

**OPENING REMARKS BY H.E. DR. PHILIP I. MPANGO, THE VICE
PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA DURING
THE 5TH AFRICAN UNION JUDICIAL DIALOGUE**

4TH NOVEMBER 2021, DAR ES SALAAM, TANZANIA

*Honourable Justice Imani Aboud, President of the African Court on
Human and Peoples' Rights;*

*Honourable Professor Ibrahim Juma, Chief Justice of the United Republic
of Tanzania;*

Honourable Amos Makalla, The Regional Commissioner, Dar es Salaam;

*Honourable Justice Blaise Tchikaya, Vice President of the African Court
on Human and Peoples' Rights;*

*Honorable Geoffrey Pinda (MP), Deputy Minister of Constitutional and
Legal Affairs; representing the Minister of Constitutional and Legal
Affairs;*

Honourable Ministers Present;

*Honourable Judge Mustafa Siani, Principal Judge of the High Court of
Tanzania;*

*Honourable Gabriel P. Malata, Solicitor General of the United Republic of
Tanzania*

*Dr. Gift Kweka, Director of Coordination and Legal Services, representing
the Attorney General of The United Republic of Tanzania*

Honourable retired Justices and Judges;

*Excellencies Ambassadors of (the Arab Republic of Egypt, the Kingdom
of the Netherlands)*

Honourable Justices and Judges from International and National Courts;

Representatives of International and Civil Society Organizations;

Senior Government officials present;

Distinguished Guests;

Members of the Press;

Ladies and Gentlemen

It is with great joy and honour that, I welcome you all to Dar es salaam Tanzania, and in particular to the 5th African Union Judicial Dialogue. I understand that some of you had to travel long distances to be here today. Your presence is a clear testimony to the importance attached to the 5th Dialogue given the difficulties of traveling these days due to the Covid - 19 pandemic. It is my sincere hope that you will find Dar es salaam very comfortable. Karibuni sana.

Distinguished Guests, Ladies and Gentlemen,

Before I go on further, allow me to convey to you a heartfelt welcome from H.E. Samia Suluhu Hassan, President of the United Republic of Tanzania, who wished personally to address this august assembly but due to international exigencies, she could not be here. Considering the importance of this dialogue, she asked me to stand in for her to make opening remarks and wish you a very successful 5th African Union Judicial Dialogue.

Distinguished Guests, Ladies and Gentlemen,

I feel greatly honoured and privileged to officiate the opening of this dialogue and specifically to share a few thoughts on the theme of the Dialogue, that is "***Building Trust in African Judiciaries***". I propose to do so drawing on some anecdotes from my own country Tanzania. However, let me confess that I have a feeling of both respect and a little fear of knowing that I am addressing a gathering of *learned brothers and sisters*; a gathering of eminent lawyers, judges, advocates and magistrates; people who are trained practitioners of adjudicating almost about everything and from all walks of life; people who spend their labour time arguing! My slight fear emanates from the fact that I am an economist and I am sure most people in this room are familiar with Winston Churchill's joke that if you put two economists in a room, you get two opinions, unless one of them is Lord Keynes, in which case you get three opinions!

Distinguished Guests, Ladies and Gentlemen,

I understand that, African judiciaries are creatures of Constitutions of their respective countries while regional courts such as the African Court of Human and Peoples' Rights are established by treaties or protocols. It is clear that, the mandates of these judiciaries are stipulated in the establishing legal instruments. The *modus operandi* of courts are

defined in the relevant statutes, customs and conventions. Nothing is left to chance and therefore one would expect the courts to act in accordance with their mandated jurisdictions, applying relevant laws to the established facts and evidence adduced during the process of adjudication. In this regard, people should be able to legitimately predict the outcome of their cases particularly when the law and facts are clear and the evidence is watertight.

Distinguished Guests, Ladies and Gentlemen,

To my mind, the choice of the theme of this dialogue is in itself, an honest admission of the limited trust/confidence that our people have in African Judiciaries! Therefore, in order to earn their trust, we have to know and work hard to find a cure to what are the strongest factors and concerns that diminish trust in African judiciaries.

As I travel around the country, I have encountered a general public outcry regarding shocking or unpleasant experiences with the courts such as cases being adjourned many times or left pending for years in which case the legal maxim which says justice delayed is justice denied remain a cry in the wilderness; I also encountered complaints about unbearable costs of litigation; cumbersome court procedures; court summons and judgements written in foreign languages; discrimination against women, people with disability and the poor; delayed execution of valid court orders; and people losing cases simply for lack of legal know how of filing a case even when it is clear that they have a genuine claim. Surely, victims of such malpractices will have little trust in the judiciary and allied institutions.

Distinguished Guests, Ladies and Gentlemen,

Allow me to emphasize three key areas of focus in building trust in our judiciaries. **One** relates to ensuring independence and impartiality of the judiciary. The independence and impartiality of the judiciary is paramount in the quest to building trust in African Judiciaries. The Constitution of the United Republic of Tanzania for instance provides for the separation of powers between the executive, parliament and the judiciary. It empowers the President to appoint judges but once the appointment is done, the President's hands are tied even when it becomes common knowledge that a particular judge is undeserving the sacred office. This is intended to ensure the independence and

impartiality of the judiciary from the executive arm. I call upon the participants of this dialogue, to discuss this aspect and come up with recommendations to further enhance the independence and the impartiality of the judiciaries without jeopardizing the delivery of justice. For our people to have confidence in the judiciary, justice must not only be done for them, but must also be seen to be done, and for justice to be seen to be done the independence and imparity of the judiciary must be guaranteed.

Distinguished Guests, Ladies and Gentlemen,

The second priority area of building trust is tackling corruption head on. Corruption undermines public confidence not only in African judiciaries but also in governments. Corruption also fosters criminality and slows down efforts to eradicate poverty. It seems the famous joke about lawyers which says "***A good lawyer is one who knows the judge not the law***" is still real! Some so called good lawyers are just crafty, accessing judges, magistrates, court brokers and court clerks and *influencing* them in favour of their clients! In the end, corruption and negotiated justice erode people's trust in the judiciary. This must change. I believe the judiciaries should be able to address this malady from within and this Dialogue should come up with solid and actionable recommendations to address this challenge.

The third priority area with a great potential in building trust in African Judiciaries is harnessing the use ICT in court proceedings and other functions. I believe the judiciary may win the confidence of the people by increasing its transparency and accessibility. In this regard, the judiciary must expediate the use of technology in preparation and filing of court documents, conducting hearings through videoconferencing, and accessing of court documents. I believe this will increase transparency and build the confidence of the people in the Judiciary.

Distinguished Guests, Ladies and Gentlemen,

Before I conclude, let me also say a word with respect to building trust in regional Courts. When African Union Member States, decide to ratify and subject themselves to the jurisdiction of regional courts like the African Court on Human and Peoples' Rights, they expect such courts to compliment and not to subordinate national courts on the agreed mandated jurisdictions. The United Republic of Tanzania has subjected

herself to the East African Court of Justice established under the Treaty for the Establishment of the East African Community as well as the African Court of Human and Peoples' Rights as founded under the Protocol on the African Charter on Human and Peoples' Rights.

The United Republic of Tanzania actively and passionately worked for the establishment of these courts cognisant of the fact that, Africa needs her own regional courts to provide African solutions to African problems and challenges. The United Republic of Tanzania continues to maintain a good working relation with both courts who have their headquarters in Arusha – Tanzania. Allow me at this juncture to correct the wrong impression that is parlayed that the United Republic of Tanzania has withdrawn from the African Court of Human and Peoples' Rights. That is not true at all. Tanzania instead, has withdrawn from the Declaration made under Article 34 (6) of the Protocol on the African Charter for the Establishment of the African Court on Human and Peoples' Rights, which permits individuals and Non-Government Organisations from direct accessing the court. Tanzania remains party to the Protocol and is allied to the mandate and spirit of the Court. Access to the Court remains as stipulated under Article 5 (1) of the Protocol for the Establishment of an African Court on Human and Peoples' Rights.

Distinguished Guests, Ladies and Gentlemen,

Tanzania's decision to withdraw from the Declaration made under Article 34 (6) of the Protocol establishing the African Court was arrived at after thorough consultations and considerations within the entire Government system respecting the sovereignty of the United Republic of Tanzania. It was not made out of political considerations or expediency. I am also aware that some other African Union Member State have withdrawn from the Declaration. I believe they also have their reasons for doing so. In this regard, I wish to suggest that, in order for the Court to regain the confidence of Member States, it should strive to create an African Human Rights jurisprudence applicable to all of Africa, addressing African peculiar challenges. The Court should also set realistic standards in consideration of the capacity of African states.

Distinguished Guests, Ladies and Gentlemen,

I strongly believe that, trust is the cornerstone in the dispensation of Justice. When justice is properly administered it guarantees the stability

and security for any society. Tanzania's founding President Mwalimu Julius Kambarage Nyerere once stated that, "***... For the work of the judiciary is nothing less than maintenance of respect for law in this country, Judges are, and must be, nothing less than the buttress wall supporting the individual justice for which our people struggled when they fought for national independence. You do not control legislation; but your actions, together with those of the police, can make that legislation effective or meaningless. Unless your work is done properly none of the objectives of our democratic society can be implemented.***" I therefore call upon all participants in this Dialogue to draw from your long experiences in the judiciary and deliberate on the major bottlenecks that erode public trust in African judiciaries. I believe some of the bottlenecks may be dealt with within the judiciary. The Government of the United Republic of Tanzania will spare no effort in contributing to the building of this confidence both at the national and international levels.

Distinguished Guests, Ladies and Gentlemen,

It would be remiss of me if I end my remarks without expressing profound gratitude, on behalf of the Government of the United Republic of Tanzania and its people, to the African Union and the Court's Administration for its decision to have the Seat of the Court in Tanzania. I wish to reiterate the commitment of the Government of the United Republic of Tanzania to continue undertaking its obligations under the Host Agreement and in strengthening the existing cooperation with the African Union.

Distinguished Guests, Ladies and Gentlemen,

It is my fervent hope that, the outcome of this dialogue will provide guidelines and clarity on how to tackle obstacles related to building confidence in Justice systems in our continent. After these remarks, it is now my singular honour and pleasure to declare that **the 5th African Union Judicial Dialogue is officially opened.**

I wish you fruitful deliberations,

ASANTE SANA.