

**SPEECH BY HON. BISWALO MGANGA, THE DIRECTOR OF PUBLIC PROSECUTION  
DURING OPENING CEREMONY OF THE AFROSAI-E FORUM ON THE ROLE OF LEGAL  
PROFESSION IN ENHANCING PERFORMANCE AND INDEPENDENCE OF SUPREME AUDIT  
INSTITUTIONS CONDUCTED AT GIRAFFE OCEAN VIEW HOTEL IN DAR ES SALAAM  
TANZANIA, APRIL 20<sup>TH</sup> - 21<sup>ST</sup>, 2015**

Hon. CAG, Prof. Mussa Juma Assad, the Controller and Auditor General (CAG) for Tanzania;

Controller and Auditor General of Zanzibar, Fatma Mohamed,

Deputy Auditor Generals from Tanzania and invited Supreme Audit Institutions (SAIs)

Representatives of SAIs - Uganda, Botswana, Kenya, Lesotho, Rwanda, Ethiopia, Sudan, Nigeria, Swaziland and Nigeria;

Members of NAOT management Team;

Members of the Organizing Secretariat;

Members of Media;

Ladies and Gentlemen.

**Good morning!**

It is my pleasure to be here this morning to officiate the commencement of the AFROSAI-E forum on the role of legal profession in enhancing performance and independence of supreme audit institutions. I understand that 10 countries presented in for this learning event.

I take this opportunity to join the CAG to welcome you all to this learning event. I hope you will have a wonderful and comfortable stay here in Dar es Salaam in Tanzania the country of hospitality. On the other side I do believe by the end of this program you will have acquired new skills and expanded your knowledge on the areas that are covered by this gathering.

**Ladies and Gentlemen:**

I wish to commend the management of NAOT for their organization of the event. Thanks to the management team of NAOT who conceived the idea to this such forum and for planners who convinced our development partners to provide financial support to enable the event to come to reality. Let me thank the secretariat, who I know, have worked tirelessly to enable us to be here comfortably and ready for a journey of intellectual enrichment that will commence shortly.

I understand that the resource persons for this training are all here and have done their relevant preparations. I want to assure all of you that this event will be professionally handled and will be a highly value adding forum.

**Ladies and Gentlemen;**

Allow me to talk a bit about the legal profession and its role in enhancing performance and independence of supreme audit institutions. Traditionally, the legal professionals have always been called to serve the sinking vessel. When things get tough, lawyers are called to intervene whereas when things are smooth lawyers have

no room in the audit process. It is against this background that we are pressing for the public and Governments of the Afrosai-E to realize the noble role that lawyers need to play in the audit process. No wonder the common law doctrines on the main duties of lawyers have always reflected three fold roles i.e. the duty to the client, to the profession and to state and the public in general.

It is within the same tripetite principles that the role in enhancing performance and independence of supreme audit institutions is reflected. **For us** working within government entities our primary duty is to our client who is the employer. We are legal advisors and its attorneys. What an honor but also such a high responsibility!

As internal advisors and legal services providers, we are faced with multitasks including but not limited to conducting of legal research and provision of legal advice participating in pre-contract negotiations as well as drafting and reviewing of contracts; drafting various legal instruments and documents. We are the only profession allowed to provide interpretation of the laws and guidance on corporate legal affairs. For colleagues working with Supreme Audit Institutions I am told you not only provide sector based interpretation laws but also participate in special and complex audit assignments including forensic audits.

### **Ladies and Gentlemen;**

All these roles require a lot of commitment, knowledge, cooperation and as the case may be, the desire to acquire new knowledge and learn new skills beforehand. Professionally they call for strived competence and high level of integrity. For

assignments related to audit the key role is to ensure that the audit report and evidence meets the culpability standards in terms of evidence gathered and its credibility as required by the law. (Our audit always is with a purpose, including helping lawyers to prosecute successfully where possible).

### **Ladies and Gentlemen;**

I understand that in most jurisdictions, the office of the Director of public prosecution is in practice, among the ultimate users and legal implementers of most of the issues resulting from the public audit reports. As such I am aware of the importance of the lawyers within the SAI in ensuring that justice is done from the very onset of the audit process by availing auditees' an opportunity to respond to audit queries and clarify any other issues that may be contained in your reports.

Furthermore, in ensuring that the evidence supporting the audit observations are properly prepared to meet the admissibility criteria, and are preserved in a proper way so that they do not lose their credibility, it is the duty of my office in collaboration with your SAI lawyers to ensure that the evidence is properly presented in the courts of law.

Regarding issues of fraud and corruption that might be detected in the course of audit, lawyers within the SAI's have dual roles, Firstly is to protect it from continuous happening and secondly is ensure that proper deterrence measures we effected against the persons that may be indicated by audit reports to have perpetrated the offences once the same is proved beyond reasonable doubt by the courts of law.

In Tanzania our law has reflected the said responsibility under Section 27 of the Public Audit Act, No. 11 of 2008 as amended by the Financial Act, No. 15 in 2010. According to this section, the Auditors working under CAG have a responsibility to notify the CAG when, during the course of audit, they suspect commission of fraud or corruption. The CAG on the other hand if he believe there is likelihood that fraud or corruption might have been committed, is required to promptly report the matter to appropriate investigative organs (with a copy of our notification being required to be availed to DPP). DPP having the role of coordination of investigation has to supervise investigations or intervene and direct what has to be done.

The investigative organ on the other hand is required to undertake investigation and complete the same within 60 days and sent the investigation report to the DPP for appropriate legal measures to be taken. If they fail, they have to seek extension from DPP to formalize investigation. This may be prosecution against perpetrators or administrative sanction depending on the nature of issue. You can see the chain of events call for legal minds to work closely and diligently.

### **Ladies and Gentlemen;**

How can legal profession contribute in enhancing performance and independence of supreme audit institutions be realized and be more visible!? I am sure that is what you will be deliberating in these two days! But as you discuss just consider reflecting to these few questions?

Are the law(s) establishing your SAI and that governs its performance consistent to international standards of such offices in terms of independence? And what have you done to improve the situation if the answer is in the negative?

Are you credible enough as legal professionals within your SAI's? Are you dependable?, are you committed to what you do? What about your integrity? Do you produce quality products (opinions, instruments, Documents) timely? What about your final SAI audit reports do you have a contribution to their quality? And when the matters finally land to courts what is your role and have you done it well? Do we know what is required by courts in order our reports to be admitted in evidence?

I am sure answers to these questions might have positive impact to the final resolutions you might make at the end of this forum.

**Ladies and Gentlemen;**

This forum will last for 2 full packed days from today 20<sup>th</sup> March, 2015 up to 21<sup>st</sup> of April 2015. I request you that you freely speak out your mind and make this event interactive. At this juncture, I once again thank you and request you to make the most of it. With these few remarks, I wish now to declare THE AFROSAI-E FORUM ON THE ROLE OF LEGAL PROFESSION IN ENHANCING PERFORMANCE AND INDEPENDENCE OF SUPREME AUDIT INSTITUTIONS formally opened.

Thank you very much for your attention.

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**Biswalo Mganga,**

**The Director of Public Prosecution,**

**United Republic of Tanzania,**

**20<sup>th</sup> April, 2015.**