

TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)



PRESS STATEMENT ON THE FREEDOM AND AUTONOMY OF NON-GOVERNMENTAL ORGANIZATION IN TANZANIA FOLLOWING RECENT INSTRUCTIONS MADE BY THE GOVERNMENT

Tanzania Human Rights Defenders Coalition (THRDC) is saddened by the controversial statement issued by the Deputy Secretary of President's Office Regional Administration and Local Government (TAMISEMI) prohibiting Local Government Authorities from partnering with NGOs without the consent of his Ministry. According to the statement issued on (18th November 2017) by the Deputy Secretary of the President's Office Regional Administration and Local Government (Tixon Nzunda), Local Government Authorities are supposed to seek approval from the Ministry before they collaborate with such NGOs. Speaking to the civil servants in Tabora Region, the Deputy Secretary ordered that; no any LGA that will be allowed to work with NGO without written approval from the Ministry.

Furthermore, the Deputy Secretary was also quoted accusing NGOs for misuse of funds received from donors. He alleged that most of the funds granted by the donors are not used to meet the intended objectives due to embezzlement and no results on the ground, and thus there is a need for his ministry to make an intervention. These are heavy and general allegations thrown to NGOs sector and if left untested will tarnish the image of the sector to the public and destroy the relationship between NGOs and their partners. We are also keen to knowing which measures he used to arrive into the conclusion that the work of NGOs has no results on the ground. It should be noted that majority of NGOs in Tanzania do advocacy and human rights work unlike few NGOs that work on service delivery programs. It has been easy for leaders to see big results from service delivery NGOs because of their noticeable and more physical results than those NGOs investing on social capital, civic education, human rights, knowledge and awareness.

THRDC has the following main concerns from the order of the Deputy Secretary;

- The order by the Deputy Secretary has been issued subjectively without prior consultation with authorities responsible for registration and regulation NGOs in Tanzania;
- The order has been issued with inadequate knowledge on the type and role of NGOs in development and community stability;
- The order of the Deputy Secretary is likely to be misinterpreted by the Local Government Authorities and therefore deny NGOs their freedom and right to operate freely anywhere in the country. 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.
- The order may completely shut down the existing cooperation between CSOs/NGOs and the government on many issues including development program.
- Some local government officials who used to be invited as participants and special guests during NGOs activities might also be scared to attend and collaborate prior to obtaining consent.
- If the order is to be implemented it will cause a lot of confusion and delay of the activities of the NGOs. Given 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.
- The country will experience more CSOs/NGOs activities being under surveillance and finally interrupted at the middle of their operations for lack of authorization.
- CSOS/NGOs will be compelled to do programs and activities that are not within their mission and objectives just to be in line with similarity requirement for them to get government collaboration. It should be noted at this juncture that, CSOs activities are conducted and planned according CSOs Strategic Plan which is also used to solicit funds from donors and the SP normally is for a long term which cannot easily be amended to suit what the government would want to implement at the time.
- 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 farther provided under various International and regional instrument 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 difficult environment for the NGOs to associate and perform their duties.

- The order of the Deputy Secretary lacks legal basis 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 Directorate of NGOs is a proper institution which has been established and mandated by the law to be a link between NGOs and the Government. For that matter therefore and in case of any allegations to NGOs, the Registrar of NGOs is a proper government institution to be consulted for any intervention.
- 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].
- Of recent, the office of the Registrar of NGOs conducted verification of NGOs with a view to knowing their number, area of operation and the contributions they have towards the development of our nation. It was therefore prudent to have consultation with the office of the Registrar of NGOs before embarking upon issuing such directives.
- If any ministry or government organ is left to issue directives and restrictions of this nature against NGOs, CSOs sector in Tanzania will ultimately die. It is therefore prudent that, directives of this nature be left to the proper organs mandated to do so.
- According to Article 38 of the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights passed in 2017, 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.

Our Call

In cognizant of the roll of NGOs in developing our country and the likelihood of cessation of their activities due to confusion caused by such arbitrary statements and in an effort to streamline the above main concerns, we urge the Government and NGOs to do the following.

I. To further elaborate the 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.

II. 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.

III. NGOs and Civil Society Organizations should stand together to defend their space and freedom.

IV. The Government and its Ministries should have a coordinated approach in addressing matters and make prior consultation with authorized and responsible organs to avoid overlap of duties and mandates.

V. The issued statement should be quashed to allow smooth cooperation between CSOs/NGOs and local government on issues and programs of their common interest provided that they don't contravene laws of the country.

VI. The Deputy Secretary President's Office Regional Administration and Local Government (TAMISEMI(Education)) should convene a meeting of all Registrars and representatives of CSOs in order to have a mutual discussion on the statement he issued in order to avoid possible confusions that may arise due to the interpretation of the issued statement.

Conclusion

THRDC would like to remind the Deputy Secretary that NGOs and the government are partners in development. In Tanzania NGOs and Civil Societies in general play greater 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 to cease operation. THRDC is of the view that our government should create an enabling environment which will ensure that our nation continue to benefit from CSOs sector rather than issuing statements geared at

intimidating, naming and shaming, and restrict CSOs from conducting their work freely and on time.

Issued today on the 22nd Day of November 2017

By:



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COPY TO:

1. President's Office Regional Administration and Local Government (TAMISEMI)
2. Minister of Home Affairs
3. The Registrar of NGOs
4. The Registrar of Companies (BRELA)
5. The Registrar of Trusts (RITA)