

## **TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)**



### **PRESS STATEMENT ON A CONTROVERSIAL STATEMENT ISSUED BY THE GOVERNEMENT, WHICH IS LIKELY TO HINDER THE PERFORMANCE OF NGOS**

Tanzania Human Rights Defenders Coalition (THRDC) is saddened by a controversial statement issued by the Government prohibiting Local Government Authorities from entering into agreement with NGOs without the consent of the Ministry of the President's Office Regional Administration and Local Government (TAMISEMI). According to a statement issued by the Deputy Secretary of the President's Office Regional Administration and Local Government, Local Government Authorities are supposed to obtain a permission or consent from the Ministry before they enter into agreement with such NGOs. When speaking to the civil servants in Tabora Region, the Deputy Secretary said; before the NGOs start to conduct activities, the Local Government Authorities should first send such applications to the Ministry for approval. He alleged that most of the funds granted by the donors are not used to meet the intended objectives due to embezzlement, and thus the need for his ministry to make an intervention.

We are concerned with the order of the Deputy Secretary due to two main reasons, which are as follows:

- I. The order of the Deputy Secretary is likely to be misinterpreted by the Local Government Authorities and therefore deny NGOs the good cooperation which has been shown among them for the past years. This is due to the fact that the order of the Deputy Secretary may be misinterpreted to include even those activities which do not require cooperation with the Local Government Authorities.
- II. If the order is to be implemented it will cause a lot of confusion and delay of the activities of the NGOs. Due to the bureaucracy of our government it is likely that the process of obtaining such consent from the Ministry shall not only take a lot of time before it is granted, but also there is a likelihood of unreasonable denial. If the NGOs are denied a chance to perform their activities, the overall negative

impact shall be reflected to the lives of Tanzanians who enjoy the fruits of such NGOs.

## **Legal Analysis**

It should be noted that NGOs are established in accordance with the laws of the country. The legal basis for the establishment of NGOs in Tanzania is traced to Article 20 of the Constitution of the United Republic of Tanzania (1977), which provides for the freedom of Association. It is further provided under various International and regional instruments of which Tanzania is a member state. According to Article 22 (1) of the International Covenant on Civil and Political Rights, and Article 10 of the African Charter on Human and Peoples Rights, it is clearly provided that all people have the right to freedom of association, provided that they do not violate the laws of the country. It is our opinion that the statement issued by the Deputy Secretary violated Human Rights Defenders' freedom of association. This is mainly due to the fact that the order creates harsh environment for the NGOs to associate and perform their duties.

The order of the Deputy Secretary is baseless due to the fact that he had no authority to do so. Section 3(1) of the Non Governmental Organization Act establishes the Director of NGOs (the Registrar of NGOs), who is given the mandate to coordinate NGOs in our country. Section 3(2) provides as follows: "*The Director of Non Governmental Organization Coordination shall be the Registrar of NGOs and a link between the Government and Non Governmental Organizations.*" From the above provision of the law it is undisputable fact that the Director of NGOs is a proper institution which has been established by the law to be a link between NGOs and the Government. In case of any demand to the NGOs the Registrar of NGOs is a proper government institution to make follow up.

Furthermore the Director of NGOs is the one entitled with the duty to advice the Government on policy and other matters relating to NGOs, to ensure that the operations of the NGOs are available for the Government and the public for consumption and also it is responsible to encourage the co-operation with sector ministries in matters relating to NGOs. This is in accordance with Section 4 (1) (a) (c) and (D) of the NGOs Act [2002]. It must be noted that the Director of NGOs is under the Minister of Health, Community Development, Gender, Elderly and Children.

Under such circumstances the President's Office Regional Administration and Local Government (TAMISEMI) has no such power to compel NGOs over the performance of their activities. Furthermore, Local Government Authorities derive powers from the Local Government Urban Authorities Act

According to Article 38 of the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights<sup>1</sup>, states are prohibited from compelling associations to obtain authorization prior to receipt of funding. It is therefore our opinion also that states are prohibited from compelling associations to obtain authorization prior to the commencement of the activities.

### **The Role of NGOs in Development and the Closure of Civic Space**

NGOs play a very important role in the development of any country. Basically, NGOs and the government are partners in the development of the nation. In Tanzania NGOs and Civil Societies in general play great role, ranging from the provision of social services to the communities and the provision of employment opportunities to the people. Services such as education, water, and healthy are well provided or improved by NGOs operating throughout our country. NGOs have also provided employment to a number of Tanzanians, who could remain unemployed if these institutions were seize operation.

Despite all the notable contribution of NGOs in the development of our country, recently we have witnessed a number of steps taken by the Government which put civic space in jeopardy. We have witnessed the enactment of various draconian laws such as the Media Service Act [2016], the Access to Information Act [2016], Statistics Act and the Cyber Crimes Act, both of which limit the freedom of expression and association. Burning of newspapers such as Tanzania Daima, Raia Mwema, Mwana Hali and Mawio has been a challenge toward media freedom. In such a dangerous situation NGOs and Human Rights Defenders have continued to suffer from arbitrary arrests and have been maliciously prosecuted. This is evidenced by a number of cases which are instituted by the Government against Human Rights Defenders and eventually the dismissal of such cases due to lack of evidence.

### **Our Call**

By recognizing the roll of NGOs in the development of our country and the likelihood of cessation of their activities due to confusion caused by such arbitrary statements, we urge the Government and NGOs to do the following.

- I. The Government should immediately, elaborate the previous statement issued by the Deputy Secretary of the Ministry of the President's Office Regional Administration and Local Government (TAMISEMI), in order to avoid any misinterpretation by the Local Government Authorities.

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<sup>1</sup> (African Commission) Adopted at the Commission's 60<sup>th</sup> Ordinary Session held in Niamey, Niger, from the 8<sup>th</sup> to 22<sup>nd</sup> May 2017.

- II. The Ministry of the President's Office Regional Administration and Local Government (TAMISEMI), should stop from making any interference with the performance of the activities of NGOs.
- III. All matters relating to the relationship of the NGOs and the Government should be dealt with by the Minister of Health, Community Development, Gender, Elderly and Children through the Registrar of NGOs.
- IV. NGOs and Civil Society Organizations should stand together in demanding for the provision of conducive environment (civic space) for the activities CSOs in Tanzania.
- V. The Government and its Ministries should have a coordinated approach in addressing matters and should observe the law in order to avoid confusion among its departments and Institutions.

**Issued today on the 21<sup>st</sup> day of November 2017,**

By:

**Onesmo Olengurumwa**



**National Coordinator (THRDC)**