

HAKI NA USALAMA

JUSTICE AND SECURITY FORUM

OPENING ADDRESS AND KEYNOTE SPEECH BY HON. BAHAME TOM NYANDUGA, CHAIRPERSON OF THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE DELIVERED AT THE FIRST HAKI NA USALAMA FORUM STAKEHOLDERS' WORKSHOP HELD ON 11TH APRIL, 2016 AT CHRAGG HEADQUARTERS – HAKI HOUSE, DAR ES SALAAM

Distinguished Commissioners, Madame Executive Secretary, and Commission staff, Our Guests from the Commonwealth Human Rights Institute (CHRI), our compatriots of the Tanganyika Law Society, Invited guests, ladies and gentlemen, good morning!

It is my pleasure to welcome you to HAKI House, the Headquarters of the Commission for Human Rights and Good Governance. I feel privileged to be requested to make these brief opening remarks to launch the First Stakeholders workshop to discuss the Criminal Justice and Security reform programme, that we are envisaged to develop, as a joint project constituted under the Haki na Usalama Forum.

Let me start at this juncture by expressing, my personal appreciation and that of the Commission, to our partners from the Commonwealth Human Rights Institute, who have travelled a long way to be with us here today. The CHRI have a wealth of experience on dealing with policing and human rights issues. I therefore would like to thank them on your behalf and my own behalf, for initiating this collaborative effort towards the improvement of our law enforcement institutions, and hence working with us, as partner in our journey of ensuring that law enforcement institutions perform their duties within the bounds of the law.

The Tanganyika Law Society, my parent professional body, also deserves a lot of appreciation and credit for their coordinating role, not only in ensuring that this Forum is a success, but also because they are performing their statutory functions of ensuring that administration of law and justice, and all other matters ancillary to the law in this country are conducted within the framework of law, as is the case in any democratic society that believes in and respects the rule of law.

It was for those reasons that when we were advised of the second coming of the colleagues from the Commonwealth Human Rights Institute to Tanzania, (that is during my tenure as Chairperson of the Commission, they were here last year,) and that they requested that we host this Forum, we agreed without any hesitation. After all ensuring that the administration of justice is consistent with the principles of human rights and good governance is our core objective and function.

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The Commission for Human Rights and Good Governance as you are all well aware is a constitutional organ, established with the mandate of promoting, and preserving human rights. We have always been open to work with everyone who promotes and fosters respect to human rights and the principles of good governance.

Therefore, let me once again say to you all, KARIBUNI SANA.

When we talk about criminal justice, it is important to remember that the administration of criminal justice is a pertinent part of the administration of justice in any society, let alone any democratic society. In as long as there are criminal offences being committed in any society or country, the law enforcement institutions, as indeed is the judiciary, are essential components of that country or society. The existence of law and order and justice institutions within the State, the principles of the separation of powers, checks and balances, and the independence of the judiciary are important principles which ensure that the State is able to carry out its functions of administration of justice without fear or favour.

The criminal justice system needs to be just, it should exist in the interest of every citizen of the country and it should benefit everyone. It should not be a tool of oppression, but a tool of promoting and protecting human rights and a just society.

In Tanzania, the criminal justice system revolves around a number of institutions, the police force, the judiciary, the public prosecution division, the prisons department, the members of the public, and the social services and welfare department, to mention but a few. By and large, in Tanzania the criminal justice system traces its origins from the colonial era. The laws, the institutions and practices that we inherited from the colonial masters, to a large extent define how the administration of justice relate with the common people, notwithstanding the reforms that have taken place since independence. Models, set up decades ago, are still influencing how the state engages with its citizens. Nowhere is this more evident than in policing practices and structures.

Under the colonial approach, the police: 1) answer predominantly to the regime in power and its bureaucracy and not to the people; 2) are responsible for controlling populations, rather than protecting the community; 3) tend to secure the interests of one dominant group; and 4) are required to remain outside the community.

Echoes of colonial policing are evident in Tanzania. The law enforcement agencies and processes under the criminal justice system tend to be answerable to the state rather than the community, control the population rather than protecting the community, secure the interests of one dominant class while suppressing the majority population and exclude themselves from the community, among other things. It is

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therefore not accidental that while the Constitution of the United Republic of Tanzania of 1977, international and regional human rights instruments guarantee the rights to freedom of expression, association and assembly, that whenever citizens assembly to express any grievance or grievances, they are subjected to onerous conditions and will be faced by military style police that disperse them in a heavy handed fashion, instead of protecting them and ensuring peaceful expression of the assembly and opinion. This was brought out clearly in the findings of a 2006 report on the state of the Tanzania Police Force that was conducted by researchers from within and outside the Police Force. Our colleagues from CHRI came to a similar conclusion in their 2014 report.

Tanzania is a democracy, and democratic governance requires democratic policing. The only legitimate policing is policing that helps create an environment free from fear, and conducive to the realisation of people's human rights. It is our primary duty to strive for an honest, efficient and effective police service that ensures the rule of law and an environment of safety and security.

It is therefore necessary to state that policing in Tanzania requires reform and the reform requires a shift from "regime" policing to "democratic" policing: an approach founded on principles of equity and equality, accountability, transparency, participation, respect for diversity, the accommodation of dissent, protection of individual and group rights, and encouragement of human potential.

Democratic policing not only protects democratic institutions and supports an environment where democratic activities can flourish but also demonstrates democratic values in its own institutional structures and processes. Ideally, holistic reform requires attention not only to police but also to the criminal justice system.

I believe this forum is a conversation starter not only about the police we have, but also about the police we want. I hope this forum will grow to be a space where we can come together, share ideas and experience and shape the future of policing in this country.

The Haki and Usalama Forum is a very important initiative which needs strengthening. Since its launch some few years ago it has ventured to undertake a number of activities to complement government efforts to reform the police force and other law enforcement agencies, but frankly speaking, there is a lot that needs to be done. We have a long way to go in ensuring that policing is compliant with human rights and the principles of good governance.

During the little time that I have been in the Commission, and also as a private citizen, I see the way police handle different situations, and feel that it leaves a lot to

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be desired. As we speak, the Commission is engaging the police force in Dar es Salaam through visiting police stations and remand centres to see for itself, the conditions and standards of policing, the extent to which police officers abide by the minimum standards of ensuring that suspected criminal offenders and remand prisoners are treated within the rights guaranteed under the Constitution, the Police Force Act, and the Criminal Procedure Act, but also with a view of impressing upon the different stakeholders including the government, and the police force about the need to carry out a thorough reform programme, so that the police force and the public can see that law and order is maintained, and the development of the nation can be attained through partnerships, whereby the citizens considering police force partners and not as enemies.

Distinguished guests, ladies and gentlemen, these are my very brief thoughts on the subject we shall be discussing today. I will leave the rest to the experts, who shall carry us through different topics ranging from the re introduction of the Forum, the need for police reforms, and the state of criminal justice in Tanzania, strengths, challenges and opportunities. Once again, let me thank the Commonwealth Human Rights Institute, Tanganyika Law Society, and OSEIA for this initiative.

Thank you for your attention.