

IECMS: Integrated Electronic Case Management System

MoU: Memorandum of Understanding

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

EXECUTIVE SUMMARY

The East African Magistrates and Judges' Association (EAMJA) is a federation of Associations of judicial staff from Kenya, Rwanda, Tanzania, Zanzibar Southern, Sudan and Uganda. It organizes rotational annual conferences, to discuss various issues of common interest. This year's Annual Conference was hosted by Rwanda at Marriot Hotel in Kigali, from 7th to 10th November 2022.

The theme for this Conference was '*The EAC Courts Efficiency in Adjudicating Emerging Cross Border Issues: Challenges and Strengths*'. The launching of the EAMJA gender policy, and the papers related to its rationale and implementation plan as well as those related to courts and technology of the future came as prelude to the Conference. The core matter of the Conference started with a highlight on regional integration before developing specific commercial and human rights issues.

The main objectives of the Conference were therefore to conduct a general overview on the approaches of EAC Member States' judicial handling of cross-border issues and to debate and resolve any differences on the judicial handling of cross-border commercial ıand human rights issues within EAC. The Conference was meant to define rights, to suggest practical ways of improving judicial efficiency and to restate judicial principles for a timely and fair justice delivery.

In addition to launching the EAMJA's gender policy, the major achievement of the Conference was the sharing of knowledge and experience among all participants on the journey of regional integration and the harmonization of judicial remedies on cross-border issues, such as commercial-related concerns and human rights issues. More specifically, the Conference addressed issues regarding:

- Challenges and prospects of regional integration;
- Challenges and prospects of EAC Courts in the imposition of compliance with EAC Common Market Protocol and investor protection;
- Actualization of fair competition and consumer protection standards;
- Challenges facing the harmonization of EAC tax systems;
- Matters pertaining to insolvency of multinational companies and liabilities of corporate governors;
- Responses to electronic payments, bitcoin transactions, and judicial handling of financial disputes;

- Adjudication and alternative dispute resolution of disputes arising from cross border commercial contracts and their subsequent enforcement within the EAC Member States.

- Role of judges in the eradication of modern slavery, the fulfilment of regional and internal obligations towards refugees and asylum-seekers in EAC, protection of migrants, etc.

I. OPENING CEREMONY AND LAUNCHING OF THE GENDER POLICY

The 19th EAMJA Conference was held under the theme "*EAC Courts Efficiency in Adjudicating Emerging Cross Border Issues: Challenges and Strengths*". It attracted an average of 252 delegates from Rwanda, Kenya, Tanzania, Zanzibar, Southern Sudan and Uganda.[1] Monday 7th November was the kicking off of the Conference. The leadership of the EAMJA and the host country welcomed all delegates.

Different remarks and speeches were made during the opening ceremony and it was also an opportunity to officially launch EAMJA Gender Policy.

I.1. WELCOMING REMARKS

I.1.1. Welcoming remarks by the President of Rwanda Judges and Registrar Association (RJRA)

The President of RJRA, Justice Kadigwa Gashonore Laurien, welcomed and thanked all delegates whose attendance has proved each one's commitment towards the mission and activities of the EAMJA.

President of RJRA,
Justice Kadigwa Gashonore Laurien

He elaborated on the relevance of the Conference's selected themes and social programs and recalled that EAMJA rotational Annual Conference and General Meeting are, and have always been, a great opportunity for EAC judicial officers to strengthen their social cohesion and contribute to the regional integration which is one of the major objectives of the Treaty establishing the Community.

1. 250 delegates on 7 November 2022, 268 delegates on 08 November 2022, 222 delegates on 09 November 2022 and 268 delegates on 10 November 2022.

I.1.2. Remarks by the President of the International Commission of Jurists/Kenya Chapter

The President of ICJ, Kenya Chapter, Mr Protas Saende, indicated that in the past ten years, ICJ/Kenya Chapter worked closely with EAMJA Executive Council towards the application of the Protocol to the African Charter on the Rights of Women in Africa, popularly known as Maputo Protocol.

The President of ICJ, Kenya Chapter, Mr Protas Saend

The gender policy is the way to go for the current generation. Although the struggle for gender equality continues, today it is obvious that women in many countries are distinguished trade leaders and industry leaders. More women have become leaders in several judiciaries, in companies, in parliaments and even Heads of states.

Mr Protas Saende recognized the role of the EAMJA's leadership in pushing for a gender policy until it was adopted. He empasized that the law and justice system play a key role in shaping attitude and behaviour in the society by holding citizens accountable to standards of human rights and equality. It is therefore important that the judiciary as a guardian of human rights deliberately addresses any element of discrimination or inequality with the systems. This policy explicitely provides a framework for the judiciary to address gender related issues within their national jurisdictions and ensure that all the treatment to court users and content of judgments are gender sensitive. The adoption of the gender policy is not the end of road. There is still need to continue analyzing intersectionality of gender with the issue of age, disability status, ethnic or linguistic groups and find ways to prevent further discrimination against our people.

I.1.3. Remarks by the President of EAMJA

In her address to the participants, the president of EAMJA Hon. Justice Sophia Wambura reminded that the objectives for which EAMJA was established were among other things to contribute to the improvement, efficiency and harmonization in the administration of justice and to promote the adherence to the rule of law. Therefore, the EAMJA Gender Policy which is to be launched was an implementation of the Declaration on Sexual and Gender Based Violence (SGBV) issued in the meeting of Heads of States and Governments of the Member States of the International Conference on the Great Lake Region held in Kampala on 15th -16th of December, 2011.

The president of EAMJA Hon. Justice Sophia Wambura

Justice Sophia Wambura commended the EAC judiciary administrations for having created condu-

cive working environment for the judicial staffs in their respective countries.

But, she also took the opportunity to request the EAC Judiciaries to initiate cooperation programs whereby they can share the best practices through study visits of judicial staffs. She concluded her speech by thanking ICJ/ Kenya Chapter and all others who tirelessly worked together with members of the Gender Sub Committee who made Judicial Gender Policy a reality.

I.1.4. Remarks by the Chief Justice of the United Republic of Tanzania

Honarable Chief Justice of the United Republic of Tanzania, Hon. Prof Ibrahim Juma

In his remarks, the Honarable Chief Justice of the United Republic of Tanzania, Hon. Prof Ibrahim Juma, reminded the importance of justice in every country's journey to prosperity. He pointed out that this gathering is another opportunity to renew the commitment to EAC and EAMJA in particular and reinforce the EAC values of peace, unity and prosperity.

He recommended that Judiciaries in EAC Member States should:

- Embrace the idea of judiciary lead reforms in terms of constructive engagement of judiciary in building strong judicial administration that is corruption-free;
- Impose their own accountability standards to fight against the corruption perception that is always associated with the judiciary instead of waiting for the legislative body to hold them accountable;
- Stand united and play a role in the different stages of integration, adopt and adhere to relevant strategic plans and make sure they are implemented;
- Include digitalization agenda in national judiciaries and all other important programs by working hand in hands with the government.

I.1.5. Opening Remarks by the Chief Justice of Rwanda

The Chief Justice of Rwanda, Hon Dr Faustin Ntezilyayo,

The Chief Justice of Rwanda, Hon Dr Faustin Ntezilyayo, thanked the EAMJA to have chosen Rwanda to be the host of the 19th Conference and Annual General Meeting, and expressed gratitude to Hon. Chief Justice of Tanzania and delegates from EAC Judiciaries for attending the Conference.He recalled that the theme of the Conference is founded on the recommendation of the 16th EAMJA Conference held in 2018 which came as an enforcement of Article 126(2)(b) of the EAC

Treaty that calls on all Member States to harmonize all their national laws pertaining to the Community.

The Chief Justice noted that the participants in this Conference will have the opportunity to share experience and knowledge on various matters such as the need of harmonizing judicial remedies on cross-border commercial and human rights issues. It will also be an opportunity to interact and exchange on various reforms that are being carried out in our respective Judiciaries.

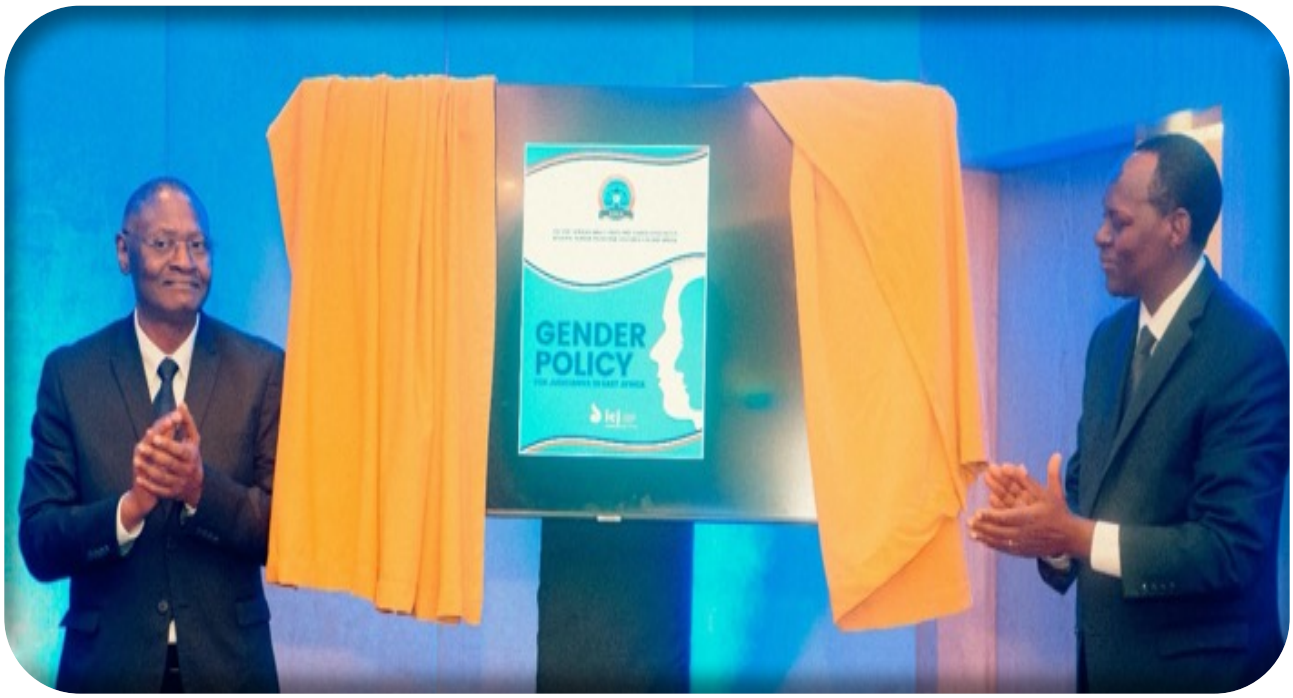
He also noted that the 2022 Conference is unique considering the challenges faced by justice systems due to the COVID-19 pandemic which has had a severe impact on all areas of life, and indicated that among the goals the Conference is meant to achieve are defining rights; suggesting practical ways of improving judicial efficiency and restating judicial principles for a timely and fair justice delivery.

Expectations of quality justice are high, and the Government has taken measure to improve the use of technology and carry out digital reforms to improve access to justice even during period of the pandemic and preserving the public trust of the judiciary by upholding standards of ethics, transparency and independence.

He re-affirmed that the Judiciary of Rwanda will remain supportive of the EAMJA, and he also thanked the different organs and committees that were instrumental in the organization of theis Conference.

I.2. OFFICIAL LAUNCHING OF THE EAMJA GENDER POLICY

The 19th EAMJA Conference and Annual General meeting was also an opportunity to officially launch the Regional Gender Policy for Judiciaries in East Africa by the Chief Justice of Rwanda, Hon. Faustin Ntezilyayo and the Chief Justice of Tanzania Tanzania Hon. Prof. Ibrahim Juma.



After the opening ceremony and official launching of EAMJA Gender Policy, participants engaged in discussions through various presentations on selected sub themes.

II. EAMJA GENDER POLICY, COURTS AND TECHNOLOGY OF THE FUTURE

In the section, the participants addressed the issues concerning gender and it was also an opportunity to revisit the role of technology in dispensation of justice.

II.1. The Rationale of the Gender Policy and Strategies for its Implementation

Ms Elsy C. Sainna, and Ms Julie Matheka,

Ms Elsy C. Sainna, and Ms Julie Matheka, gave the background of the birthing of the Regional Gender Policy. They started by recalling a resolution of the 13th EAMJA Conference that urged East African courts to "apply in their decisions, as far as practicable, international and regional instruments which specifically address the cultural and belief systems that undermine women's and children's rights." The 2017 Pre-Conference Council meeting presented a platform for policy dialogue on the role of EAMJA Council in protection of women rights within the judiciary and for court users.

They indicated that among positive impacts of having a gender policy are inclusiveness, social dialogue, well-being at work and unbiased cooperation among all stakeholders. The gender policy complies with international and regional legal framework on gender and is built on the principles of justiciability, availability, accessibility, good quality of justice and accountability of justice systems.

After the presentation, the moderator, Justice Ageline Rutazana, asked the presenters about the implementation plan. Ms Elsy C. Sainna, and Ms Julie Matheka recommended the creation of a monitoring, evaluation and reporting system to ensure that planned activities are implemented and setbacks and variations are timely addressed. In addition to this, each judiciary should develop tools to enhance monitoring and evaluation system. They further advocated for the establishment of a structure, system and process that supports the policy and to avail financial and human resources to implement the policy as well as to train staff who would monitor and promote gender equality in the regional respective judiciaries.

II.2. Courts and Technology of the Future: A Remedy for Emerging Cross Border Issues?"

Dr. Ashot Hovanesian/ CEO

Dr. Ashot Hovanesian/ CEO, Synergy International, indicated that emerging cross-border issues range from all legal domains like civil, labor, commercial, criminal, etc. Some of those are: information security, cyber crimes, cross-border crimes (like human trafficking, drugs, international fraud), immigration and mobility, electronic contracts, etc.

Presently, technology made possible cross-border justice delivery by facilitating cross-border investigation, prosecution, adjudication, and incarceration, allow public and institutional exchange of information, documentation, and evidence in security and privacy of such exchange and within the context of the speed that is availed by electronic.He indicated that as far as justice delivery with regard to emerging cross-border issues is concerned, technology presents remedies through the introduction of digital signature to allow the approval of documents remotely and at any time, and Biometric technology to ease party/suspect identification, improve cross-border investigation, and technology minimizes evasion of justice through the change of identification information.

In conclusion, he argued that although technology cannot claim to provide a remedy for all emerging cross-border issues, it is the best option now and in the near future. If coupled with proper policy and procedural reforms that embrace digitalization, it enables remedies to take effect.-

III. EAC PARTNERS' APPROACH TOWARDS CROSS BORDER ISSUES

The purpose of this main theme on EAC partners' approach towards cross border issues consists of trying to reach a deep common understanding on cross border issues in order to allow partner state institutions, especially judicial institutions to have a glimpse of perspectives on harmonized rulings and legislation within the region.

III.1. Rationale for Harmonized Judicial Remedies on Cross Border Issues

Hon. Justice Charles Mukandawire

Hon. Justice Charles Mukandawire, Council Member of CMJA and Honorary President of the Commonwealth Magistrate and Judges' Association (CMJA) elaborated on integration as a way to address cross border issues steaming from the increasing need of people to move across borders, coupled with globalization trend and interdependence of the people and countries in various areas of business. He put it rightly that integration is threefold and includes economic integration and political integration, the two being enabled by legal integration. In fact, no integration is possible

without a solid institutional and legal framework.

There are therefore regional community laws and Member States' internal laws. Community laws are negotiated and embedded in a Treaty. Once they are domesticated, they are binding to individual members States. Disputes arising from interpretation of the Treaty are dealt with by regional community courts. But of course, not all matters in various States are covered by the Treaty and certain disputes that arise from the movement of people are regulated and interpreted by national courts.

However, it is technically difficult to agree on the content of such laws as well as on procedures and rules applicable in national courts. But, he believes countries in a community, even from different legal system backgrounds, can agree on common principles to ensure conducive environment for people's businesses is enabled and their individual rights are upheld. He indicated that globalization has created opportunities for criminal groups to flourish, diversify and expand their activities. Efforts to combat them still encounter barriers due to weak cooperation, hence weak criminal justice responses.

Such challenges extend to some cross-border related business such as labour and trade issues arising from cross-border mobility, Cross-border Health Care issues, and Cross-border infringement on Intellectual Property Rights and we may list some of associated challenges to handle them to be:

- Un-harmonized laws related to cross border crimes;
- Delay to respond to requests for assistance in criminal investigations through Interpol;
- The diversity of legal approaches in the Member States on issues like fundamental rights including procedural rights, protection of personal data, etc;
- Limited knowledge of own rights in a foreign country;
- Language barriers;
- Finding adequate information about legal provisions, including the complexity of finding the competent court and precedents;
- Formalistic and expensive legal procedures;
- Finding adequate legal representation; etc

Possible avenues for harmonization should focus on: harmonization of laws and regulations to provide the most appropriate mechanisms to address identified problems, enhancing implementation of existing legislation and Treaty Agreements on transnational organized crimes e.g. the UN Convention on transnational organized crime, increasing or enforcing bilateral and multilateral treaties, especially on extradition matters, creation and use of a regional criminal database to easy information sharing based on agreed regional standards and facilitation of mutual legal assistance among Member States.

He recommended that if we are to face the challenges of regional integration, we must be ready to deal with problems affecting the instrumentality of law and marriage of legal systems, principally the civil and common law systems. The harmonization of laws must be well planned and coordinated with a lot of investment in political will and resources. Member States should also undertake to co-operate in judicial and legal matters with a view to harmonizing their judicial and legal systems. Justice Charles Mkandawire is of the view that it is imperative for the Community to keep improving the regional integrated legal environment to boost investment, protect and promote people's rights.

Justice François Regis Rukundakuvuga, the President

Justice Charles Mkandawire's presentation was discussed by Justice François Regis Rukundakuvuga, the President of the Court of Appeal of Rwanda. Justice François Regis Rukundakuvuga argued that where there is business there are also disputes which will be easily dealt with if they arise within the boundaries of one country. In those circumstances, they can be settled according to the same norms, rules and judicial remedies which are quite well known by people involved while the context is drastically different when it comes to cross border business.

He further indicated that globalization has triggered easier and faster communication, movement of people and goods and at the same time created ground for disputes of a different nature sometimes on unprepared legal field. The responses to this new trend did not follow suite the same way in different regional economic blocs, nor did they in different branches of law. In addition, globalization has created opportunities for criminal groups to flourish, diversify and expand their activities. Efforts to combat them still encounter barriers due to weak cooperation, hence weak criminal justice responses.

III.2. Diversity of EAC Partner States Laws and Rulings as Regards Cross Border Issues: Challenges and Strengths in Building an Integrated Regional Block

Prof. Frederick Ssempebwa

Prof. Frederick Ssempebwa introduced his presentation by distinguishing diversity as a negative concept signifying failure to comply, from difference in approach, which is in conformity but through a process that is not similar to that taken by other actors in the same field.

He noted that a diversity would arise from persistent violations of the principles and matters of democracy, the rule of law and human rights are the subject of diverse management in the region. He stresses that diversities are mainly exemplified in the implementation of Community objectives, the most discussed being the Common Market undertakings.

Prof. Frederick Ssempebwa further argued that the most important pillar of EAC so far is the Com-

mon Market. Under the Common Market Protocol (CMP), the Partner States have to move towards a regime of inter-State trade freed from tariff and non-tariff barriers. The objective is to have free movement of people and workers, of goods, capital, services, and also the right of establishment.

He added that the basic obligation is to accord (a) treatment to the people, goods, and services from other Partner State treatment that is not less favourable than that accorded to people and factors in the Host State, (b) most favoured nation treatment, and, (c) mutual recognition of standards.

Hon. Justice Asina Emmy Abdillah Omari from the High Court of the United Republic of Tanzania

Hon. Justice Asina Emmy Abdillah Omari from the High Court of the United Republic of Tanzania, the discussant, raised the concern of education. She pointed out that free movement of goods faces restrictions and resistance by Member States not because of the absence of political will, but due to the existence of similar products which lead to fear of competition. Countries opt to protect their own products and this raises the question of knowing who is responsible for the realization of integration.

She argued that national courts are the primary institutions to ensure the existence of the integration despite the separation of powers which is different depending on every country's legal system. She recommended that to fast-track the commitment expressed by Partner States in article 11 of the CMP, there should be a harmonisation of academic and professional curriculum, examinations, standards, certifications and accreditations of education and training institutions. In addition to that, there should be also public awareness for the population and government institutions on matters of cross-border services and free movement of goods

IV. CROSS BORDER COMMERCIAL ISSUES

This section involved three experts on consumer protection and fair competition within the context of EAC common market and investor protection challenges and toward the prospects for harmonized court decisions.

IV.1. Consumer Protection and Fair Competition in the East African Community: Challenges and Prospects for Harmonization of Judicial Decisions

Hon. Justice Geoffrey Kiryabwire asserted that fair competition is an important tool for economic development as it fosters enhanced and improved products. It is also important for the prices of these products to be fair and reasonable.He further affirmed that competition policy refers to a set of laws, regulations and measures employed by governments aimed at ensuring that markets remain competitive by maintaining a fair degree of compe-

Hon. Justice Geoffrey Kiryabwire

tition by eliminating restrictive business practices by private enterprises. It covers the broad spectrum of economic policies that have a bearing on competition in the economy, such as trade policy, sectoral regulation and privatization, among others.

He adduced that due to increasing anti-competitive conduct by monopolies and large firms, rights of consumers are becoming increasingly centre stage around the world whereby Governments have passed numerous laws to ensure that end users of products and services have the same rights as manufacturers and providers of services, hence ensuring fair competition.

For him, the apprehension of the situation of Consumer Protection and Fair Competition in EAC should be reflected in the legal framework on consummer protection in fair competition, the role of the Judiciary in the enforcement of competition policies that ensure consumer protection, the reason of harmony in judicial decisions on competition policies and the related challenges as well as the measures that can be taken to ensure harmonisation of judicial decisions on fair competition.

This being said, legislation is of two folds specifically at regional level where the East African Community Competition Act was enacted in 2006 constituting a step taken towards strengthening relations between Partner States, as envisaged under Article 5(1) of the 1999 Treaty Establishing the EAC and came into force on 1st December 2014. The Act has also implementing regulations titled the East African Community Competition Regulations of 2010 and other laws affecting competition law in the EAC are:

- The Protocol of the Establishment of the East African Customs Union, 2004 (the "Customs Union Protocol") and
- The Protocol on the Establishment of the East African Community Common Market, 2009 (the "Common Market Protocol").

He further added that at partner state level, all contracting countries have enacted different legal instruments in relation to consumer protection through the regulation of fair competition of their respective markets. So far as the judicial function is considered, Justice Kiryabwire shows that the Judiciary through the courts offers one of the avenues that parties to a competition or consumer protection dispute can use. This means either settling disputes between two economic operators on the basis of competition law or reviewing prohibitions, injunctions or penalties imposed on the operator by the competition authority by determining whether due process has been observed and whether the substantive law has been applied correctly.

He advocated that in order to avoid disparate court decisions, the judiciary will generate much needed jurisprudence to guide other courts and or tribunals through the principle of judicial precedent by

setting important standards and criteria in determining and resolving consumer protection cases.

On the issue of whether there should be harmony in judicial decisions on competition policies within the EAC, and what challenges are being faced in the harmonisation of these judicial decisions, Justice Kiryabwire advanced that harmonisation of the interpretation of the law relating to competition and its enforcement, is critical for the existence of an East African Common Market and Customs Union since differential application of the law and its application in Partner States will negatively affect the overall goal of economic integration. Challenges of judicial decisions harmonisation include different legal systems at play where Uganda, Kenya and Tanzania follow the English common law system while Rwanda, Burundi and the DRC follow the Continental legal system and South Sudan having a hybrid Common Law and Sharia. There is also lack of necessary knowledge especially on policies of economics and the law that governs fair competition and lack of specialised tribunals to handle disputes on fair competition.

He concluded by indicating that challenges remain in the differences in national priorities, lack of predictability, the complexities involved in enforcing consumer protection and fair competition regimes and the need for resources. Acknowledging these challenges will enable us to resolve them and plan better for EAC integration and ultimately harmonisation of policies and laws. Finally, while it is desirable for monitoring and compliance mechanisms to be put in place at a regional level so that collective decisions can be made; it is equally important for Partner States to nationally address consumer protection and fair competition enforcement.

Justice Prof Alphonse Ngagi, Judge of the Court of Appeal of Rwanda

Justice Prof Alphonse Ngagi, Judge of the Court of Appeal of Rwanda discussed Justice Kiryabwire's paper. He reminded that in the field of fair competition, competitors have to refrain from anti-competitive practices and agreements, abuse of dominant position in the course of mergers and acquisitions, dumping, monopoly and oligopoly.

He further stated that EAC competition act contains many provisions in relation to consumer protection in the form of publication of false representation by an undertaking, prohibition of unconscionable conduct in consumer transactions, publication of dangerous goods, etc. He noted that as far as the implementation and enforcement of the consumer protection act is concerned, the EAC competition act, 2006 established a Competition Authority with the powers to among other things: gather information, make investigations ad compulation of evidence, holding hearings, issue legally binding decisions, etc.

He pointed out that the contribution of the judiciary among others, is to bring policies on fair competition under the rule of law by protecting fundamental rights of the different players of the economy

and by making allowance for the regulatory function of framing and applying rules of procedure.

He therefore emphasizeds that courts can play a big role in encouraging the use of Alternative Dispute Resolution in consumer protection disputes where a resolution would benefit from a win/win situation instead of an outright adjudication. He observes that competition and consumer protection are interlinked because when goods and services are circulating, consumers have to be protected from consequences of free movement of goods and services as well as the quest by competitors to attract consumers. This being said, it arises the questions as to how can Partner States do that? Which tools should be used? Are such goods and services complying with the needs of consumers with regard to fair prices and quality?

Accordingly, some of the challenges to that field within the region such as the existence of different legal systems within the Community, the lack of relevant legislations in some Partner States, lack of specialised courts for handling consumer protection litigations, poor financial capacity by consumer protection associations and or institutions to handle such disputes (how to handle this issue? what to learn from other economic blocs?) and reminded that fair competition and consumer protection are not among the priorities of Partner States.

IV.2. Protection of Investiments in EAC: Challenges and Prospects for EAC Courts

Dr. Elvis Binda Mbembe, Dean of the Law School at the University of Rwanda

Dr. Elvis Binda Mbembe, Dean of the Law School at the University of Rwanda, introduced his paper by indicating that investment implies the creation of wealth and employment. However, from historical point of view, it is demonstrated that Foreign Direct Investments (FDIs) have actually faced contentions not only because of interelation issues among Partner States, but also for lack of policies and appropriate legal framework. He argued that in early 1960s, EAC member States namely Tanzania, Uganda and Kenya were already trading. But Tanzania decried a situation of trade imballance between Uganda and Kenya where the latter was producing more than other Partner States. In order to address the issue, they entered into the 1964 agreement that put in place the redistribution of industries and imposition of quotas to products from surplus countries. Nonetheless, this did not solve the problem and in 1965, Tanzania withdrew from such an agreement.

Again, in 1967 the then Partner States signed the East African Cooperation agreement that took into consideration the issue of FDIs. It introduced a Transfer Tax on exported products especially when the same product is also produced in the country where it is exported. The agreement also established the EA development bank to help Partner States without enough resources to boost ther industries;

it advocated for the decentralisation of common services, which was the reason of relocation of EA Headquarters from Nairobi Kenya to Arusha, Tanzania. In 1999, a new treaty was signed. Its paragraph 4 recognised the dispropotionate sharing of the benefit of the community due to the disparities in the levels of development and lack of adequate policies. For tackling them, the CMP to the treaty was developped. It brought in some freedoms namely the free movement of goods, of services, of persons and of capital.

He noted that all this is happening within a situation where Partner States have striking asymmetries when it comes to factors determining FDIs attraction such as economic productivity, human competence, adequate infrastructure and conducive regulatory framework. Therefore, the existence of such discrepancies in a common market area results in incidents that may manifest in the form of two theories : the agglomeration theory, according to which FDIs have the tendency to follow each other where for instance, manufacturers of shoes are concentrated in the same country and the Rambo theory where frustrated members would defect from the common market, which is likely to lead to the collapse of the Community, whenever Partner States feel they are not benefiting from it.

Dr Elvis Mbembe indicated that Partner States have enacted domestic laws, established investment promotion, created strong institutions and signed bilateral investment treaties (BITs). However, very few investment cases are referred to courts. This has prevented the EACJ to create a harmozed jurisprudence on the subject although in 2015, its mendate was extended to cover trade and investment disputes. Instead, EACJ is ruling on arbitration agreements which is the favorite dispute resolution method by disputants. In fact, article 32 of the EACJ act on arbitration clauses and special agreements extends the EACJ's jurisdiction to ADR as well. The presenter was of the view that the biggest challenge still facing the region is the lack of a common investment policy, the fragmented protection of investors under national systems and the difficult access to arbitration awards for reasons of confidentiality of arbitration proceedings. He quotes F.I. Nixson who stated in 1973 that "market forces alone are unlikely to produce a politically acceptable distribution of industrial activity between the three countries in the near future, and governments concerned will have to take collective action to promote a more equitable distribution of industry."

He therefore posited that the protection of FDIs can be achieved through the:

- Adoption of EAC Trade and Investment Policy where the management of FDIs are centralised and Partner States play a lesser role in order to achieve the equitable distribution of industry;
- Increase of the recourse to EACJ as an arbitration forum since this helps and ensures the implementation of article 126 of EAC treaty calling for the harmonisation of domestic and most specifically the standardisation of judicial decisions (EAC law reports) that is lacking across the region.

He concluded that attraction of FDIs can be a two-edged sword for the EAC. Given that regulation of FDI is essential for the EAC common market (manufacture) to ensure equitable distribution, a good legal framework and strong institutions at EAC level are needed to tackle FDIs issues and ensure protection and promotion in general. It follows that despite the existence of fragmented protection of

FDIs within national systems, EACJ has a strong potential to harmonize FDI judicial protection in the EAC.

Hon Justice Yohana B. Masara, the Principal Judge of EAC

Hon Justice Yohana B. Masara, the Principal Judge of EACJ discussed Dr Elvis Mbembe's paper by focusing on the Courts' role in protecting investments and common market. When a new Community started in 1999, Partner States agreed to initial steps of cooperation that is the customs union and common market. Despite the indicated challenges in the implementation, the Community has taken steps further.

Now, there is a monetary union protocol in place. So, all these stages of cooperation are geared towards making one EAC and for the purposes of their implemention, Partner States decided to establish EACJ which will, according to article 23 of the treaty, consitutute a judicial body which shall ensure the adherence to law in the interpretation and application of and compliance with this Treaty. But of course, through article 27 of the treaty, they limited the jurisdiction of the Court to its interpretation and application.

EACJ decisions are based on article 151 of the Treaty and protocols to the Treaty. The Common market protocol which is the subject of discussion here is also subject of interpretation by the Court. So what has the Court done? What are the challenges and prospects? The Common market is the second pillar of integration within the EAC, and it has a number of issues, freedoms and rights.

The first freedom is the free movement of goods implemented under article 75 of the Treaty on Customs Union. There have been cases brought to EACJ for the protection of these rights and the Court has implemented the provisions of such protocols. Unfortunately, there is a protocol on the extention of the jurisdictin of the Court that has been signed by the Heads of States and it is yet to be ratified. That protocol extended the court's jurisdiction to trade and investiment disputes arising from the implementation of the common market protocol and disputes arising from the implementation of monetary union protocol, which is also yet to be established.

The Treaty provides that a person may come to the Court if he/she is aggrieved by a decision of an action of the Partner state or an instutition of the Community. However, issues relating to competition and investment are not limited to actions and decisions. This raises the question as to whether the Court has jurisdiction to hear disputes that may arise between investors themselves.

Therefore, the Court has learnt to catch up with case presented on the common market protocol, the free movement of goods as a matter of customs union, but also an integral aspect of monetary union. In addition, the Common market has introduced rules agains discrimination of products and rules against discrimiantion of investments, and thus the national treatment principle applies to products

and investment within the Community.

IV.3. Adjudication, ADR and Enforcement Mechanisms within the EAC

Justice Nzioki wa Makau

Justice Nzioki wa Makau highlighted some of the advantages of mediation which is built on mutual agreements and negotiations. This increases the parties' control over the resolution. The involvement of a neutral third party makes it easier for the resolution of the dispute. It is the preferable mode of conflict resolutions to business entities as their relationships are maintained. It also releases funds held up in litigation back to the economy.

Furtheremore, he indicated that arbitration as one of the alternative dispute resolution methods presents advantages of being efficient, cost and time effective, according parties wih the autonomy of choice of arbitrators and the confidentiality of the precess while remaining a neutral forum. However, the process has also drowbacks of being adverserial in nature and therefore, it becomes difficult to predict the outcome. The option of reviewing is a bit costly because it has to come to court and becomes thus time consuming which is associated with cost and finally the consent of parties to the dispute to engage in arbitration frustrates the arbitration process.

He ~~demonstrated~~ pointed out that there is quite some progress towards the ideal of harmonized approach to such dispute resolutions and that there's hope of developing application to ensure promising outcomes given the importance of alternative dispute resolution mechanisms outside the adversarial court system. The presenter requested Partner States to fast-track the commitments undertaken at regional level for harmonizing the prevailing diversities in handling cross border commercial contracts.

Hon. Justice Boniface Wamala from the High Court of Uganda,

Hon. Justice Boniface Wamala from the High Court of Uganda, discussed the paper; he stated that although all legal disputes are stressful, cross-border disputes are even more difficult to manage, and it is caused especially by the multiple jurisdictions that parties have to navigate and the different international laws to contend with.

The situation also requires the obtaining of competent legal professionals to handle the disputes either with crosscutting issues or as per jurisdiction where they come from.

Sometimes, there are more than one legal system to deal with as in the case of common law versus civil law system. Therefore, it's time for legal practioners to start thinking of having multi-jurisdictional

lawyers to be able to effeciently handle crossborder disputes.

Many crossborder disputes of commercial nature are handled in accordance with provisions of international instruments and in case of EAC, the Treaty in article 6 provides for amicable settlement of disputes as one of the fundemental principles of the Community. This applies to disputes of all categories and more so those of crossborder nature, and in absence of any such instrument governing particular subject matters, the disputes are resolved according to the laws of the country from where the dispute is sought to be resolved.

Thus, the major goal of any dispute resolution mechanism is therefore to efficiently and effectivelly settle any existing dispute so as to avoid business disruption. In crossborder disputes, inefficiency in one of the jurisdictions greatly affects the flow of business in a nother jurisdiction.

Arbitration is the most popular or preferred mode of dispute resolution mechanisms especially in the case of commercial disputes. Indeed, the system of arbitration has well established legal infrastructure both domestically and internationally. Thus, even for jurisdictions that have gaps in the area, the situation is saved by the well-established legal regime which has cross-cutting rules over the subject. Confidentility is one of the features that endear the disputants in the arbitration mechanism. It is also correct that the other attractive features of that process are procedural flexibility, and the opportunity to select the forum, arbitrator or arbitrators.

On its part, mediation produces great dividends in the area of crossborder dispute of commercial nature and court annexed mediation presents an improvement on the performance of the mediation process.

Formal handling of crossborder disputes by the courts is a necessary part of this discussion because ultimately, the majority disputes go through litigation and adjudication through the formal courts. It is therefore important that the formal courts process within the region be well aligned so as to facilitate the efficient handling of this category of disputes.

Concerning the enforcement of decisions arising from the resolution of crossborder commercial disputes, the principles of enforcement of court decisions, awards are legally the same in different jurisdictions with variations of course occasioned by differences in the governing laws. What is important, however, is that there should be clear knowledge on the part of the parties concerning the forms of the chosen mechanism. Once an agreement or a consent settlement is signed or an arbitral award is handled down, the same should be registered in the court and enforced without any kind of resistence.

Under the court annexed mediation, a consent settlement signed by the parties and approved by the court is automatically enforceable as a judgment or a decree of the court. In the case of litigation and formal adjudication, the usual rules of judgment and decrees apply including transfer of judgment and decree for enforcement in foreign jurisdictions. It is therefore important that jurisdiction within the

region should efficiently facilitate enforcement of judgments and decrees and using civil procedure mechanism in each jurisdiction, we should be able to set up arrangements for the enforcement of court decisions with regard to crossborder disputes.

He alluded that there are challenges, however, that are prevalent with regard to crossborder disputes of commercial nature. One of them being that the absence of multijurisdictional lawyers dealing with more than one law firms can cause confusion, errors and misunderstandings while also increasing delays as party has to navigate jurisdictions in order to find competent practitioners. The other challenge is the lack of acceptability of ADR institutions in some jurisdictions, and such controversies has the effect of slowing down ADR processes.

Therefore, as a strategy towards better resolution of crossborder disputes, the discussant suggested that certain things can be done to ensure improved efficiency and effectiveness in the handling of crossborder commercial disputes, and these includes, making deliberate effort to understand different cultures, trade usages and practices in the multiple jurisdictions within the region as each jurisdiction strives to have laws consistent with values, aspirations and norms of the people in that Community. But given that in this region and broadly in Africa, these values and norms cut across, we should put emphysis on ensuring some harmonisation of different cultures, trade usages and practices within the region.

Another suggestion is harmonising the position on free legal practice within the region and encouraging legal practionners to have in place multijuridictional qualified lawyers, which is in line with article 126 of the EAC Treaty providing for the scope of cooperation in legal and judical affairs.

The other suggestion is that the jurisdiction clause in contracts should be clear and flexible, considering regional and international legal regimes and laslty, each jurisdiction should put in place efficient ICT systems capable of facilitating dispute resolution without need for physical movement or contact.

In conclusion, like all crossborder issues, efficient resolution of crossborder disputes of commercial nature largely depends on the nature of quality of intergration. All members of the regional body must be ready to move towards the harmonised dispute resolution machinery if the desired results are to be realised.

IV.4. Corporate Democracy and Business: Judicial Protection of Minority Shareholders

Dr. Didas Kayihura Muganga, Acting Vice Chancellor of the University of Rwanda,

Dr. Didas Kayihura Muganga, Acting Vice Chancellor of the University of Rwanda, primarily argued that minority shareholders should be considered as relevant and of value into the corporate governance of corporate entities.

He explained key principles in corporate democracy and business such as the majority rule principle/ majority doctrine that promotes strong ownership role, and where according to the rule, decisions are based on the majority vote, unless otherwise provided for by law or the company's articles of association. Powers are exercised through the board of directors and shareholders with some limitations where the powers of the majority of the members are subject to the MoU and AoA of the company. The resolution made by the majority should not be inconsistent with the Companies Act or any statutes. In addition, the majority rule is subject to exceptions especially where an individual shareholder can take action if they find that the majority has done an illegal act or is acting beyond the regulations of the company (ultra vires act), there have been fraud, control by the wrongdoer, breach of duty, they pass a resolution requiring special majority by a simple majority, or there has been oppression or mismanagement by and in favor of the majority shareholders. He expressed the view that the only way judges can protect minority shareholders is through the proper intepretation and application of the laws and the understanding of another way of looking on minority and majority shareholding by considering the influence a shareholder has on the management of the company, the actual control of the powers in the company owing to the information and other influence despite the fact that a shareholder with minimum shares in numbers may have in the company. Sometimes, lawyers think that majority shareholder is whoever has 50+ shares in a company and it is taken for granted that majority shareholder may be taken differently.

Majority shareholders are therefore those that are in actual position to make resolutions and thus, influence the functioning of the company, whereas minority shareholders are the opposite.

The presenter noted that if being in actual control is having the power to decide or strongly influence how the company bussinessess are run, then minority shareholders are vulnerable becase they suffer right from the moment the memorandum and articles of association are being negotiated and because of the way they are structured, it will always have a perpetual influence on how decisions are being made. Therefore, the one with actual control will lead the direction of the MoU and others will be bound upon their signature.

Furthermore, such influence extends even in the convening of meetings and proposing agenda items and how decisions are taken. They may also suffer from the timing when decisions are made by shareholders with actual control such as in the case of transfer of shares, decision making pertaining to major transactions such as mergers and acquisitions where the majority shareholders can carry it out with whoever they wish and probably in their private interests.

As to wether there are posibilities to protect minority shareholders, the presenter explained that the only way is by the judiciary being able to appropriately interprete the legislations but also the contract between the shareholders which are bylaws and memorandums. More to that, such interpretation of who a minority shareholder is, especially in cases where the one who is complaining to be protected is instead the majority shareholder following statutory qualifications mentioned above and with the view to understand who actually is the controlling shareholder.

Also the Court should be able to interpret and apply the law to withhold or stop certain transactions or decisions pending certain investigations or pending cases rather than rushing into concluding on whether minority shareholder is right or wrong, and ruling on the recovery of certain company assets through derivative action because as we understand, courts can accommodate exceptions even though the law provides for who should stand in for the company, and most of laws have adopted the exception, people can be allowed though not vested with that power, to stand in for the company and to convince the court, there are certain conditions to be fulfilled which is derivative action or oblic action.

The last way is through lifting of corporate veil; each of the layers in the decision making of the company may have his/her own interest or the interests of others other than the intended principal company interests. It is now up to the court to protect minority shareholder through lifting the corporate veil that would otherwise limit you to getting into the affairs of the company because there are those who are vested with the powers to dealing with them.

As he concluded, he noted that though it is a duty of the judiciary to protect those minority shareholders, it really requires the protector to investigate deeper in appreciating whether he/she is actually minority shareholder and whether there was a breach or a cross-over from the ordinary duties the shareholder had.

The discussant, Hon Justice Natukunda Geneva, High Court/ Uganda

The discussant, Hon Justice Natukunda Geneva, High Court/ Uganda highlighted the circumstances in which a minority shareholder should be protected and its impacts to the corporate democracy principle, and linked it to the practice of some judiciaries which play a big role in such protection. She requested other Partner States to learn from their sister countries whereby speaking of the protection of minority shareholders as discussed by the presenter, two concepts of which one is prejudice against the mi-

nority shareholders, therefore they should be protected through derivative action.

Regarding unfair prejudice, for example in Uganda, this is covered under part V of the Company Act 2012 which provides for the managament and admnistartion of the company; whereby it provides for the protection of members against prejudicial conduct through a petition to court and Kenya also have similar provisions in section 780 of the Company Act which also allow the filing of an application to court by a company member on ground that the company affairs have been conducted in a manner that is unfairly prejudicial to the interests of the members, etc. Rwanda also has a similar provision in the Law governing companies N° 07/2021, article 230 on unfair prejudice.

IV.5. Judicial Handling of Multinational Companies' Insolvency and the Liability of Corporate Governors.

Hon Justice Francis Tuiyott, of the Court of Appeal of Kenya

Hon Justice Francis Tuiyott, of the Court of Appeal of Kenya, examined the legal framework of cross-border insolvency, its evolution on the global platform, and elaborated on the EAC Partner States' perspective. He extended his discussion on how the Courts in EAC, particularly in Kenya handle cross-border insolvencies and the challenges experienced.

He stressed that the existence of robust laws is in itself not enough, and that the institution bestowed with the powers to enforce such laws and regimes must also be robust and ensure their effective implementation. It follows that the judiciary as the principal enforcing authority needs to have structures that are not only robust but effective as well and in which the citizen has trust and confidence.

Hon Justice Francis Tuiyott explained that cross-border insolvency regulates the treatment of an insolvent debtor who has assets or creditors in more than one country. It transcends the limits of a legal system and so the United National Commission on International Trade Law (UNCITRAL) Model Law on Cross Border Insolvency was proposed by the United Nations Commission on International Trade Law as a means of creating a system to deal with cross-border insolvency. On 30th May, 1997, the proposal was approved at UNCITRAL's 13th session, held in Vienna. The model law has now become the most widely accepted framework for handling difficulties involving cross-border insolvency, and nations can adopt it with revisions that are appropriate for their domestic situation.

The discussant Hon Justice Said Kalunde from the High Court of the United Republic of Tanzania also emphasized on robust institutions that must be established to effectively implement the adopted laws at regional level. Further more, he stateds that robust and predictable cross-border insolvency policies create mu-

The discussant Hon Justice Said Kalunde from the High Court of the United Republic of Tanzania

tual trust and investor confidence. Embracing and enforcing the model law aligns with Africa's aspiration to be the most attractive investment destination in the world.

IV.6. Electronic payment, cryptocurrency and judicial handling of financial disputes.

Justice Edward Muriithi, High Court of Kenya,

Justice Edward Muriithi, High Court of Kenya, begun his presentation by indicating to which extent this is a new field of law. Rules governing electronic payments and cryptocurrency and the manner in which Courts in the EAC countries and beyond have dealt with financial disputes are particularly new.

He argued that considering the effective and profitable operation of electronic payments and cryptocurrency regime to be a collaborative effort of all players in the money systems, there should be respect of the dignity, consumer and property rights of the citizens against the need for governmental controls in a monetary policy and legal regime crafted with consultation of the people.

He pointed out that the inevitability of developments towards cashless society, with impetus from COVID-19 restriction on personal contact, and the futility of seeking control of un-regulatable internet based crypto-money platforms is acknowledged. He stated that in order to harnes the benefits of alternative crypto forms, enhanced civic education and development of knowhow and technologies for detection, containment, deterrence and redress, as appropriate, of unavoidable breaches, criminal and fraudulent schemes, is counselled. In his views, the governments in East Africa should discourage the use of crypto currencies.

He concluded by emphasizing that the need for research, and education of all stakeholders including law enforcement agencies and courts in the ways to combat the harmful effects of cryptocurrency, and take benefit of the beneficial side of it, is glaring.

Justice Emmanuel Kamere

Justice Emmanuel Kamere, from the Court of Appeal of Rwanda who discussed the paper came back to the definitional elements of cryptocurrency and the existing legal framework in EAC, particularly in Rwanda. He stressed that as a new field of law, our judiciaries should get prepared to handle such cases in both criminal and commercial fields. Nowadays, judges, magistrates, judicial officers should be aware that in the near future, we may not see these paper money as we will be assisting in the world where money will be transferred electronically. So, we should not lay behind others in our daily activities.

There are so many forms of electronic systems where you can use your smartphone to pay for electricity, water, food, etc, and all that we do electronically has legal implications as we are always engaging in contracts unknowingly by using such modern transactions systems.

Cryptocurrency is a complex concept, sophisticated network mathematically organized in forms of algorithms. It is beyond the control of central banks and as far as the management of currency is concerned, cryptocurrency is dangerous to leave it without the regulatory control of the central banks.

We all know that the monetary policy, the control of money specially to avoid inflation, financing terrorism and money laundering, there are so many reasons why the circulation of money either in cash or electronically has to be controlled. Unfortunately, we have not yet at a regional level, reached a level of monetary union but once this materializes, the EAC central bank shall control, regulate and help the harmonization and integration of these payment systems.

When we talk about cryptocurrency, we usually understand "bitcoin" in short, but it should be understood as a form of digital currency, a virtual currency different from ordinary printed currency known as legal tender issued by national banks. Cryptocurrency unlike a government legal currency, ~~and~~ is not ~~an~~ available to all people as it is only available to a selection of fewer groups.

For these reasons, we need to have a system that protect innocent users, partakers from these emerging systems.

In Rwanda, we have the law regulating payment systems and the law relating to financial services consumer protection. The existing global regulatory and legal approaches clearly divide the globe into three blocks, so if we have to harmonize in EAC, we have to see if we do not fall within one of these blocks.

In this regard, there are:

- Countries with no legislation or regulation on cryptocurrency (asset);
- Countries with regulatory framework on cryptocurrency;
- Countries applying ban or restrictions on cryptocurrency;

And each of us can establish in which category his/her country belongs.

Rwanda is presently among countries with no regulation on cryptocurrency and such situation is likely to result in arbitrary situation and hence posing risks and judges, advocates and registrars should be aware of such a situation.

When cryptocurrency movement emerged, most of our countries were afraid of it, but as we saw, such movements are unstoppable and according to a Kiswahili saying "Kila cenye manufaa kina maafa vile vile"[2], therefore, we should not fear innovation, rather, we should seek ways to regulate and use it positively and bring this under the control of the central banks, maybe we could avoid their drawbacks and use it in our advantage.

He closed his address by urging partner states to be the first to take advantage before others as the kiswahili saying that "Ndege aamkaye mapema ndiye huka wadudu watamu".

It is pointed out that cryptocurrency transactions are already trending and disputes around such transactions are already occurring, therefore, judiciaries should not fear them as it is rather time it is for us to acquire, equip ourselves with appropriate tools and enhance our knowledge in the matter through the existing mechanism for instance the EAC judicial education by organizing trainings on these emerging issues and not only cryptocurrency, but also climate change and other complex emerging issues.

IV.7. Towards a harmonized EAC Tax system: Current issues and challenges.

Dr. Pie HABIMANA, Lecturer, School of Law, University of Rwanda

Dr. Pie HABIMANA, Lecturer, School of Law, University of Rwanda, introduced his paper by reminding that two key points need to be known and that are the fact that the EAC is the oldest regional integration in the world and is also one of eight regional integration institutions in Africa.

Talking of tax harmonization, it is important to start with a theoretical background where about six provisions of the EAC Treaty are related to tax harmonisation. In this regard, article 75 of the Treaty prohibits the establishment of new duties or taxes likely to hamper the harmonisation of the tax systems in the Community. Similarly, article 79 provides for harminisation and rationalisation of tax incentives and article 85 states about the harmonisation of capital market transactions while article 82 provides about cooperation of EAC Partner States in monetary and fiscal matters. The same article 82 puts forward the free movement of people, capital, goods and services. And finally, article 83 advances for the harmonisation of monetary and fiscal policies. In other words, such provisions set the obligation for toward EAC Partner States to harmonize their tax systems.

Accordingly, he put forward the concern of how to link tax harmonisation with judges' interest? In this regard, he indicated that the good thing is that there exists a caselaw decided by Rwandan courts where a party to the case was imposed a VAT on exported services and among several arguments advanced

2.Every advantage has its disadvantages

by that party, one was that, Rwanda being an EAC Partner State and has ratified the common market protocal which is the equivalent of GATTS as far as taxation of exported services are concerned. He also referred to Kenyan caselaw where the court adopted the destination principle.

Unfortunately, the Rwandan Commercial Court decided that exported services should be taxed on the basis of consumption principle and the same position was upheld by the appelate Court which is the Commercial High Court.

He further stated that a similar case was again brought before the Commercial Court, which in this case adopted the destination principle, the position that was upheld by the appelate court, but the case was still pending before the Court of Appeal.

He explained that in fact the position of the Kenyan High Court is a bit different from the position of the Rwandan Commercial High Court, and this may or not be a problem given that according to the principle of tax sovereignity, every country is sovereign to set up a tax system that it considers to be the best, though Partner States are supposed to have at least closest harmonised tax systems.

If one looks at the current situation, it appears that tax rates on dividends, on withholding tax, on royalties and on VAT are the same except in Kenya where VAT is 16%. Tax bases are not also harmonised whereby thresholds for compulsory registration for VAT are different. Concerning tax disputes, he showed that they are also not harmonised by the fact that in Kenya, Uganda and Tanzania, they have tax tribunals while in Rwanda, tax cases are tried by Commercial Courts, and the only area being somehow harmonised to a certain extent is the customs duties. On the one hand, it is said to be harmonised because in EAC, Partner States apply the EAC Customs Management Act and the same tax rates, tax bases and same tax procedures of administrative appeals where they are handled by the commissioners of customs within EAC. But on the other hand, when it comes to judicial appeals, the difference lies on the fact that Rwanda and probably Burundi don't have tax appeal tribunals as it is the case in Kenya, Uganda and Tanzania.

For him, this is a serious concern because the obligation to set up a tax appeals tribunal is a statutory requirement of the EAC Customs Management Act. He noted that he understands that Commercial Courts in Rwanda have such jurisdiction, but that he does not view it as having complied with such call as Kenya, Uganda and Tanzania did for several reasons:

- Rwandan commercial courts are not specialized in tax matters because no special knowledge and skills are required to the judges for their recruitments and appointments;
- It is possible to deploy a judge from ordinary court to a commercial court;
- Appeals against Commercial High Court cases are tried by the Court of Appeal having no

specialised chamber for commercial cases in general and tax cases in particular.

Therefore, such a court setting is not responding to the call of the EAC Customs Management Act.

The presenter pointed out harmonisation of tax systems faces some challenges grouped into two:

- Legal related challenges; and
- Political and geopolitical related challenges

As of legal related challenges, he elaborated that EAC has different legal systems where Uganda, Tanzania and Kenya apply the common law system, and Burundi and the Democratic Republic of Congo apply the civil law system. Rwanda applies a sui-generis system which is a blend of the civil law, common law and Rwandan traditions while South Sudan applies civil law mixed with Arabic legal system. Apart from that, there is also the issue of languages where some Partner States use French, others English along side their native languages with repercussions on the legislative drafting styles and courts' hearings and trials.

Therefore, the overall consequence is that, when there is a room for an EAC judge to make a reference to a foreign caselaw, he/she prefers the western case laws probably not only because of the above-mentioned constraints, but also because court decisions from Partner States are not well documented and reported or even well researched.

He opined that as regards political related challenges, due to the reluctance of Partner States' politicians who put national interests over community interests, geographical advantages where some countries are landlocked while others are coastal, economic imbalances of Partner States, political stability issues and conflicts within or outside the Community, obstruct efforts toward the harmonization of tax systems in the EAC.

In the view of the above, he put forward three approaches to have a harmonized tax system:

- De jure harmonisation where the EALA can use its traditional legislative power to adopt statutes that can compel EAC Partner States to work towards harmonisation. The EALA can also cooperate with domestic parliaments to that end. Alternatively, the EAC Council can issue a directive setting objectives to be met by Partner States and leave them the freedom to adopt the method for their achievement.
- Partner States can undertake progressive harmonisation by starting with a given type of tax or tax base, etc.
- De facto harmonization where judges can use their law-making power and end up with some

consistent judicial decisions in EAC despite the reluctance this could face from judges from civil law system where precedents are occasionally used but at least it would be a good start.

In conclusion, he stated that he agreed that EAC has strong legal basis that couldan be relied on for tax systems harmonization. He also agreeds that some of the challenges were varied and must be considered; he, however, recommemded the de facto harmonization process and stated that there was no reason to rush because it might ay become difficult, and that step by step through tax coordination, tax harmonization could be achieved later.

Mr Félix Majyambere, Head of Legal Department from Rwanda Revenue Authority

The discussant, Mr Félix Majyambere, Head of Legal Department from Rwanda Revenue Authority, raised some points of harmonization especially tax rates that are different due to several realities such as economic, political, etc. He indicated that taxation is one way of collecting revenues that contribute to the national budget and the economic situation of each state dictates the way tax rates are established. Thus, harmonization is a crucial issue because every Partner State faces economic realities differently and this reflects the determination of the tax rates.

Regarding the Customs Management Act, it has been amended five times since its adoption in 2004, which is an indication of shortcomings of common legislation just as it can be seen as a step towards harmonization of tax legislation in the EAC. Most of the issues of which tax administration faces especially as far as Rwanda is concerned, are related to for instance the exchange of information. In this regard, the Convention on mutual assistance in tax matters has been ratified by some of the Partner States, but in practice, a number of requests for information are not responded to in the expected way, implying that this it is a challenge to harmonization of EAC tax laws because in taxation, there is that tendency of evasion to provide reliable information about the real income and hiding behind the treaty or other bilateral agreements and try to chop the treaty.

Therefore, when information is requested on transactions to be taxed from Partner States, it becomes a challenge to get accurate information and harmonization would be a good step for better taxation within the region.

The second issue relates to tax incentives, which are a national level issue linked to the economic reality of each State, for instance, the way Kenya intends to grant tax incentives in tourism sector will differ from the way Rwanda wishes to do it because realities in both countries are different. Tax harmonization also involves the capability of the tax administration of every Partner State, which is at different levels. For example, in Rwanda, investments in Information Communication Technology solutions minimize the cost of tax collection where, according to a tax assessment diagnostic tool that puts the fugure at less than 3%, Rwanda at 2,8% is in a good position.

He argued that since the level of investment in tax administration management is different within Partner States, the will of moving in the same direction should be expressed through legal instruments and though challenging, once EALA enacts new legisltation in that regard, this may help States to invest and move at the same pace possible. A good experience has already been achieved especially with the Customs Management Act and though it has been amended several times since its adoption in 2004, is remains a good regional legal instrument and this can likely inspire other tax sectors.

He concluded his presentation stating that all those factors combined were not impossible to be realized as it is said that "where there is a political will, there is also a legal way".

V. CROSS BORDER HUMAN RIGHTS ISSUES

The overall objective of this session was to examine how to handle human rights related issues, environment and how to combat human rights related crimes.

V.1. Judicial Protection of Environmental Human Rights

Justice David Mwangi, Environmental and Land Court, Kenya

Justice David Mwangi, Environmental and Land Court, Kenya submitted that this Conference is happening at such a time when the whole world is facing the 'wrath of mother nature.' However, he noted that it is not all doom and groom because the good news is that the UN General Assembly passed a resolution (A/76/L.75) recognizing the right to a clean, healthy and sustainable environment as a human right.

He went on to explain that this resolution which was adopted on 28th July 2022 provides that the right to a clean, healthy and sustainable environment is related to other rights and existing international law and affirmed that its promotion requires 'the full implementation of the multi-lateral environmental agreements under the principles of International Environmental Law.

He further noted that the protection of Environmental human rights is largely 'state centered.' However, he adds that as demonstrated by the various atrocities experienced in our region and the world at large, environmental issues don't respect national boundaries and this poses challenges of great magnitude when it comes to tackling the issues of trans-boundary nature. He observed that this is where a regional human rights court comes in handy, and therefore, there is a need for a common approach as well as emphasis on the rationalization of the EAC Countries' laws and policies.

Dr. Rose Turamwishimiye, a Lecturer from University of Rwanda

The discussant, Dr. Rose Turamwishimiye, a Lecturer from University of Rwanda, submitted that the public must be given the opportunity to bring cases before the courts or other competent institutions to challenge decisions made in relation to environmental protection or acts and omissions endangering environment and violating the right to a clean and sustainable environment. This last aspect of procedural environmental rights is very important in ensuring that participatory rights and environmental rights are protected. For her, judges have different roles including the settlement of disputes, upholding the rule of law, applying and interpreting the law and such apply to environmental field.

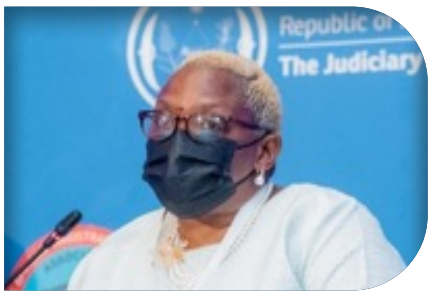
Despite that, such role may seem complex and unfamiliar to some judges despite the fact that they are in a position to give environmental rights and law effect and force. They are the ones who can contribute to giving certainty to the process of environmental protection. They can also assist to ensuring that responsibility and accountability in the field are implemented by governments and individuals.

She highlighted some of the challenges associated with the adjudication of environmental cases, such as:

- Environment related issues require scientific expertise;
- Judges are called to consider issues relating to sustainable development bringing together three components those are: economy, environment and social welfare;
- They are also required to deal with issues that are diverse in nature and settings which have international, regional and national implications as well as issues in which public interests are in conflicts with private interests.

She concluded by observing that as already stated by the main presenter, through their decisions, the courts have indicated that private interests should not prevail over public interest.

V.2. Combatting Cybercrimes: Current Issues with Adjudication and Harmonization with the EAC



Justice Susan Okalany, High Court of Uganda

Justice Susan Okalany, High Court of Uganda, highlighted that Information and Communication Technology provides users with immeasurable opportunities to communicate with others and share information on political, economic and social affairs. These opportunities, however, can be misused to exploit and abuse children and adults, perpetrate antisocial and aggressive acts, and incite violence and other forms of aggression directed

at individuals, groups and/or targeted populations with the intention of causing harm to them.

She further stated that cybercrime, which is also called computer crime is the use of a computer as an instrument to further illegal ends, which include committing fraud, trafficking in child pornography and intellectual property, stealing identities, or violating privacy. Cybercrimes can take many forms, but they all have the digital environment in common. In general terms, a good cybercrime definition would be: Offences committed to harm the reputation or cause physical or mental harm to the victim, using computers and/or networks such as the Internet or mobile networks.

She noted that Cybercrime is a pertinent area of national, regional and international law, because of its borderless nature and that this should not be taken lightly because, on a daily basis, human beings interact with cyber (the internet).

She added that social engineering has become the backbone of many cyber threats. She gave some examples of social engineering cyberattacks like phishing, spear phishing, baiting, etc. She also highlighted some of the common cyber crimes like internet fraud scams, online intellectual property infringements, etc.

She further noted that this being an area that is growing rapidly, it's important for States to brace themselves with laws, regulations and policies that protect the fundamental human rights of their citizens. She further submitted that the development of technology has exposed people to all forms of human rights violation i.e. infringement of the right to privacy, fraud, defamation, cyber bulling and child pornography.

After giving the current legal frameworks on cybercrimes in the different EAC States, she recommended that all EAC Member States should come up with stringent laws and measures to curb the fast-growing vice by harmonizing their national laws policies and legal frameworks.

Justice Said Kalunde from the High Court of the United Republic of Tanzania

Justice Said Kalunde from the High Court of the United Republic of Tanzania, who discussed the paper, stated that the main legal challenges to investigating cybercrimes and prosecuting and punishing cybercriminals are the different legal systems between countries of EAC; variations in national cybercrime laws; differences in the rules of evidence and criminal procedure.

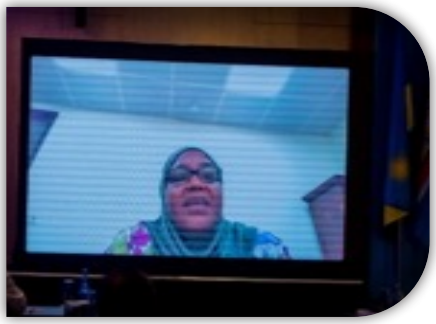
He added that in the event when we are legislating in our jurisdictions, it arises the question of the level of criminal responsibility that every State wants to impose on certain crimes and the idea is different levels of criminal liability will also mean different levels of crimes in different jurisdictions. It should also be looked at classifications of cyber crimes in terms of procedures, investigations, differences in

terms of mutual legal assistances and a bit of electronic evidence.

Speaking of levels of criminal liability, there are different levels of criminal liability in classical criminal law and based on the degrees of intentional act committed, there are countries that look at the purpose or willful intent and countries that look at acts which are unintentional. In some jurisdictions, a person purposely commits a crime when she/he is acting to cause harm. Here, there is a purpose or an intention to cause something. Therefore, for example, the United Kingdom criminalizes access to systems and data with the intention to cause changes or disruptions of systems or services and the likes.

He indicated that another form of crime in this field is recklessness where criminal liability is established to an individual who commits a crime by engaging in act while being aware of the risks of harm toward others, but shows disregard of such risks.

V.3. Combating Drug Trafficking: Current Issues with Adjudication and Harmonization with the EAC



Justice Salma Ali Hassan from the High Court of Zanzibar

Justice Salma Ali Hassan from the High Court of Zanzibar begun her presentation by making a situation analysis of drug trafficking in Africa in general, and East Africa region in particular, whereby she noted that Africa has not only become a major transit route in the global trade in narcotics, but has also become a major consumer and source and the continent is emerging as a cocaine and heroin trafficking and consumption hub.

She traced the illegal drug trafficking in East Africa way back to the mid-1980s, when drug traffickers started using East African countries as their transit sites and in more recent years, criminal organizations from within EAC States have also begun to play major roles.

The presenter also highlighted the African Union Plan of Action on Drug Control and Crime Prevention (2019-2023). She also mentioned the challenges we are facing in combating drug trafficking such as weak border security which allows the incoming and outgoing of illicit drugs from one place to another and one country to another, corruption, weak laws and criminal justice systems to address such crimes to mention but a few. She concluded with a message of hope by indicating that there are opportunities related to enhanced border security with new technologies, better mechanism to fight corruption, enactment of new legislations on drug trafficking, experience sharing and best practices on the fight against drug trafficking, etc.

Hon. Justice Paul Faustine Kihwelo from the Court of Appeal of the United Republic of Tanzania

Hon. Justice Paul Faustine Kihwelo from the Court of Appeal of the United Republic of Tanzania, as a discussant, highlighted the challenges in combating drug trafficking which among others are, weak border security which allows the incoming and outgoing of illicit drugs from one country to another, corruption, weak laws especially the criminal justice, limited resources, limited anti-trafficking experience, limited inter-agency cooperation, extradition challenges, differences in criminalizing different substances as drugs and witness interference.

V.4. Judges' Role in Eradicating Modern Slavery

Hon. Justice Aimé Muyoboke Karimunda from the Supreme Court of Rwanda

Hon. Justice Aimé Muyoboke Karimunda from the Supreme Court of Rwanda begun by noting that modern slavery has no mutually accepted definition. The United Nations describes it as a situation of exploitation in which the victim is forced to live because of threat, violence, coercion, deception or abuse of power. It is an umbrella concept that includes forced labor, forced sexual exploitation, state imposed forced labor and forced marriage.

The difference between modern slavery and historical slavery is that in the latter, victims know the risk, but nonetheless consider the potential benefits worthwhile. The continued deregulation of developed economies, the growing social and political instabilities in different places in the world, especially in the developing countries, the hazard of climate change result in the establishment of a system favoring low wages, long working hours, insecure contracts, poor working conditions and limited powers of trades unions. The system leads employers and agents to a direct exploitation of employers. These circumstances have created a role for "middlemen" who exploit individuals from their own countries of origin, finding them jobs abroad, but charging them for travel and accommodation.

The presenter reflected on the role of American courts in maintaining or fighting against slavery. In the case constitutional case of Dred Scott vs John T.A. Sandford of 06 March 1857, Chief Justice Roger Taney missed an opportunity of declaring slavery illegal. He stated that: "… A free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a "citizen" within the meaning of the Constitution of the United States. When the Constitution was adopted, they were not regarded in any of the States as members of the community which constituted the State, and were not numbered among its "people or citizens." Consequently, the special rights and immunities guarantied to citizens do not apply to them. And not being "citizens" within the meaning of the Constitution, they are not entitled to sue in that character in a court of the United States, and the Circuit Court has not jurisdiction in such a suit. The only two clauses in the Constitution which point to this race treat them as persons whom it was morally lawfully to deal in as articles of property and to hold as slaves…"

The ruling departed from the American Declaration of Independence proclaimed by 13 Colonies on

July 4th 1776 which stated that "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these rights are life, liberty and the pursuit of happiness." Thomas Jefferson, third US President, opposed the maintainance of slavery by judicial decisions. He gave a poetic eloquence to the Declaration of Independence by stating that his countrymen were free people claiming their rights as derived from the laws of nature and not as the gift of the Chief Magistrate.

Slowly, courts started upholding AfroAmericans rights to freedom. The best ruling certainly comes from Judge Nathan Green of Tennessee in Ford v Ford 26 Ten (7 Hum) 92, 95-96. The judge was addressing the issue of knowing whether a chattel of slaves could not sue for his freedom and he stated that « He is made after the image of the Creator. He has mental capacities that constitute him equal to his owners. The laws under which he is held as a slave have not and cannot extinguish his high-born nature."

The speaker submitted that according to the International Labor Organization, it is estimated that 71.9% of victims of modern slavery are women, however, male victims outnumber females in the agricultural, construction and manufacturing sectors, but the largest overall group of victims is found in domestic work, which is dominated by women. After giving the EAC constitutional framework on anti slavery, he called on courts to rely on the purposive interpretation when enforcing constitutional rights. He emphasized that modern judges have a moral duty opposite to that of judges who delivered the Dred Scott v. Sandford case.

Magistrate Priscah Wamucii Nyotah from Kenya

Magistrate Priscah Wamucii Nyotah from Kenya, as a discussant, noted that fighting modern slavery has been popular since 1990s, whereby policies to fight it had been and are still championed by both the right- and left-wing governments, organizations, etc. although others have fought against these efforts.

She also stated that victims tend to avoid identifying themselves with the label "modern slave", while some researchers are hesitant to take position against modern slavery because they fear that their data would be used for devious political purposes, and others are claiming that the anti-slavery movement is corrupting the nature of the problem, its cause and effective solutions because it creates collateral damages.

V.5. Cross Border Enforcement of Human Rights: Fulfilling Regional and International Obligations Towards Refugees and Asylum Seekers in EAC

Hon Justice Isaac Lenaola, Supreme Court of Kenya

The paper was prepared by Hon Justice Isaac Lenaola, Supreme Court of Kenya and presented by Justice Francis Tuiyott. He, first of all, gave an oversight of the state of refugees in the EAC whereby he cited the report of UNHCR indicating that between March 25 and April 8, 2022, more than 10,000 refugees fled the Democratic Republic of Congo to Uganda, with Uganda being reported as the largest refugees' host nation within the EAC and that interestingly, most of these refugees also originate from other EAC countries, with South Sudan and Congo providing the highest numbers.

Accordingly, he noted that even within the EAC, no country is immune from the problem of forced displacement and hence the need for countries to demonstrate generosity and compassion towards refugees forced to flee their home countries.

After that introduction, the presenter gave an overview of the international and legal framework for refugee protection and also the measures undertaken by the EAC towards meeting refugee obligations, whereby he observed that all members of the EAC are signatories to the OAU 1969 Convention which essentially addressed the constantly increasing numbers of refugees in Africa and the need for a humanitarian approach towards solving the problem of refugees. In addition, the Treaty Establishing the East African Community acknowledges, as one of the operational principles of the community, the establishment of an export-oriented economy of the Partner States in which there shall be free movement of goods, persons, labour, services, capital, information and technology.

The presenter, however, noted that there has been a lack of policy coordination in the EAC in areas of common concern that include the protection of forcibly displaced people, regulatory regimes affecting the movement of persons and refugee management. Moreover, Partner States have not been meeting to harmonize their asylum policies as well as the management of refugees with a view to protecting their rights. Whereas the 1951 Convention Relating to the Status of Refugees does not force a State to admit a refugee, it is clear that there is a gap between the individual's right to seek asylum and the State's discretion in providing it.

He observed that :

- There is need for the Partner States in the EAC to further articulate refugee issues with the aim of developing concrete, long standing strategies;
- Strengthening of national legislations of the respective East Africa countries to lays out the position of asylum seekers on the process to be undertaken while applying for refugee status in a way that does not undermine any of their rights as refugees and asylum seekers;

- Harmonization of regional refugee policies which will go a long way in influencing regional concerted efforts to address the refugee rights and obligations as well as meet refugee management initiatives, and also

- Integration of refugees through granting refugees the right to naturalization.

Hon. Justice Bernard Hategekimana

The discussant, Hon. Justice Bernard Hategekimana, observed that there is a need to adopt the 1951 Convention relating to the Status of Refugees that is the foundation of international refugee law. He stressed that it is essentially to establish the principle of non-refoulement which states that refugees should not be forcibly returned to a territory where their lives or freedom would be threatened as well as the duties, obligations and responsibilities of refugees towards the host States.

He further added that the Convention was drawn up shortly after the Second World War and therefore focused on refugee problems existing at that time and events that took place in Europe. Since the refugee crisis continued to emerge and expand across the world over time, there arose the need to widen the temporal and geographical scope of the 1951 Convention, hence the need to adopt the 1967 Protocol.

V.6. The Protection of Migrants' and Family Members Rights: Status, Citizenship, Family Reunification and Right to work

Justice Dustan Mlambo, President of the High Court, Gauteng, South Africa

Justice Dustan Mlambo, President of the High Court, Gauteng, South Africa observed that Member States of various sub-regional communities have obligations, at regional and local (national) level, under international law to address the challenges faced by migrants.

States have the prerogative to govern migration within their jurisdictions, but they must do so in conformity with their human rights obligations. This means that the human rights of all migrants, regardless of their nationality, migration status, where they come from are entitled to "justifiably" enjoy legal protection of their human rights. It also means that not a single migrant should be subjected to discriminatory decision- making, and that specific attention must be paid to migrants in vulnerable situations, e.g. women and children.

He furthermore demonstrated how Member States of the East African Community (EAC) and Southern African Development Community (SADC) (at sub- regional) have fared in their quest to ensure the continued fulfilment of this obligation, whereby he observeds that the creation of EACJ was orig-

inally established to resolve questions regarding customs and common market and it has delivered several judgments over some cases that included issues on human rights.

He addeds that some of those cases demonstrate how the EAC region is serious about the rights of its citizens within the region regardless of whether they are in a foreign country or not and it is clear, that this is a step into the right direction for the EAC since these cases paint a picture of a future in which all citizens of the EAC, in particular those who find themselves as migrants in-transit or in a foreign country within the EAC, will be assured of the protection and promotion of, amongst others, their right to work and family at regional level especially if the migrants fail in their attempt to enforce their human rights in a foreign country.

He concludeds by stating that ensuring the effective protection of the human rights of migrants is a fundamental component of comprehensive and balanced migration management systems. Therefore, safeguarding the human rights of migrants implies being loyal to the obligation placed on countries and regional communities to respect and promote international human rights instruments, as well as the ratification and enforcement of instruments specifically relevant to the treatment of migrants.

Hon. Justice Asina Emmy Abdillah Omari from the High Court of the United Republic of Tanzania

In her discussion, Hon. Justice Asiina A. Omary, from the High Court of the United Republic of Tanzania, submitted that ensuring the effective protection of the human rights of migrants is a fundamental component of comprehensive and balanced migration management systems. Safeguarding the human rights of migrants implies being loyal to the obligation placed on countries and regional communities to respect and promote international human rights instruments, as well as the ratification and enforcement of instruments specifically relevant to the treatment of migrants.

She also added that safeguarding the human rights of migrants implies being loyal to the obligation placed on EAC countries and regional communities to respect and promote international human rights instruments.

V.7. Harmonizing legal interpretation to combat human trafficking crimes in the EAC

Hon.Justice Geraldine Umugwaneza, Judge of the Court of Appeal, Rwanda

Hon.Justice Geraldine Umugwaneza, Judge of the Court of Appeal, Rwanda, introduced her presentation by stating that the trafficking in persons has been recorded as a major problem in the East African Region and because of that each partner State has invented tools to combat the crime of trafficking persons.

She further submitted that the crime of trafficking in persons is an organized crime, and in many cases transnational, that is, it cuts across individual East African member state boundaries and hence cannot be appropriately tackled and combated if different jurisdictions of the same region understand it differently and give conflicting legal interpretation of the legal instruments that are in place to combat it. She also observed that without harmonized approaches to the sentencing of perpetrators, then the legal systems and the courts are not only failing to combat trafficking in persons, but are allowing it to hurt and destroy more the existence of the young and the most vulnerable in our societies. She concluded by requesting for a common understanding of the crime of trafficking in persons, a harmonized legal interpretation of instruments in place that criminalizes and punishes trafficking in persons, and harmonize our sentencing.

Hon Justice Edwin Kakolaki from the High Court of the United Republic of Tanzania

The discussant, Hon Justice Edwin Kakolaki from the High Court of the United Republic of Tanzania, noted that human trafficking remains a major challenge in East Africa Community as the region is a source, transit, and destination for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. Limited knowledge on the crime of human trafficking, within EAC Partner States, coupled with disharmony in interpretation of elements of human trafficking has resulted in fewer cases inadequately recorded and eventually in dismissal of cases in court.

VI. CLOSING CEREMONY

On 10th of November, after the adoption of the general resolutions, the 19th EAMJA Conference was officially closed by the Chief Justice of Rwanda, whereby in his concluding remarks he commended the work done by the local organizing committee, presenters, participants and various partners for the role they played in the success of the 19th EAMJA Conference, and wished all the participants a safe travel back home.

Later on, the outgoing executive council members were awarded certificate of appreciation by the Chief Justice of Rwanda.

VI.1. CONFERENCE RESOLUTIONS

The Conference agreed upon key resolutions on various issues below.

VI.1.1. Gender policy related resolutions

1. To mandate the EAMJA sub-committee on Gender as a Standing Committee to oversee the implementation of the Gender Policy.

2. The EAMJA Council shall guide national Associations to entrench the Gender Policy within their agendas and develop reporting tools to monitor and evaluate the country efforts towards the promotion of gender equality and gender mainstreaming.

VI.1.2. Resolutions related to the EAC approach towards cross border issues

1. To fast-track the commitment expressed by Partner States in Article 11 of the EAC Common Market Protocol for mutually recognition of academic and professional qualifications and harmonization of curricula, examinations, standards, certifications and accreditation of education and training institutions;

2. To initiate cooperation exchange of working programs and more interaction to share best practices on various issues in forms of study tours and visits;

3. To promote the reference to EAC treaty and protocol as well as EAC partner state jurisprudence and EACJ precedents within national courts in adjudicating similar matters;

4. To embrace the idea of judiciary led reforms in terms of constructive engagement of judiciary in building strong judicial administration and corruption free and trusted judicial institutions;

VI.1.3. Digitalizing and modernizing EAC judicial systems to ease the adjudication of emerging cross-border issues;

1. To fast-track harmonization of EAC Partner states judicial and legal systems toward adopting a commonly accepted system which would facilitate ~~the~~ regional integration;

2. To Harmonize the interpretation and application of laws relating to consumer protection and fair competition in order to achieve the overall goal of economic integration;

3. To unify Unifying accreditation centers for mediation and arbitration;

4. To enact Enacting model laws in all emerging legal matters to avoid disparities of legislations across the region;

5. To extend Extending EACJ jurisdiction to include Human right issues and all other cross border issues that are not covered;

6. To put in place legal mechanisms to enable recognition of EAC national courts judgements to be enforced in all EAC Partner state;

7. To elaborate Elaboration of a Regional cross border criminal and sentencing policy**.**

VII.1. SIDE EVENTS

On the sidelines of the Conference, EAMJA members attended the Annual General Meeting whereby a new Exective Council of the Association was elected and it was resolved that the next Conference and Annual General Meeting will be hosted by Uganda. A detailed report of the meeting was prepared by EAMJA Secretariat.

In addition, EAMJA delegates participated in other activities which allowed them to interact and also to know more about the culture and the history of Rwanda, such activities are:

- Gala dinner hosted by the Chief Justice of Rwanda;
- Visiting Genocide Memorial sites of Gisozi and Nyanza;
- Sports activities (football, tug of war, short relay or Agati) at Nyamirambo Regional Stadium.

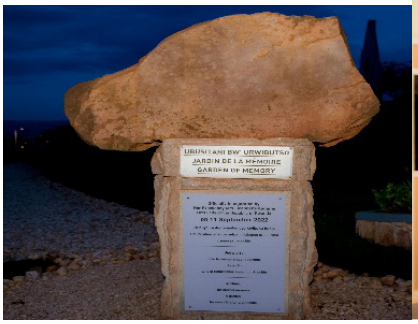
The photos describing those side events are on the annex.

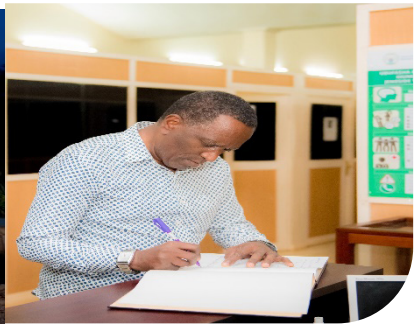
Appendixes

PHOTO GALARY OF EAMJA DELEGATES AT VARIOUS SIDE EVENTS IN KIGALI- RWANDA

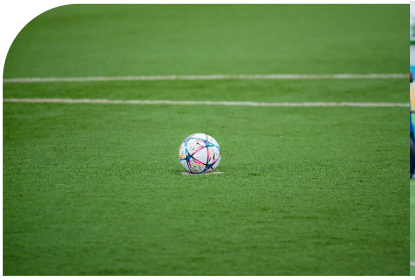
1. EAMJA delegates at the gala dinner hosted by the Chief Justice of Rwanda.

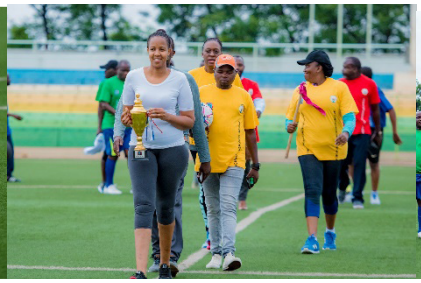
2. EAMJA delegates visiting Genocide Memorial sites

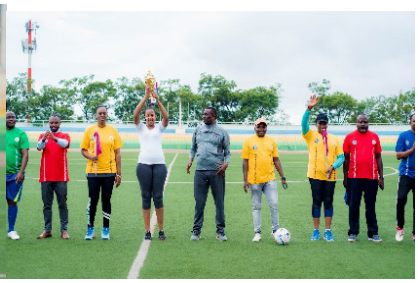


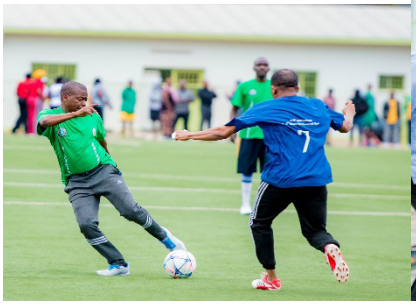


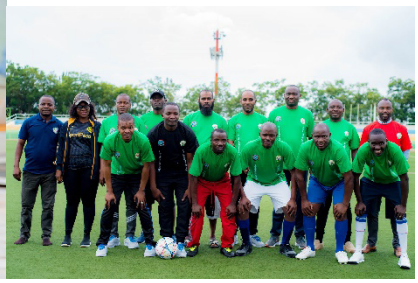
3. EAMJA delegates participating in various sports activities at Nyamirambo Regional Stadium.

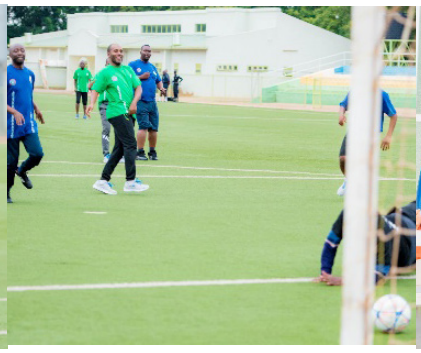


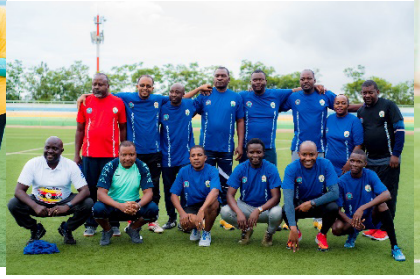


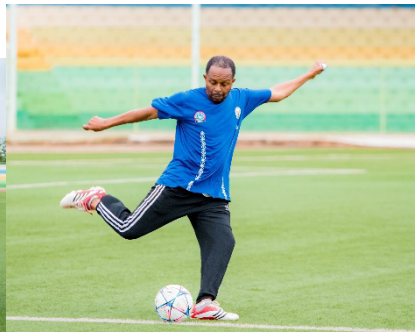


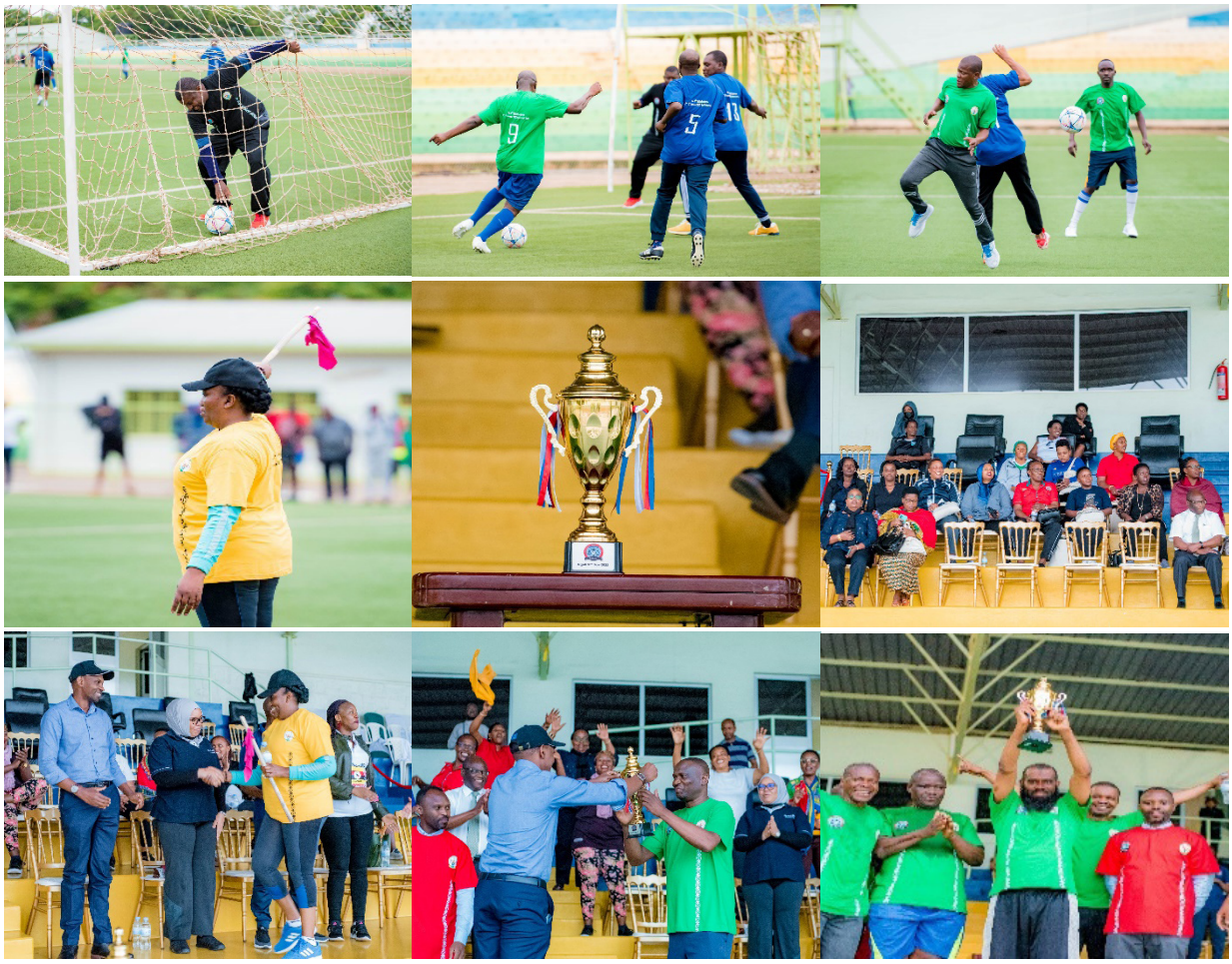


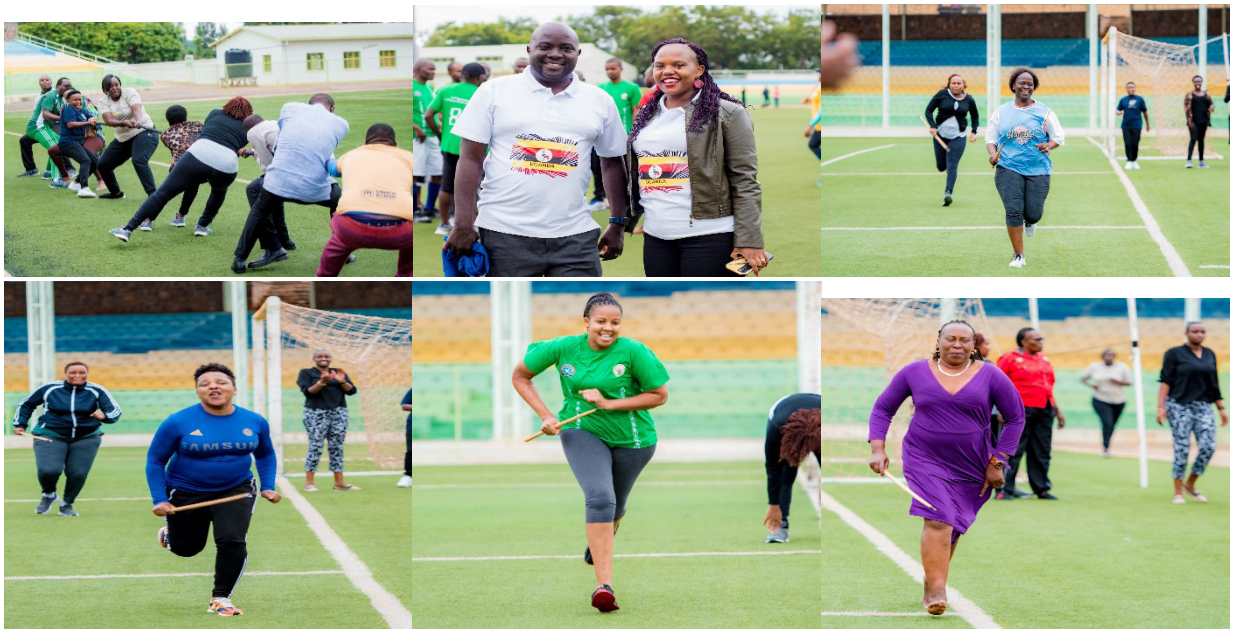












4. Awarding of certificates of appreciation to the out going executive Council members by the Chief Justice of Rwanda.


Kigali, Rwanda
Republic of Rwanda
7 - 10 November 2022
19th East African Magistrates and
Association General Meeting

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