



Joint Statement of Concern: Arbitrary Suspension of Tanzanian Lawyer and Former President of the Tanganyika Law Society, Ms. Fatma Karume

The undersigned bar associations and organizations, concerned with the rule of law and the independence of the legal profession, register their concern over the continued suspension of Ms. Fatma Karume, a former president of the Tanganyika Law Society and a current senior partner at the law firm, IMMMA Advocates in Tanzania. On September 20, 2019, Ms. Karume was indefinitely suspended from practicing law within the jurisdiction of mainland Tanzania by the High Court of Tanzania. We are gravely concerned that the suspension of a lawyer without notice and the failure to ensure an expeditious and fair hearing in the matter are violations of regional and international law standards and undermine the safeguards meant to ensure the independence of the legal profession and, ultimately, the rule of law in Tanzania.

Ms. Karume's suspension was in response to allegations of misconduct following her written submissions in a constitutional challenge to the President's appointment of Professor Adelardus Kilangi as the Attorney General of Tanzania. We further understand that the decision to suspend Ms. Karume was handed down by Justice E. M. Feleshi as part of the High Court's ruling in the constitutional matter. According to the court's ruling, the State's counsel complained that the language used by Ms. Karume in her submissions was unprofessional and disrespectful of the Solicitor General and the Honorable Attorney General.

We are deeply concerned that, while the High Court acknowledged that the complaint made against Ms. Karume was made in the State's rejoinder submissions and as such she was not afforded an opportunity to respond on record, the court nonetheless proceeded to immediately suspend Ms. Karume. Further to this, the suspension was made despite an acknowledgement by the court that it was "unjustified to adjudicate the complainant," explaining that, in its view, Ms. Karume's response to the complaint should instead be dealt with by a "proper and unfettered forum."

While the court proceeded to refer the matter to the Advocates' Disciplinary Committee for determination, the decision to immediately suspend Ms. Karume, in our view, inadvertently amounted to a penalty. As of the date of this statement, the Advocate's Disciplinary Committee has failed to expeditiously convene to hear the matter. We are advised that on December 5, 2019, Ms. Karume's hearing was postponed indefinitely after the three-member disciplinary panel failed to sit due to the non-attendance of a representative from the Office of the Director of Public Prosecutions. Meanwhile, Ms. Karume is unable to practice law, potentially prejudicing her clients and affecting her ability to earn a livelihood. In essence, the court's actions and her continued suspension infringes on Ms. Karume's rights and obligations without affording her the fundamental right to be heard, as recognized under regional and international standards.

Article 14 (1) of the International Covenant on Civil and Political Rights (ICCPR) specifically states that in the determination of one's rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law. Similarly, the African Charter on Human and People's Rights (ACHPR), Article 7 (1) provides that every individual shall have the right to have his cause heard. The United Nations Basic Principles on the Role of Lawyers (UN Basic Principles), clearly state that charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and heard under appropriate procedures, and lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice. Several of the undersigned institutions in their codes of conducts or guides to the regulation of the legal profession have highlighted, as one of the safeguards to the independence of the legal profession, disciplinary proceedings that ensure the right of a lawyer to due process, which include an independent tribunal, notice of the charges, the right to cross examine witnesses and produce evidence in support of their case.

International standards also provide that the immediate suspension of a lawyer from the bar must be reserved for exceptional cases, such as where the alleged misconduct poses an immediate threat to the public or the administration of justice. Article 39 (8) of The Code of Professional Conduct for Counsel before the International Criminal Court outlines that only "[i]n exceptional cases, where the alleged

misconduct is of such a nature as to seriously prejudice the interests of justice, the Commissioner may lodge an urgent motion with the Chamber before which the counsel who is the subject of the complaint is appearing, so that it may, as appropriate, declare a temporary suspension of such counsel.” The UN Special Rapporteur on the Independence of Judges and Lawyers has repeatedly recalled that “disbarment should only be imposed in the most serious cases of misconduct, as provided in the professional code of conduct, and only after a due process in front of an independent and impartial body granting all guarantees to the accused lawyer.” In our opinion, Ms. Karume’s alleged conduct did not warrant immediate suspension.

It has been more than 5 months since Ms. Karume’s suspension and the matter has not been promptly attended to by the Advocates’ Disciplinary Committee. Meanwhile she continues to suffer irreparable harm. For lawyers to carry out their professional functions in an independent manner, they must be protected from any unlawful interference with their work. The arbitrary suspension of Ms. Karume, particularly in the context of litigating a matter of public importance, has potentially grave consequences on the ability of Tanzanian lawyers to robustly represent their clients, participate in matters of national interest and the general independence of the legal profession.

In light of the above, we urge that Ms. Karume’s suspension be immediately lifted pending the hearing of the case before the Advocates’ Disciplinary Committee. We also recommend that should the matter proceed before the Committee, it should be conducted as expeditiously as possible to ensure that Ms. Karume is afforded full due process guarantees. Finally, we also encourage the courts to desist from exercising authority to discipline lawyers and recommend the establishment of a fully self-governing regulatory body of lawyers.