

UPHOLDING JUSTICE FOR NATIONAL WELFARE

Judiciary and Stakeholders' Role in Strengthening the Integrated Criminal Justice System

Introduction

For over two decades, the judiciary has marked Law Day with significant implications, signalling the commencement of judicial proceedings for the respective year. This commemoration initiates with Law Week, where all stakeholders such as the Office of the Director of Public Prosecutions (DPP), the Attorney General's Office, the Preventive and Combating Corruption Bureau (PCCB), the Tanzania Police Force (TPF), among others, extend invitations to the public to visit designated venues and gain insights into the services offered by their respective offices.

As we immerse ourselves in the celebrations of Law Week, our focus should align with the theme set for the upcoming judicial year, emphasizing the paramount importance of justice for national welfare and outlining the role of the judiciary and stakeholders in enhancing an integrated criminal justice system. The chosen theme commands attention from the public and underscores the collective responsibility of all key stakeholders towards ensuring justice for the betterment of the nation.

The Weight of Justice

The term 'justice' carries profound implications as it directly impacts human lives. Hence, it necessitates earnest consideration and application, transcending mere theoretical discourse to tangible action. As we approach the pinnacle of Law Day on February 1, 2024, we anticipate eloquent speeches from executives, judicial officers, legal practitioners, and religious leaders. However, the pertinent question remains: will these speeches translate into tangible realities on the ground?

A comprehensive assessment of the state of criminal justice in Tanzania, as revealed by the findings of Retired Chief Justice Chande Othman's commission, unveils a overabundance of challenges predominantly affecting Tanzanian citizens. Despite the gravity of the commission's report, promises of swift reforms in criminal justice, publicly articulated by the President, are yet to materialize within visible timeframes.

Judicial Responsibility

As we mark Law Day under the theme of "Criminal Justice," it is imperative for the judiciary to acknowledge its key responsibility in safeguarding the principles of justice. Every court, especially the High Court and the Court of Appeal, being courts of record, should place significant emphasis on nurturing a culture of fairness in their adjudicative rulings. The prompt resolution of criminal cases emerges as a critical concern.

Hence, the judiciary must remain unwavering in its commitment to delivering judgments promptly and should not hesitate to issue necessary directives in instances of unjustified delays.

Stakeholders' Accountability

The accountability of stakeholders is paramount in ensuring justice within the legal system. Likewise, it falls upon entities such as the Office of the Director of Public Prosecutions (DPP), the Preventive and Combating Corruption Bureau (PCCB), and the Tanzania Police Force (TPF) to uphold this responsibility, ensuring that justice is served from the initiation of criminal investigations through to prosecution.

The prevalent practice of protracted investigations and prosecutions, often to the detriment of the accused, poses a significant threat to the integrity of the justice system. Delays, which are too often accepted as routine by these organizations, inflict considerable hardship upon the lives and well-being of the accused, thereby eroding the fundamental principles of justice.

The theme of Law Day should serve as a clarion call for the timely conduct of investigations and prosecutions, thereby bolstering the cause of criminal justice.

Bail Reforms

Moreover, the issue of bail warrants attention. In Tanzania's criminal jurisdiction, bail is frequently perceived as a form of pre-trial punishment, with certain offenses explicitly denying bail or imposing stringent conditions. This approach contradicts the fundamental purpose of bail, which is to secure the accused's presence during trial proceedings. The current legal framework inadvertently perpetuates a punitive narrative surrounding bail, adversely affecting the rights of the accused.

In light of the overarching theme of this year's Law Day, underscoring the significance of justice for national welfare, pertinent questions arise regarding the accessibility and dispensation of justice. While the courts remain the traditional defenders of justice, a notable appellate decision sheds light on the complexities inherent in the quest for justice. The *Attorney General Versus Jeremia Mtobesya* case, adjudicated by a full bench of five justices, serves as a touching reminder of the judiciary's key role in safeguarding justice for all.

The court, without fear or contradiction, declared *Section 148(4) of the Criminal Procedure Act*, which denies bail for the accused person after the Director of Public Prosecutions (DPP) files a certificate stating that granting bail to the accused person endangers the security of the nation, to be in violation of the Constitution.

The court's ruling was articulated as follows: *"In the final analysis, we are inclined to dismiss the appeal with costs and affirm the decision of the High Court that the impugned section 148(4) of the CPA is, indeed, unconstitutional and null and void due to its conflict with Article 13(6)(a) of the Constitution."*

Interestingly, despite the full bench of the Court of Appeal's decision regarding the unconstitutionality of *Section 148(4) of the CPA* concerning the DPP's certificate, the government has not taken any serious steps to amend that section as instructed by the Court of Appeal. As we commemorate Law Day regarding criminal justice, it is imperative for the government to promptly amend this contested section.

Judicial Renumeration and Working Conditions

The significance of justice for national welfare is intertwined with the role of judicial officers, from the Primary Court to the Court of Appeal, who are key in administering criminal justice. On this year's Law Day, a pressing question arises: *Are our judicial officers adequately remunerated to discharge their noble duties without undue influence?*

The judiciary constitutes one arm of the government alongside the executive and the legislature. Upon reflection, it appears that compared to other arms of the government, the judiciary is not adequately remunerated in terms of salaries, allowances, and benefits. It is evident that magistrates and judges, in fulfilling their judicial duties, require time and concentration, necessitating fair compensation akin to members of parliament who receive appropriate salaries and sitting allowances.

Furthermore, when celebrating Law Day, we must address the working conditions of our magistrates, particularly in terms of accommodation and transportation. These judicial officers, integral to the administration of criminal justice, should be supported with reasonable housing and transport allowances, or even provided with interest-free loans for acquiring transport facilities.

In conclusion,

As we approach the climax of Law Day on February 1, 2024, let us grasp this opportunity to become a beacon of hope for judicial officers, stakeholders, and the general public, ensuring the flourishing of criminal justice nationwide. The government must heed the call to amend provisions hindering the administration of criminal justice and move towards progress.

Upholding justice for national welfare necessitates concerted efforts from all stakeholders, transcending rhetoric to actionable reforms. The judiciary, alongside relevant stakeholders, must remain persistent in their commitment to fostering a fair and efficient criminal justice system, thereby ensuring the well-being and rights of all citizens.

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