



The Law Society

## From the President

His Excellency  
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20 September 2017

Your Excellency,

### **Re: Arrests and shooting Tanganyika Law Society President - Mr. Lissu**

The Law Society of England & Wales (the "Law Society") is the professional body representing more than 180,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world.

The Bar Council represents barristers in England and Wales (the "Bar Council"). It promotes the Bar's high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession, and the development of business opportunities for barristers at home and abroad.

The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. BHRC is concerned with defending the rule of law and internationally recognized legal standards relating to human rights and the right to a fair trial.

The Law Society, the Bar Council, and BHRC respectfully raise concerns over incidents involving lawyers in Tanzania and apparent breaches of international law.

Mr. Tundu Antiphas Mughwai Lissu is the President of the Tanganyika Law Society, as well as Member of Parliament for Singida East and chief whip and legal adviser of the CHADEMA political opposition party. On 7 September 2017, Mr. Lissu was shot multiple times in his car at his residence in Dodoma by unknown gunmen. He was seriously injured. After receiving emergency treatment at Dodoma General Hospital, Mr. Lissu was transported to a hospital in Nairobi, Kenya, for an operation. So far, we understand that no arrests have been made.

The Law Society, the Bar Council and BHRC are very concerned about this crime and also about its apparent context, which is as follows:

1. On 22 February 2017, we understand that the suggestion was raised by the Minister of Constitutional Affairs and Justice, the Hon.Dr. Harrison George Mwakyembe, that the Tanganyika Law Society could be de-registered because of "political activism".
2. In subsequent months, proposals were apparently made by the government to amend legal practice legislation with the effect of divesting primary regulation of the legal profession from the Bar and Judiciary to the Ministry of Justice.
3. Less than a month ago, two bombs were detonated at the gates of the IMMMA law firm. We understand that one of the partners of the law firm has been vocal about the decline in the rule of law in Tanzania and has referred to the alleged interference by state authorities with the exercise of the legal profession. The same partner seems to have legally represented Mr Lissu at a previous bail hearing.

With regard to the situation of Mr Lissu, we understand that on 19 July 2017, plain-clothed policemen sought to arrest him at his residence in Dar es Salaam for critical remarks allegedly made regarding Your Excellency's government at a press conference on 17 July 2017. Despite reassurances that this arrest would not be carried out, he was arrested at the Julius Nyerere International Airport in Dar es Salaam, while on his way to a meeting in Kigali, Rwanda. No grounds were given by the police upon his arrest. Mr. Lissu was detained, brought before the Resident Magistrates Court of Dar es Salaam four days later, and charged with hate speech. After a week in detention, he was granted bail, but the charges remain. In August 2017, Mr. Lissu was arrested again, at the Kisutu Resident Magistrate's Court premises. This arrest related to statements that he had allegedly made concerning the seizure of an airplane as security for an unpaid debt of the Tanzanian Government to a Canadian company.

The shooting of Mr. Lissu, and other events that have taken place with regard to members of the legal profession and the Tanganyika Law Society in particular, are of great concern. It is of the utmost importance that the independence of Bar associations be respected, since this is an essential element to guarantee the effective functioning of the rule of law. As with every citizen, members of the legal profession have the right freely to express their opinion. Furthermore, members of the profession are entitled to exercise their professional duties without external interference. In this regard, we respectfully remind you of the international legal obligations that are binding on Tanzania and that reflect these rights and principles.

Tanzania acceded to the **International Covenant on Civil and Political Rights** on 11 June 1976 September and is legally bound to uphold its provisions, including:

Article 6.1: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. [...]"

Article 9.1: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. [...]"

Article 19: "1. Everyone shall have the right to hold opinions without interference, 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

Article 22.1: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

Tanzania ratified the **African Charter on Human and Peoples' Rights** on 18 February 1984, which provides:

Article 4: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right".

Article 6: "Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained".

Article 9.1: "Every individual shall have the right to receive information; 2. Every individual shall have the right to express and disseminate his opinions within the law".

Article 10.1: "Every individual shall have the right to free association provided that he abides by the law".

The **United Nations Basic Principles on the Role of Lawyers** establish that:

"16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics".

"17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities".

"18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

"23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession".

"24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference".

We respectfully urge the relevant authorities to:

- 1) immediately carry out an independent and effective investigation of the facts and circumstances of the shooting of Mr Lissu, as well as other crimes being committed against members of the legal profession with a view to prosecuting those responsible in accordance with international standards of due process,
- 2) revoke any charges pending against Mr Lissu, unless sufficient evidence is available, and that evidence is served upon Mr. Lissu and transparent due process with recourse to appeal is followed, and

- 3) fulfil Tanzania's international obligations, protect lawyers and ensure that they are able to perform their professional activities without facing intimidation, hindrance, harassment or improper interference.

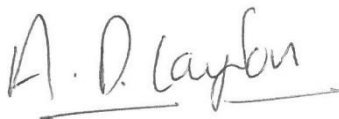
In summary, the Law Society, the Bar Council and BHRC await reassurances that the independence of the Tanganyika Law Society will be respected, that the shooting of Mr. Lissu will be investigated, that charges against him will be reviewed and that he and his colleagues provided protection if so required.

The Law Society, the Bar Council, and BHRC respectfully request that Tanzania complies with its international law obligations.

Yours sincerely,



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