

21st November 2023

ARBITRARY SUSPENSION OF OUR TLS MEMBER – SENIOR COUNSEL MPALE MPOKI

On 20th November 2023 at around 20HRS EAT, Tanganyika Law Society (TLS) with deep sorrow and unbelief received the shocking information of the arbitrary suspension of its member Senior Counsel, Mpale Mpoki from practicing for six months. It must be noted that the two senior counsels, Mpale Mpoki and Dr. Rugemeleza Nshala pursuant to section 4(d) of the Tanganyika Law Society Act, Cap 307 were appointed on 13th November 2023 by the TLS Governing Council to represent Adv. Boniface Anyisile Kajunjumele Mwabukusi in his case before the Advocates Committee on 20th November 2023.

The Governing Council is following up this matter very diligently, closely and professionally. Today, 21st November, 2023, the Council convened an emergency extraordinary meeting to officially obtain a feedback report from Mr. Mpoki. He has informed the Governing Council that, during the hearing of Mwabukusi Case before the Advocate Committee on 20th November 2023, he raised points of preliminary objection. Initially the Chairperson did not want to proceed with hearing of the objections as he warned them that he does not entertain objections at all. Luckily the Submissions on objections, replies thereunto and rejoinders were made for several hours. The ruling was made 'expeditiously' within less than twenty minutes. Three points of objection were overruled but the rest were partly upheld by the committee. Mr. Mpoki was instructed by his Client to inform the Committee that he intended to appeal against the said ruling pursuant to section 24A to the High Court. Mr. Mpoki informed the Chairperson of the Committee about that appeal proposal. That is when the Chairperson accused Mr. Mpoki for having committed a professional misconduct. There were no consultations made to the other members of the Advocates Committee, nor was there any resolution whatsoever that Mr Mpoki should be suspended. He was not even given right to be heard and further there is no provision which mandates a Chair of the Committee to Suspend an Advocate representing a party to the committee hearings. Mr. Mpoki stated that the Chairperson of the Committee made a 'unilateral' ruling of suspending him from practice for six months as from 20th November 2023, Besides, he also reprimanded Dr. Nshala on allegations of smiling/laughing during the Committee sitting. Eventually the rest of advocates (6 of them) decided to withdraw their representation of Mr. Mwabukusi, having

being dissatisfied by the attitude of the said Chairperson. Mr. Mpoki also informed the TLS Governing Council that from the beginning, the environment was very hostile to them. At the court entrance there were security officers who performed a targeted inspection of the advocates representing their client Adv. Boniface Anyisile Kajunjumele Mwabukusi [*'as if were suspicious terrible criminals'*] while the rest of parties including the State Attorneys left uninspected.

The Governing Council carefully discussed the facts of the incident during this meeting and thus made the following resolutions: -

- i. That TLS recognizes a positive and good working environment and positive relations with the Judiciary of Tanzania, therefore irregular incidents of individual Judicial officials should not be condoned to undermine that mutual positive partnership between Bench and Bar therefore respect of Advocates as officers of the Court should always be a priority;
- ii. That TLS Governing Council has mandate under section 16(a)(j) of TLS Act Cap. 307 read together with section 4(1) (c) of the Advocates Act Cap. 341 thus hereby invokes its mandate to withdraw the representation of TLS from the Advocates Committee effectively from today, 21st November 2023 until decided further otherwise;
- iii. That pursuant to Section 4(d) of TLS Act, the Governing Council appoints a member of the Governing Council Mr. Stevephen Mwakibolwa to join the team of Advocates in order to represent Senior Counsel Mpoki including processing of the appeal against the decision to suspend Mr. Mpale Mpoki;
- iv. That upon receiving complaints in writing from its affected members, TLS should lodge a formal complaint against Hon. Ntemi Kilekamajenga, J before the Judicial Service Commission for hostility against the Advocates who were appearing before the Advocates Committee to the extent that all Counsels for respondent withdrew from the case;
- v. That pursuant to Section 4(d) of TLS Act, TLS shall appoint an additional advocate to represent Adv. Mwabukusi in case he is convicted by the Committee;
- vi. That the Tanganyika Law Society Members Welfare, Awards and Remuneration Committee should convene an extra ordinary meeting to advise the Council on legality of the composition of members of the Advocates Committee. Aiming at avoiding conflict of interests; removing all possibilities for a complaint being a judge in his own case; and providing

- for a better and fair mechanism of regulating the advocates in accordance with the principles of natural justice, rule of law, good governance and international law on independence of bar associations. That, the Committee should submit the advice to council not later than 24th November 2023 for next steps of reforming the provisions in the Advocates Act relative to Advocates Committee;
- vii. That discriminatory treatments of Advocates who are equally officers of the Court cannot be left unattended the Governing Council calls for necessary actions to address this unacceptable treatment;
 - viii. That the Governing Council will still be contacting and engaging all duty bearers and JOT leadership for purposes of resolving these tensions administratively;
 - ix. TLS calls for its members to remain professional and calm when all these matters are addressed administratively and judiciously. Further interventions will be called into operation (as the case may be) when the situation so demands, for protection of justice and rule of law.

Once again, TLS expresses its deep disappointment by what has happened especially now when TLS and Judiciary are operating in a positive and friendly environment of mutual respect. TLS has taken the said arbitrary suspension of its senior member and a representative of the Governing Council as an obvious an attack to the Bar Association as a whole; We strongly believe that if this practice is left unattended, it will seriously affect the independence of members of the Tanganyika Law Society. TLS believes that such mishandling of Senior Counsel Mpoki's rights and ill-treatment of TLS members by the Advocates Committee should adequately be addressed by the Judiciary. We also call upon the Advocates Committee to review its decision instantaneously for the sake of justice. Meanwhile, we call upon the relevant authorities to heed to principles of natural justice, rule of law and constitutionalism in justice administration at all levels and treat Advocates with dignity and decorum as officers of the Court.

Issued by the order of the TLS Governing Council as resolved.



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Harold Giliard Sungusia
President – TLS