



APPEAL STATEMENT TO THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA, H.E. DR. JOHN POMBE MAGUFULI ON THE CURRENT STATUS OF THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE SINCE THE CESSATION OF TENURE OF ITS COMMISSIONERS IN JANUARY 2018

Legal Status of the Commission

Your Excellency, reference to the above subject, human rights defenders in Tanzania desire to draw your attention to the current legal status of the Human Rights Commission and Good Governance (CHRAGG). Commission for Human Rights and Good Governance is a statutory body which was established under the Commission for Human Rights and Good Governance Act, 2001. It is also a creature of the Constitution of the United Republic of Tanzania, 1977 vide Article 129 (1).

Your Excellency, CHRAGG is vested with two main powers, namely; serving the public and act as the main adviser of the government and other organs in so far as human rights issues are concerned in the country. Duties of the Commission are also adumbrated under Article 130 of the Constitution. These duties includes but not limited to; promote and enhance respect of human rights in accordance with the laws of the land, to receive complaints of the violations of human rights, conduct investigation on the violations and issue recommendations, to raise awareness on issues of human rights, to advise the government and other affiliated institution on issues of human rights among others.

Composition of the Commission

Your Excellency, we crave your indulgence to inform you that according to the Constitution of the United Republic of Tanzania and the Commission for Human Rights and Good Governance Act, the existence of the Commission is composed by the following top structures;

- (a) The Chairperson of the Commission**
- (b) Vice Chairperson (on basis of the principles that one between the chairperson and vice should come from the other part of the Union)**
- (c) Not More than Five Commissioners**
- (d) Assistant Commissioners**
- (e) Executive Secretary of the Commission**

It is worth noting that, the Commission is headed by the Chairperson who is appointed by the President. The Commission has also Commissioners and Deputy Commissioners who are also

appointed by the President after making consultation with the Selection Committee. These are the top leaders of the Commission whose presence makes the Commission discharge its duties affectively. The process by the select committee was completed almost a year.

Non-Existence of the Commission

Your Excellency, It is however sad to note that since January, 2018 when the tenure of the then Chairperson, Commissioners and Deputy Commissioners expired, you have not appointed these important figures in the Commission despite the fact that some interested candidates have applied for the said positions but the appointment process has been dragged for a year now. Interestingly, those past Commissioners were eligible for re-election for another term of three years but none was considered for re-appointment unlike in the past where Commissioners used to serve for six years after re-appointment by the President.

Principally, according to the Constitution of Tanzania, the Commission is said to be full-fledged or legally existing when its chairperson and commissioners are in office. Moreover, the Executive Secretary of the Commission also retired almost a month now and her position is still vacant. In essence, **Your Excellency** according to this legal analysis by THRDC the Commission for Human Rights and Good Governance does not exist for almost a year now.

Repercussions to the Nation

Your Excellency, Tanzanian citizens have been questioning why the Commission doesn't have leadership for almost a year now? Tanzania Human Rights Defenders Coalition being an umbrella organization for human rights defenders in Tanzania which represent its more than 150 members is concerned with non-existence of the Commission for almost a year now leaving issues of human rights violations in the country go unattended.

- THRDC believes that many human rights issues are not attended by CHRAGG because the Commission is not legally composed.
- THRDC and other human rights actors are now missing an opportunity to partner with the commission in many areas of human rights.
- The secretariat of the Commission can't discharge its duties effectively
- The Commission failed to attend various regional and international human rights meetings
- The Commission continued to receive poor allocation of resources
- The Commission failed to advise the government and other public organs on various governance and human rights affecting the country at the moment
- The Commission has failed to pass its new strategic plan because officials with final authority are not in office, The Strategic Plan is also prepared on the basis of the prioritized national five years development (FYDPII) 2016/17-2020/21 objectives "Nurturing Industrialization for Economic Transformation and Human Development" and institutional objectives centered around promotional, protection and advisory roles.

- The Commission has failed to produce human rights reports for the past three years also because of budgetary constraints.
- The Commission has failed to engage with the government and other actors on policy and research issues because officials are not in office.
- The Commission has failed to meet international standards of National Human Rights Commission

Participation of the Commission in International Meetings

Your Excellency, For the past three years, the participation of the Commission in international and regional meetings was not good. Perhaps and most definitely it's because of budget constraints or lack of leadership to approve some of the activities and trips by the secretariat. On 22nd -26th October, the African Commission conducted its 63rd Ordinary Session of the African Commission on Human and Peoples Rights. Sessions like these are very important and perhaps CHRAGG ought to have attended the same. However, no representative from CHRAGG any other relevant government department attended the said meeting. The failure of the Commission to participate in regional and international meetings is huge gap. The Commission misses an opportunity to learn and share experiences on human rights issues and hence fail to effectively discharge its responsibilities.

Financial Status of the Commission

Your Excellency; THRDC is also concerned with the amount of budget which is been allocated for the Commission. Approved budget vis a vis amount which is been disbursed each year raises a lot of concerns. For instance,

- In 2013/2014 budget the amount which was approved was TZS 3,795,802 000 and the disbursed amount was TZS 1, 549, 114, 131,
- In 2014/2015 approved budget was 4, 556, 012, 000 and the disbursed amount was TZS 1, 882, 505, 315,
- In 2016/2017 approved budget was 1, 178, 854, 026 way too small compared to previous years and the amount which was disbursed as at 31st December 2016 was 556, 391, 226.

The functioning of the Commission for Human Rights and Good Governance requires not only leadership but also enough funding according to Paris Principles on the Independence of the National Human Rights Institutions. It is therefore important for the government to allocate enough budget to the Commission to enable it execute its functions effectively and independently.

Your Excellency, the Paris Principles to the Status of National Institutions hereinafter referred to as The Paris Principles, 1993 requires among other things that each state should have national institutions which will be vested with competence to promote and protect human rights (Principle No 1). According to Principle No. 2 of the Paris Principles, the established institutions shall have their adequate infrastructures and in particular enough budget to enable its staff carry out their activities effectively and without bias. It is therefore the duty of each

government to ensure the national institutions like Commission for Human Rights and Good Governance are well composed and have enough funding for their daily operations.

Our Call

Your Excellency, In the interest of preventing the downgrading of the status of the Commission and the country in General , we are kindly appealing that you speedily intervene the current status of the commission. As the Principal Human Rights Defender of the Nation, we call on you to ensure the following:

- We kindly remind you as the President of the United Republic of Tanzania and human rights defender in chief to appoint Chairperson and Vice chairperson of the Commission to make CHRAGG legally operational,
- We kindly call upon you as the President of the United Republic of Tanzania and human rights defender in chief to appoint the Commissioners for the Commission to be properly constituted,
- We kindly urge the President of the United Republic of Tanzania to appoint the Executive Secretary of the Commission
- The efforts that our President has, and continue to use in making appointments to ensure smooth run of the government should also be directed in appointing Commissioners of the Commission who are part and parcel of his good initiatives on development.
- We call up the government of Tanzania and the Parliament to improve the amount of money set for CRHAGG activities annually.

Issued today, the 27th day of November 2018 by

National Coordinator,

Tanzania Human Rights Defenders Coalition (THRDC)

Onesmo Olengurumwa

CC. Vice President of the United Republic of Tanzania

CC. President of the Revolutionary Government of Zanzibar

CC Prime Minister of the United Republic of Tanzania

CC. Minister, The Ministry of Constitution and Legal Affairs

CC. Speaker of the Parliament of the United Republic of Tanzania

CC. Chairperson, The Parliament Permanent Committee on Legal Affairs

