

T The Tanganyika Law Society

The Bar Association Of Tanzania Mainland

Dear Esteemed Learned Brothers and Sisters,

RE: THE STATUS OF TLS ELECTIONS FOLLOWING THE AMENDMENT OF THE TLS ACT IN JANUARY 2020

I have the greatest honour to write to you, on behalf of your Governing Council, giving you an update on the state of the TLS in particular the election of its leadership, a task that is supposed to be carried out annually between March and April every year. Unfortunately, this year, we have not been able to hold the election within those two months due to a series of events that rendered it impossible to hold them. To start with I wish to extend your Governing Council's words of condolences for those who have lost their loved ones due to the corona virus disease 19 (covid-19) and those who have relatives suffering from this global pandemic. This disease has not and does not deprive the bereaved families their loved ones but the opportunity to bury them and a closure as well. We urge all of you, and all fellow Tanzanians, to take good care of ourselves to defeat this pandemic. Your Governing Council understands that our legal practices have been severely impacted by covid-19 and that most of us are struggling to make the ends meet. We do say *poleni sana* and we urge you and ourselves to persevere and surely, we shall overcome.

In November 2019 your Governing Council learned that the Government was planning to table to the Parliament of the United Republic of Tanzania, a Bill known as The Written Laws Miscellaneous Amendments (No.8 of 2019) in January 2020. Your Governing Council thought that the Bill, if passed, was going to profoundly change our Society's institutional structure as well as powers and rights of the members in the Annual General Meeting (AGM). The Bill also geared at introducing 7 Zone Chapters and make each zone to be represented in the Governing Council by one person and end the direct election of members of the Governing Council by the AGM. It did not end there, as it also sought to introduce a two one-year tenure of members of the Governing Council including the President, Vice President, and the Honorary Treasury and statutorily establish the position of the Executive Director and the manners of removing him from office, hitherto, employed contractually by the Governing Council.

Your Governing Council convened immediately on the 19th of November 2019 and after long but methodical deliberations it decided that the intended amendments needed the considerations of all members of TLS in their respective Chapters. The Secretariat was told to inform members this resolution and that members should convene and hold their respective extra ordinary chapter general meeting to deliberate on the proposed amendments and give their views. Chapters leaders were to submit the views of their members to the Constitutional and Legal Affairs Committee. Your Governing Council was heartened by the rapid and enthusiastic responses of the members. The Chapters meetings were held in early December 2019. Thereafter the Constitutional and Legal Affairs Committee sifted through the views and came up with a series of recommendations that were submitted to the Governing Council.

Members were almost unanimous while airing their views, that their right to elect their leaders should not be taken away, zonal offices and a representative AGM were going to overburden TLS as they entail huge financial outlays on TLS. They were of the view that the a two-one-year term for the President, Vice President, Honorary Treasury and 8 Members of

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the Governing Council was not good to the Society as it is going to keep the current system of electing TLS leaders annually instead of a two or three-year term proposed by TLS members.

In January 2020 TLS presented its views to the Constitutional and Legal Affairs Committee of the Parliament of the United Republic of Tanzania in writing as well as during the public hearing on the 17th of January 2020. TLS pointed clearly the flaws of the said Bill and how it was going to not only overburden it financially but it will somewhat deprive members their right to elect their leaders and hold them to account directly. The zonal offices pose a threat of planting “zonalism” in the Society instead of nationhood in the minds of the members. Unfortunately, when the Parliament met it almost passed the Bill the way it was first submitted by the Government. The President of the United Republic of Tanzania assented to it on the 14th of February 2020 and the law is now in force.

Following the passage of the Written Laws (Miscellaneous Amendments) Act No 1 of 2020 the Governing Council met on the 7th of February 2020 and decided the following that:

- a. That the AGM should be held in Arusha on 25th of April 2020 and it is to be preceded by the General Elections of the Society to be held on the 23rd of April 2020 and that the Annual General Conference be held on the 24th of April;
- b. That the Governing Council should invoke its powers to invite members to take part in the AGM, Annual Conference and the General Elections of the Society; and
- c. That the Nominations Committee should be informed of these decisions and the members as well.

Unfortunately, a few days later the Chairperson of the Nominations Committee, Mr. Tom Nyanduga resigned from his position for undisclosed personal reasons. This had had huge ramifications. Your Governing Council was forced to make a search for a new Chairperson of this important committee, the position that is traditionally held by a former president of the Tanganyika Law Society.

It took some time to find a former President ready to step in and become the Chairperson of the Nominations Committee. On the 21st of February 2020 Mr. Charles Rwechungura, former president, agreed and the Nominations Committee met on the 29th of February 2020 and upon deliberating on the task ahead of it was of the view that the elections process could not take place under the TLS Elections Regulations GN No 116 of 2018, the TLS AGM could not be properly constituted following the amendment of the TLS Act, there was a need to convene an extraordinary General Meeting to deliberate on the amendment's implications and that where possible there is a need to meet with the Attorney General to appraise him on the legal crisis caused by the amendments.

Your Governing Council met on the 3rd of March 2020 to receive the Nominations Committee's recommendations and the status of the TLS leadership as it tenure is supposed to come to an end in April 2020. After much deliberations it was resolved that:



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- a. The TLS leadership will continue to exist as per section 31(b) of the Interpretation of Laws Act so as to ensure smooth transition of leadership from the current one to the new one after the elections are held;
- b. The Drafting Committee should draft the Elections Guidelines to be used to provide guidance on the positions created by the Written Laws Miscellaneous Amendment Act No 1 of 2020 within 4 days.
- c. That the Governing Council should meet immediately thereafter meet to deliberate on the Guidelines.

On the 7th and 8th of March 2020 the Drafting Committee met and drafted the Elections Guidelines which were later on approved by the Governing Council on the 13th of March 2020.

In its meeting of the 13th day of March 2020 the Governing Council also established seven (7) TLS Zones i.e. Mzizima, Bagamoyo, Northern, Western, Lake, Southern, and Central. The Governing Council also established six new chapters: Kinondoni, Ilala, Temeke, Ubungo, Kigamboni, and Pwani. The six chapters arise out of Dar es Salaam Chapter which due to the fact that 70% of all practicing advocates in the country are in Dar es Salaam and that since the annual general meeting is primarily a representative one then to ensure that advocates from Dar es Salaam region receive a fair representation then each district in Dar es Salaam should become a chapter.

The Governing Council was further informed that since the TLS Elections Regulations require the issuance of a 60-day notice before elections are held, then there was no way the AGM could be held on the 25th day of April 2020. It was on that basis that the Governing Council was forced to push back the AGM to be held between the 22nd to the 27th of June 2020. It was further resolved that the TLS Annual Conference be held in the morning to the afternoon of the 25th day of June 2020; the General Elections be on the 25th to the 26th day of 2020. That the pre-AGM be held from the 22nd to the 24th of June 2020. That given the shortness of time all pre-AGM, Society General Elections will be held in Arusha. The Governing Council invoked its powers to invite all members to take part in all these important meetings. Members, however, have as usual the right to choose the CLE seminars they wish to attend.

On the 19th day of March the Nominations Committee prepared the Timeline for the General Election by the Nominations Committee. The Nominations Committee also resolved that the Call for Nominations be issued to all members with a deadline being the 14th day of April 2020. The Secretariat on the 25th day of March 2020 sent the Elections Guidelines of 2020 together with TLS Elections Regulations GN 116 of 2018 to the members which was followed with the Call for Nominations on the 1st day of April 2020. It needs to be remembered that on the 31st day of March 2020 the Secretariat

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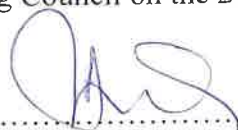
published/circulated the Annual Conference, General Meeting and the AGM Notice to the members.

That was the state of affairs until the 15th day of April 2020 when TLS President received a letter from the Attorney General questioning the legality of the TLS Elections Guidelines and the elections that will be guided by it. The AG insists that the new election regulations be promulgated first before elections are held and that the current leadership of TLS continues to hold office until the proper elections are held as per the new regulations citing section 45 of the Interpretation of Laws Act Cap 1 R.E. 2002. Given its huge legal implications your Governing Council met virtually on the 17th day of April 2020 and decided to do the following:

- a. That the Drafting Committee to convene immediately and prepare a draft TLS Elections Regulation 2020 incorporating the guidance provided in the Guidelines;
- b. To prepare a response to the AG's letter;
- c. Seek a meeting with the Attorney General to appraise him on the status of the TLS elections as well as the legal import of the Elections Guidelines, together with the desire of the Your Governing Council to hold the elections as scheduled; and
- d. Members be informed of all these developments so as to know what is going on.

It is your Governing Council's hope that this rendition of the series of events has put you in the picture and removed any lingering questions as to the status of the TLS elections. Your Governing Council is keen to see that the elections are held as scheduled barring any outside force or event. We do urge all members to take TLS to continue taking TLS's affairs seriously and also vie for positions to fill all positions that by law become vacant each year and the new positions. Your Governing Council will keep you informed on any new developments.

Issued by the order of the Governing Council on the 27th day of April 2020.



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Dr. Rugemeleza A.K. Nshala
President