

Probe Report on the Invasion of Clouds TV Studios

What happened on the night of March 17, 2017 and to what extent was the press freedom violated when Mr Paul Makonda, the Regional Commissioner of Dar es Salaam Invaded Clouds Media Studios (CMG) at Mikocheni

Probe Report on the Invasion of Clouds TV Studios

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CONTENTS

ACKNOWLEDGEMENTS.....	iv
Abbreviations	iv
1.0..... Executive Summary	1
1.1 Rationale for the investigation.....	1
2.0..... Background	2
2.1 Clouds Media Group (CMG).....	2
2.2 Investigation time and locations.....	2
2.3 The investigation team.....	2
2.4 Terms of reference.....	2
3.0..... Methodology	3
3.1 Investigation approach	3
4.0..... Findings	4
4.1 How it all began	4
4.2 Mr Makonda's invasion	4
4.3 Inside the studio	5
4.4 How did Mr Makonda know about the existence of such a clip?.....	5
4.5 CMG's reaction on the invasion	5
5.0..... Police Speak	6
5.1 The Team's Findings on Armed Guards	6
6.0..... TCRA's Statement.....	6
7.0..... Statement from the Commission for Human Rights and Good Governance (CHRGG)	6
8.0..... Mr Makonda's Cold Reception to the Team.....	9
9.0..... Mr Makonda on Star TV	10
9.1 Why did he go to the studio asking for a clip of a woman alleging to have a baby with Bishop Gwajima?	11
9.2 Was the story in question balanced?.....	11
9.3 Did he take the clip in question?.....	11
9.4 Why did he not cooperate with the probe team formed by the then Minister for Information, Mr Nape Nnauye?.....	11
9.5 Would Mr Makonda apologise to CMG and the media fraternity?.....	12
10.0..... Press Freedom Violation.....	12
11.0..... Conclusion.....	12
12.0..... Recommendations.....	13
12.1 To Clouds Media Group	13
12.2 To Tanzania Communications Regulatory Authority (TCRA).....	14
12.3 To Media fraternity.....	14

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ACKNOWLEDGEMENTS

This report is a result of coordinated efforts marshalled by the MCT Secretariat, commissioned investigators and interviewees who came up with constructive responses, comments, opinions and suggestions.

The investigation team comprised Ms Hawra Shamte, a seasoned journalist with vast experience in investigations; Mr Juma Thomas, a journalist and advocate of the High Court of Tanzania; Mr Maximinus Ubisimbali, a retired senior police officer with expertise in security matters; and Mr Yustus Mkinga, a Senior Programme Officer with the MCT who headed the team.

The MCT expresses deep and sincere appreciation to the investigators, government officers, experts and individuals who made themselves available for interviews as well as volunteers who offered invaluable contributions.

ABBREVIATIONS

MCT	-	Media Council of Tanzania
CMG	-	Clouds Media Group
TCRA	-	Tanzania Communications Regulatory Authority
RC	-	Regional Commissioner
RPC	-	Regional Police Commander
TEF	-	Tanzania Editors Forum
CHRGG	-	Commission for Human Rights and Good Governance
Shilawadu	-	Shirika la Wambea Duniani (title of CMG TV/Radio Programme aired every Friday from 22hrs - 23hrs)

1.0 Executive Summary

This report highlights the findings of an investigation team formed by the Media Council of Tanzania (MCT) to probe an incident of violation of press freedom at the Clouds Media Group (CMG) in Mikocheni, Dar es Salaam, following allegations that the Dar es Salaam Regional Commissioner, Mr Paul Makonda, invaded the station at night between 22hrs and 23hrs accompanied by armed guards and intimidated journalists who were on duty.

This was neither a police inquiry nor a judicial inquest. The main objective of the team was to find out the truth and document the incident and verify if any press freedom violation took place therein.

The team derived powers to investigate from Article 3 (e) of the MCT Constitution which provides for the Council's objectives, which among other things, gives the Council has the mandate to:

“Maintain a register of developments likely to restrict the supply of information of public interest and importance, keep a review of the same, and investigate the conduct and attitudes of persons, corporations and governmental bodies at all levels, towards the media, and make public reports on such investigations”.

The investigation was carried out from May 2 to May 15, 2017 in Dar es Salaam.

The investigation generally established that on the said night (March 17, 2017), RC Makonda forcibly entered the CMG premises accompanied by armed guards and stormed the studio in which *Shilawadu* (Kiswahili acronym for 'Shirika la Wambea Duniani), the popular TV/Radio programme, was on air and proceeded to harass the presenters, in a bid to force them to air an item which had been held back by the station's editors because it was not balanced.

1.1 Rationale for the investigation

It is alleged that on the night of March 17, 2017, the Dar es Salaam Regional Commissioner, Mr Makonda, threatened Clouds Media Group staff with blackmail and jail sentences. It is further alleged that the RC told the presenters that he would include them on the list of drug offenders.

Mr Makonda's action was instigated by the fact that there was an existence of a video footage which showed a woman claiming that her infant son was fathered by Bishop Josephat Gwajima of the Glory of Christ Tanzania Church and he expected that video would be aired on Friday, March 17, in the *Shilawadu* programme.

Immediately after the incident, the then Minister for Information, Culture, Arts and Sports, Mr Nape Nnauye, formed a five-member team to investigate into the issue and compile a report. Speaking on the findings of the probe, secretary of the probe team Deodatus Balile, said Mr Makonda threatened to link the producers, presenters and sponsors of the *Shilawadu* programme with drugs offences if they failed to air what he described as “his programme.”

Mr Makonda who entered the CMG premises with armed guards, threatened further that he could have the station's employees jailed for six months without being taken to court. The ensuing incident led the *Shilawadu* programme, which was on air, to be terminated prematurely. The programme, which is usually aired between 21.00 and 23.00 hours, on that day was stopped at least half an hour ahead of time and a news bulletin was aired instead. The Nnauye committee reported that during the said incident, CMG staff members that were on shift panicked and some of them broke down in tears.

Relying on the account of duty staff and a CCTV footage, the Nnauye Committee team was satisfied that Mr Makonda forced his way into CMG premises at around 22.30hrs.

The MCT investigation team found that the RC had, prior to the invasion, created amicable relationship with many CMG employees from top to bottom. He was in good terms with managers, editors, presenters, reporters and even receptionists. When interviewed by a Star TV presenter on May 22, 2017 during a morning programme *Tuongee Asubuhi* Mr Makonda said: “Clouds is like my home, how could I invade my home?”

Therefore, it was established that the RC was familiar with CMG environment and members of staff. He was free to drop in at the CMG at any time of the day or the night. Nevertheless the incident,

alleged to have taken place on March 17, 2017, was described as “not ordinary” because the Dar es Salaam regional chief went to the studio with armed men and according to a security guard at CMG reception hall, “The RC forced his way in.”

Mr Makonda entered the studio when *Shilawadu* programme was on recess (around 22.30 hrs), upon which he enquired: “Why is ‘my programme’ not being aired?”

A presenter, Mr Soudy Brown, replied that their supervisors did not approve the airing of the clip until the cardinal principle of balancing was observed.

When speaking to the MCT team, CMG editors and presenters said that the incident left them intimidated and are no longer feeling free to execute their duties because when the RC invaded the studio at the said night, he threatened presenters that he would use his powers to frame them with drug charges. After reviewing the circumstances which led to the incident, the MCT team concluded that irrespective of reasons prompted the RC to act as he did on March 17, 2017, the incident at the CMG was a clear violation of press freedom.

2.0 Background

2.1 *Clouds Media Group (CMG)*

The CMG was established in 1998 by a Tanzanian national. It started with an FM radio – the Clouds FM – which was basically about entertainment and interactive presentations. CMG covers regions of Dar es Salaam, Mwanza, Arusha, Dodoma, Mbeya, Mara and Tanga on the Mainland and Zanzibar. It launched its TV Channel in 2010. *Shilawadu* has been among the station’s most liked TV/radio programmes since its inception six years ago. It is simultaneously aired on Clouds TV and Choice FM – on Friday between 21hrs and 23hrs. Its objective is to highlight interesting issues that surround celebrities. Though it is a kind of a gossip programme, it abides by the code of ethics that binds practitioners of journalism, including giving all parties in a story the opportunity to be heard. That is called balancing in the media lingo and is one of the cardinal principles in professional news reportage.

2.2 *Investigation time and locations*

The investigation team did its investigation from May 2 to May 15, 2017 at the Clouds Media Group’s main office at Mikocheni, Dar es Salaam; Tanzania Communications Regulatory Authority (TCRA) headquarters along Sam Nujoma Road in Dar es Salaam; Kinondoni Regional Police Commander’s Office at Oysterbay, Dar es Salaam and at the Commission for Human Rights and Good Governance at Kivukoni in Dar es Salaam. Other interviewees included seasoned journalist, a retired judge and some viewers of the CMG TV programmes.

2.3 *The investigation team*

The MCT team comprised four members: Yustus Mkinga, MCT Senior Programme Officer (Press Freedom Violation) who led the team, Mr Juma Thomas who is a lawyer, Mr Maximinus Michael Ubisimbali who is a retired police officer and an expert on security and Ms Hawra Shamte, a seasoned editor who had the role of team secretary. Ms Shamte was among the three members of a previous team appointed by the MCT and Tanzania Editors Forum (TEF) to investigate circumstances surrounding the police killing of TV journalist Daudi Mwangosi in Iringa in September 2012.

2.4 *Terms of reference*

- 2.4.1 To examine what transpired on the night of 17, March, 2017 at the studios of Clouds Media Group;
To establish the motive behind the alleged invasion;
To find out from which agency the armed guards who accompanied the Regional Commissioner during the said incident came from;
- 2.4.2 To scrutinize terms and conditions applicable to visitors at Clouds Media Group studios;
- 2.4.3 To give recommendations based on the findings;
- 2.4.4 To write a report of the findings in Kiswahili and English and
- 2.4.5 To make a presentation of the report before stakeholders as might be decided.

3.0 Methodology

The team employed various methods to get facts and information, including conducting face to face interviews, visiting affected area, observation and revisiting laws, policies and regulations that govern the media in general and other laws relevant to the incident.

3.1 Investigation approach

The following approaches and methods were used during the investigation:

- (a) Questionnaires – the team prepared in advance questionnaires to be used in the investigation;
- (b) Literature review – the team went through various laws governing the media in general and laws on the powers of a regional commissioner, code of ethics for media professionals; the Dar es Salaam Declaration on Editorial Freedom, Independence and Responsibility (DEFIR) and other guiding documents and
- (c) Physical visits to all rooms – the team visited locations visited by the RC with his escorts during the alleged invasion and
- (d) Interviews – the team conducted interviews with the following people:
 - i) CMG staff;
 - ii) Viewers and listeners of CMG programmes;
 - iii) Seasoned journalists and a retired judge;
 - iv) Official of the Tanzania Communication Regulatory Authority (TCRA);
 - v) Kinondoni Regional Police Commander and
 - vi) Chairman of the Commission for Human Rights and Good Governance (CHRGG)

The team also did some observation on procedures and practices at CMG with regard to admitting visitors to the CMG offices and studios. It was found that there are some procedures but these mainly applied to new visitors who are asked to identify themselves and state the member of staff they wanted to meet. However, regular visitors like RC Makonda were not probed that way when they dropped in at the station.

Furthermore, the team sought audience with the Dar es Salaam Regional Commissioner, Mr Paul Makonda, but the team's efforts to that effect proved futile. The team sent an official letter to the RC via his office on May 4, 2017 and followed all procedures of seeking an audience with a senior government official.

The team visited the RC's office at Ilala-Boma, spoke with his personal secretary and requested an appointment to meet the RC on Monday May 8, 2017. The team also called the RC on his mobile phone at least eight times on different days and called his office land line number several times, but all calls went unanswered.

On top of that, the team talked with the RC's close friend (name withheld) to see if he could help it secure an appointment with him, but the said friend advised the team that it was not the right time to talk with RC and that he was sure that he would not be willing to talk about the Clouds incident, because the media had already labeled him a villain.

The source warned the team that this was a new political era in which, if one tries to investigate government issues or probe the conduct of certain officials, one could "vanish without a trace". He mentioned the incident of seasoned journalists like Saed Kubenea who was attacked in January 2008; Absalom Kibanda (attacked in March 2013) and Salma Said (abducted and tortured in March 2016). All these were tortured for reasons not known to the public to date and investigations are said to be "still ongoing". He further opined that the political atmosphere in the country was not friendly to the media.

The MCT team met with Judge (rtd) Thomas Mihayo to discuss the issue of press freedom in Tanzania. Judge Mihayo explained that in reality, a ruler must protect his reign by any means and thus press freedom violation incidents have been reported in every regime in Tanzania.

What Judge Mihayo commented is reminiscent of the principle of a Greek philosopher Niccolo Machiavelli (16th Century) and is known as "Machiavellian principle of power", which states that all states desire power so that they can ensure their self-preservation. In the process of a regime's endeavour to preserve power, some people might get hurt.

The MCT team met with Kinondoni Regional Police Commander (RPC), Ms Salome Kaganda, in her office at Oysterbay Police Station. The RPC gave an audience to the team but declined to provide any information about the incident claiming that the team was not a complainant, so she could not reveal the findings of police investigations. She, however, said they were still investigating the incident.

Interviews were carried out further with prominent media stakeholders. These included a seasoned journalist who is also a victim of press freedom violation, Mr Absalom Kibanda, and Advocate Bahame Tom Nyanduga who is the chairperson of Commission for Human Rights and Good Governance (CHRGG).

4.0 Findings

The team was tasked to conduct an in-depth investigation on the alleged invasion of Clouds Media Group studios by Dar es Salaam regional Commissioner Paul Makonda as per terms of reference which were provided and this report bears what has been established after the conclusion of investigation.

4.1 How it all began

The investigation team visited CMG studios in an attempt to find out what actually transpired on March 17, 2017. It conducted interviews with relevant CMG employees. It was established that the March 17 incident, was a result of an incident which occurred on March 15, 2017, when an anonymous Clouds TV viewer called the station providing a tip off that a woman claiming to have a child with Bishop Josephat Gwajima of the Glory of Christ Tanzania Church, has been denied entrance to the bishop's residence at Mbezi Salasala on the outskirts of Dar es Salaam.

Following the tip off, a TV crew, including Mr Brown who is one of the *Shilawadu* programme presenters, was sent to the scene to conduct an interview with the woman.

The woman was interviewed, but her interview, which would have been aired on Friday March 17, 2017, in *Shilawadu* programme, could not be broadcast because Bishop Gwajima could not be reached to give his side of the story.

The CMG management reasoned that it would be unprofessional and legally wrong to air a programme which levels serious accusations against someone without giving him (the accused person) the opportunity to be heard, this being one of the cardinal rules of natural justice and journalism, which entails balancing as enunciated in the *Code of Ethics for Media Professionals*, 2016 Edition.

4.2 Mr Makonda's invasion

Mr Makonda stormed the CMG studios on March 17, 2017, at about 22.30 hours, when the *Shilawadu* programme was on air although at that time the presenters were on a commercial break.

Mr Makonda had been a regular visitor to the station ever since he was appointed to the position of district commissioner for Kinondoni. According to Mr Elikimbilio Kitoi, the CMG Human Resources Manager, Mr Makonda used to pay courtesy calls to the station regularly, sometimes dining with the staff.

The security guard on duty on the said day, Mr Thomas Mwakipesile, revealed to the investigation team that, although he was used to seeing the RC at the station, on the said occasion, he came in a different style which actually scared him. As opposed to his conduct in his past visits, when he would come casually and in a friendly and jovial manner, on that occasion, according to Mr Mwakipesile, the RC looked upset and hostile.

The Clouds HR boss informed the team that the RC was accompanied by five men, three of them armed with machine guns and in uniforms somewhat similar to those of the members of Tanzania Peoples' Defence Forces (TPDF), one in a police uniform and the fifth in civilian clothes.

When he entered the building, Mr Makonda went directly to the studio. Because of being a regular visitor who had at times participated in the editing of programmes in which he had a stake, such as '*Dar Mpya*' and '*One Year of Makonda as Dar es Salaam Regional Commissioner*', he knew where the studios were located.

Mr Mwakipesile admitted to the investigation team that he could not prevent the RC from entering CMG premises for two reasons:

- i) He was known to be a regular visitor to the broadcasting station and
- ii) The way he came in on that occasion scared him, especially the presence of fully armed guards in military uniforms who were not familiar to him.

4.3 *Inside the studio*

Mr Brown (*Shilawadu* presenter) told the investigation team that, when Mr Makonda entered, the programme was on a commercial break. He asked the broadcasters why the clip on the woman “who had a child with Bishop Gwajima”, had not been aired. Mr Brown informed the team that Mr Makonda warned them that if they failed to air the clip, they would be slapped with one of two punishments: a six month jail term or..... (He did not mention the other punishment).

The presenter further informed the team that he told the RC that the programme manager had directed him to skip the footage on the woman as it was not balanced since Bishop Gwajima who was being adversely mentioned had not been given an opportunity to give his side of the story.

According to Mr Brown, after so informing him, the RC made some phone calls before walking out of the studio, threatening to take the presenters with him. A few minutes later, Mr Makonda returned to the studio, this time accompanied by three guards. He then entered the editors’ lounge, where he demanded to be given the clip on the woman in question. He produced a flash disk, copied the clip and left.

The team was informed by the broadcast supervisor, Mr Kerwin Swai, that he was not in the office when the RC stormed the station. Mr Swai told the team that, Mr Makonda called him several times that night while the RC was in the station but he could not take the calls because he had left his cell phone on a charger.

He informed the team that he was informed about the video footage of the said abandoned woman from the producers and advised them not to air it unless Bishop Gwajima is heard. In addition, Mr Swai told the team he learned about Mr Makonda’s invasion of the studios through a cameraman who told him that the RC had stormed the station demanding that the clip on the woman to be aired.

4.4 *How did Mr Makonda know about the existence of such a clip?*

The clip was recorded on Wednesday, March 15, and was supposed to be aired on Friday, March 17, 2017, had it been balanced. It was not established during the investigation how Mr Makonda came to know that there was such a clip that would be included in the programme scheduled to be aired on that Friday, making him to storm the studio to make demands about it.

Surprisingly, at the time of the invasion, *Shilawadu* programme was still on air. The investigation team did not establish how Mr Makonda came to know that the clip about the woman would not be run, even before the programme was over.

Was it him, who provided the tip-off to the station about the woman? Could it have been someone associated with him? Or was he informed about the content of the programme by one of the staff members at the CMG?

Mr Brown insists that they got the information about the woman from an unidentified caller, who they believe had nothing to do that with Mr Makonda. That, even after the RC stormed the studio, demanding the clip to be aired, Mr Brown still believed that the woman’s story was genuine and that it had nothing to do with the RC. He, however, does not overrule the possibility that, one of the CMG employees might have leaked the information about the scheduled programme to the RC. However, when the RC was interviewed by Star TV, he said that he knew of the existence of the footage courtesy of one of the *Shilawadu* presenters.

4.5 *CMG’s reaction on the invasion*

CMG Programme Director Ruge Mutahaba informed the investigation team that, owing to the long-standing friendship between Mr Makonda and the CMG, the management expected that whatever motive triggered the RC to visit the studios in such a style, he ought to have apologised. On the

contrary, Mr Mutahaba said, the RC had refused to offer an apology.

He informed the team that the CMG reported the incident to Oysterbay Police Station and that they have not registered any complaints regarding the matter elsewhere, not even to the Tanzania Communications Regulatory Authority (TCRA).

The investigation team was told that, much as CMG would like to see the issue pursued with the weight it deserves in the interest of justice, press freedom and media ethics, they are scared of pursuing it further.

CMG Human Resource Manager Elikimbilio Kitoi echoed Mr Mutahaba on the issue by saying: “How could we follow it further when we know that they have the tendency of defending each other? It would be like lodging before the chimpanzee a case against the monkey.”

5.0 Police Speak

The Kinondoni Regional Police Commander, Ms Suzan Kaganda, informed the team that, they received a complaint from the CMG and were still investigating to establish the motive behind the invasion and whether the armed guards who accompanied the RC were police officers or personnel from other security organs. She however, said that, even if the investigation were completed, she could not reveal the findings to the team because it is not the complainant.

5.1 *The Team's Findings on Armed Guards*

The team established without reasonable doubt that, some the armed guards who accompanied the Regional Commissioner during his invasion at CMG studios on the night of March 17, 2017, were from the Tanzania Police Force while others were from the Tanzania Intelligence Security Services (TISS). Mr Makonda confirmed that while being interviewed by Star TV presenters and added that they guard his residence. He said his security detail was beefed up immediately after he launched the fight against drug use and trade.

6.0 TCRA's Statement

The TCRA officials have stated that the Authority is a quasi-independent Government body, responsible for regulating postal communications and Broadcasting sectors in Tanzania. It was established under the Tanzania Communications Regulatory Act No.12 of 2003 to regulate electronic communications, postal services and management of the national frequency spectrum

As per its functions, duties and powers as provided in the said Act, the Authority is not obliged to intervene if any broadcasting station is invaded. Invasion of a broadcasting station is a criminal action, and it is purely a police matter, according to the TCRA officials.

7.0 Statement from the Commission for Human Rights and Good Governance (CHRGG)

Speaking to the investigation team, the CHRGG Chairman, Advocate Bahame Tom Nyanduga, said: “The invasion of the Clouds Media Group studios is contrary to Article 18 of the Constitution of the United Republic of Tanzania 1977, which protects freedom of opinion and expression, Article 19 of the International Convention on Civil and Political Rights 1966 and Article 9 of the African Charter on Human and Peoples' Rights 1986”. The team was informed that the Commission has gone through several laws including the Regional Administration Act, 1997 (Act No. 19, RE 97 of 2002) and has been satisfied that there is currently no law in force which empowers a regional commissioner to do what the Dar es Salaam RC is said to have done.

Invading the studios of Clouds Media Group in the company of armed guards was an act contrary to the principles of human rights and good governance. It was an arbitrary act which is unacceptable in any democratic country.

The Commission therefore joins supporters of human rights and good governance to condemn the

invasion.

Thus, the Commission is advising that:

- i) Mr Makonda should admit that his act amounted to breach of fundamental rights of journalists and press freedom and
- ii) His invasion of the Clouds Media Group studios using armed guards for personal interests was contrary to good governance requirement. Mr Makonda has undermined the Police Force, therefore he should apologise to Tanzanians.

The CHRGG issued a press statement on March 22, 2017 condemning the RC's invasion to the CMG studios. The statement is appended in this report.



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Machi 22, 2017

TAARIFA KWA VYOMBO VYA HABARI

THBUB yalaani uvamizi wa studio za Clouds Media

Tume ya Haki za Binadamu na Utawala Bora (THBUB) imepata taarifa kupitia vyombo vya habari kuhusu uvamizi wa kituo cha Luninga na Radio cha Clouds Media Group, uliofanywa na Mkuu wa Mkoa wa Dar es Salaam, Mhe. Paul Makonda, usiku wa tarehe 17, Machi mwaka huu, akiwa na askari wenye silaha.

Kwa mujibu wa taarifa hizo, inadaiwa kuwa Mhe. Mkuu wa Mkoa alifika katika studio hizo kwa lengo la kushinikiza kutangazwa kwa taarifa iliyokuwa na maslahi yake binafsi.

Kitendo cha Mhe. Mkuu wa Mkoa wa Dar es Saalam kuvamia kituo cha Clouds Media Group ni kitendo kinachopingana na Ibara ya 18 ya Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977 inayolinda uhuru wa maoni na mawasiliano, jambo ambalo pia linalindwa na Ibara ya 19 ya Mkataba wa Kimataifa wa Haki za Kiraia na Kisiasa (1966), na Ibara ya 9 ya Mkataba wa Afrika wa Haki za Binadamu na Watu (1986).

Tume imepitia Sheria kadhaa, ikiwemo Sheria ya Tawala za Mikoa Sura ya 97 ya Sheria za Tanzania na imebaini kwamba hakuna Sheria

inayomruhusu Mkuu wa Mkoa kuchukua hatua za uvamizi, kama alivyofanya Mhe. Makonda.

Hivyo, hatua ya kuvamia kituo cha habari cha Clouds, akiambatana na askari wenye silaha ni kitendo kisichojali, wala kuheshimu utawala wa sheria na haki za binadamu. Ni kitendo cha kujichukulia sheria mkononi na kisichokubalika katika jamii au nchi ya kidemokrasia.

Tume ya Haki za Binadamu na Utawala Bora inapenda kuungana na Watanzania wengine kulaani kitendo hicho.

Hivyo, Tume inashauri:

1. Mhe. Paul Makonda akiri kuwa kitendo alichofanya ni uvunjifu wa haki za msingi za waandishi wa habari na uhuru wa vyombo vya habari.
2. Kitendo cha kuvamia kituo cha Luninga na Radio cha Clouds Media Group kwa kutumia askari wa Jeshi la Polisi kwa maslahi binafsi ni kitendo kisichoendana na utawala wa Sheria. Mhe. Makonda amelidhalilisha Jeshi la Polisi, kwa hiyo ni budi awaombe radhi Watanzania.

Imetolewa na:


Mhe. Bahame Tom Nyanduga

Mwenyekiti

TUME YA HAKI ZA BINADAMU NA UTAWALA BORA

Machi 22, 2017

8.0 Mr Makonda's Cold Reception to the Team

One of the principles of natural justice and as well the journalists' professional norms require that all sides of the core issue or subject should be given an opportunity to give their side of the story. The investigation team conducted interviews with a number of people including those who witnessed what actually happened on the night of March 17, 2017.

Apart from the statements from the people who witnessed the incident, especially the CMG staff whose account of the motive behind the invasion by the RC was to the effect that the regional boss went to the studios to demand that the video footage of a woman claiming to have had an affair with Bishop Gwajima be aired, the RC, ever since the incident occurred, chose to remain mum on the issue and ended his relationship with the CMG. Mr Mutahaba confirmed to the MCT investigation team that since the incident, the RC is not calling or visiting the station anymore.

Even the probe team which was formed by the then Minister for Information, Youth, Culture and Sports Nape Nnauye to investigate the matter could not get an audience with the RC after he denied the team the opportunity to see him. Mr Nnauye was, however, sacked five days later, which was immediately after he received the report of the probe team.

Just like Mr Nnauye's probe team, the MCT investigation team's efforts to meet the RC proved futile. The team wrote a letter to the RC explaining the reason it wanted an audience with him. The letter, with reference No. MCT/1.5/005/2017 of May 2, 2017, which is appended to this report, was received and stamped at the Regional Commissioner's Office on May 4, 2017, but until this report was written, the letter had not been responded to.

Besides the letter, the MCT team made three physical visits to the RC's office but each time they went there, it was told that the RC had a tight schedule.

It suffices to say that the investigation team made all possible efforts to meet the RC, but they all came to naught.

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Ref No. MCT/1.5/005/2017

May 2, 2017

Hon. Paul Makonda,
Regional Commissioner,
Dar es Salaam Region,
P.O. Box 11492,
Dar es Salaam.



Dear Hon. Makonda,

Re: Introduction Letter

Kindly refer to the above subject. I would like to introduce a team of four members whose mission is to collect information related to your visit at the Clouds Media studios at Mikocheni on Friday 17th March, 2017.

The aim of this assignment is to document the facts and determine to what extent this incidence interfered with the cardinal principles of editorial independence in particular and press freedom in general.

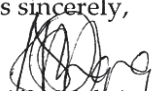
The members of the said team are as follows:-

1. Mrs. Hawra Mohamed Shamte (Editor)
2. Mr. Juma Makuru Thomas (Lawyer)
3. Mr. Macximinus Michael Ubisimbali, (Retired Police Officer) and
4. Mr. Yustus Adam Mkinga (MCT Programme Officer and Team Leader).

In order to accomplish its mission the team will need to meet you.

Your kind cooperation is the key to the success of the mission and will be highly appreciated.

Yours sincerely,


Kajubi D. Mwakijanga
Executive Secretary

*For a strong and ethical media that contributes
towards a more democratic and just society*

9.0 Mr Makonda on Star TV

After he denied both investigation teams audience, on May 22, 2017, the RC had an interview with the Star TV on its 'Tuongee Asubuhi' programme in which, among other things, he talked about the Clouds incident. He categorically denied invading CMG studios on March 17, 2017, saying CMG was just like his home, where he is used to go at anytime at his convenience and that he has a lot of friends working there.

When asked why he entered the studio with armed guards, he responded that he was taking precautions that nobody would say that he went there to receive a bribe related with his mission to fight against drug abuse and selling in the country. He did not clarify further on this issue.

He said that the saga was staged and that it was like a drama. He lamented that it was staged by his enemies. Mr Makonda said on the TV interview that, his friends have turned against him because of his crusade against drugs.

9.1 *Why did he go to the studio asking for a clip of a woman alleging to have a baby with Bishop Gwajima?*

Mr Makonda's response was that, in his position as a regional commissioner, he is interested in helping the needy; the rights of the woman who claims to have been abandoned by Bishop Gwajima "who fathered her child".

He said that, he doesn't like to see people, especially the voiceless, being mistreated, adding that he would always stand and speak for them.

9.2 *Was the story in question balanced?*

Mr Makonda said that he believed that the story was balanced because his informers at CMG told him so. "The story was well balanced and well prepared, only that some of the CMG officials did not want it aired," he said during the Star TV interview.

He said that, in his conversation with Mr Mutahaba on the night of March 17, 2017, he was asked if he was interested in that story by which he (Mr Makonda) replied that he is not interested in it, in particular in his personal capacity, but he is interested in any people's grievances in his capacity as the Regional Commissioner.

Mr Makonda linked the incident with his crusade against drugs and insisted that, the incident at CMG was planned to defame him so that Tanzanians would conclude that he is a bad person and a villain who is against press freedom, adding that the incident was calculated to destroy him politically.

In this aspect, the RC made his allegation on air, but did not offer clarification about who staged the saga (or who his enemies are) and he did not elaborate on the purpose of that alleged drama. Moreover, questions still remain: why did he go there in the first place? Why was he worried that people would suspect him of going to CMG to collect a bribe? Is he corrupt? Does bribery take place at the CMG?

9.3 *Did he take the clip in question?*

Mr Makonda responded in the negative. He explained that, what he took from the CMG studios on that day was his programme titled, 'One Year Tenure as Dar es Salaam Regional Commissioner, Success and Challenges'.

9.4 *Why did he not cooperate with the probe team formed by the then Minister for Information, Mr Nape Nnauye?*

Mr Makonda answered that Mr Nnauye had no authority to form an inquiry team to probe the RC because their positions were at par. Both were presidential appointees. He said practically, Mr Nnauye had no powers to form an investigation team to probe the conduct of a fellow presidential appointee. In his opinion, the team was invalid and incompetent. He alleged that, the Director of Information Services too could not probe the Regional Commissioner, because his office is a department under the Regional Commissioner's office. This sounds a bit strange. It is nowhere stated in the law that the office of the Director of Information Services Department falls under the office of the Regional Commissioner.

The office of the Director of Information Services Department is created by the Media Services Act, 2016 and the law states clearly that the director shall be the chief spokesman of the government in all matters relating to its policies and programmes as well as principal advisor to the government in matters relating to the functions of the media industry. In our opinion, this is a national post and its powers cannot be vested in one of the regional commissioners. It is therefore wrong and misleading for Mr Makonda to claim that the office of the Director of Information Services falls under his office.

9.5 *Would Mr Makonda apologise to CMG and the media fraternity?*

Mr Makonda made it clear that, he would not apologise to anyone, since he is the one who has been wronged by the CMG and the media in general.

10.0 Press Freedom Violation

Most of the people interviewed, described the RC's action as a clear violation of press freedom. The RC's act of forcibly entering the studios of a TV station and attempting to force presenters to air a clip in which he is interested, is a conduct which amounts to total violation of press freedom.

Mr Brown is of the opinion that press freedom is at stake. "We are not free anymore; the act by the RC has created a sense of fear among the workers at the CMG."

Mr Kitoi had similar views. He lamented that it is very unfortunate that the government has not taken any measures against the RC. He concluded that, whatever motive the RC might have been harbouring, the act of storming studios of a TV station and forcing "his programme" to be aired, at the expense of media professional ethics is a total violation of press freedom.

Mr Absalom Kibanda, a senior editor, wants media professionals and stakeholders not to rest until real media freedom is realised in the country. It is through free media that democracy and principles of good governance can be realised. For a democratic country which upholds principles of good governance and the rule of law, nobody, not even a high ranking government official, should be allowed to muzzle the media, says Mr Kibanda.

Viewers who were interviewed expressed concern over confidence/safety of the broadcasters on the one hand and quality of programmes on the other since practitioners feel intimidated and are worried that if a government official can pop in broadcasting station with "his programme" in the pocket and force the presenters to broadcast it, then press freedom is at stake.

"Broadcasting stations have been licensed by the government to operate. Let them operate professionally without interference from the authorities. They have guidelines and ethics to abide by. Let the authorities not force broadcasting stations to violate professional ethics and regulations," said Bakari Ndembwe, a viewer of *Shilawadu*.

Mr Ndembwe told the team that it was unfair for the RC to force CMG to violate broadcasting regulations because that would subject the station to penalty by the regulator, the TCRA.

"As a government official, Mr Makonda was wrong to force the CMG to violate regulations which he himself and others in government laid down. It was unfair to the station," said Mr Ndembwe.

11.0 Conclusion

What happened on March 17th, 2017 at the CMG studios, by all standards, was a violation of media freedom and editorial independence. Whatever motive was behind the RC's unannounced visit to the studios, the style and his conduct painted a bad picture as far as democratic and human rights values are concerned.

Free media is the cornerstone to meaningful development in any country. The media ought to work independently and free from intimidation if we are to have any meaningful development. The government prides itself that it upholds principles of democracy, human rights and good governance. It is crystal clear that without free media, these principles cannot be said to be existing. The government is well aware of this fact. But despite its cognisance of this fact, the government has failed to reprimand the Regional Commissioner for Dar es Salaam for what he did.

The right and freedom to receive, process and disseminate information, including the right and freedom to express opinion, constitute the cornerstones of democratic political and economic governance. The meaningful exercise of these rights and freedoms enables citizens to participate in their own governance, thus giving substantive content to the right of the peoples to self-determination, which is recognised and fervently guarded by all international and regional human rights conventions.

Recognising the importance of editorial freedom and independence, the Media Council of Tanzania (MCT) set in motion and facilitated the process of developing the Dar es Salaam Declaration on Editorial Freedom, Independence and Responsibility (DEFIR). The process was completed in February, 2011.

The DEFIR was acceded by media stakeholders, including the government, to recognise the importance of editorial freedom and independence in developing a free and robust media, tasks all actors in positions of influence to desist from interfering with editorial freedom and independence.

It recognises that for the media to be truly free and independent, its practitioners must also be free to perform their tasks without fear of interference, harassment, intimidation, restriction or repression from the state or any other public authority.

The whole CMG studios invasion saga is surrounded by motives that not healthy to the media freedom. Mr Makonda's assertion that he did not go to the CMG to demand that the clip on the "abandoned mother" be aired leaves many questions unanswered. His claims too, that the incident was staged by his enemies beats common sense. The incident occurred on March 17, and although it received much criticism from media stakeholders and the public, the RC chose to remain quiet until almost two months later when he appeared on a local television to speak about the issue. If the incident was truly staged why did he keep quiet for all that long? During the 'Tuongee Asubuhi' programme and during recess, a presenter forgot to turn off his microphone and the RC was heard saying: "We have finished Ruge." This indicates that Mr Makonda was given air time 'to finish Ruge'. If this is really the case, then it is unfortunate for both the RC and the CMG.

Freedom of expression is a constitutional right. Any act that interferes with that freedom is unconstitutional and a violation of Article 18 of the Constitution of the United Republic of Tanzania, 1977; the Universal Declaration on Human Rights and International Covenant on Civil and Political Rights which provide for every one the right to freedom of expression.

The investigation team concludes that the RC has wronged the media in general. As a regional commissioner, a senior government official, he ought to have known the importance of free media in the development of the country. He ought to have known and respected ethical guidelines governing the media and as a leader his role ought to be that of a father – he should nurture the media and strive to see it working freely instead of playing the role of a bullying supremo.

12.0 Recommendations

The investigation team would like to make the following recommendations:

12.1 To Clouds Media Group

Much as DEFIR recognises that contacts with politicians and political organisations are important, it warns editors and media practitioners in general to guard against entertaining overly close relationships with politicians or embedding themselves in political systems which could make their work harder, compromised and balanced journalism elusive.

The CMG Editor's lounge is an enclosed room where editors do their sensitive task of sorting out materials; it is where important decisions are taken –this place must be 'off-limit' – prohibited for unauthorised persons. The question is: who gave the RC the authority to enter the Editor's lounge?

Unfortunately, the door to the Editor's lounge was open to the RC so that he could enter as he pleased and use editors' computers to edit "his programmes."

Journalistic procedures indicate that when a material lands on the editor's desk, that material will no longer be property of anybody except the editor and it will be in his discretion to air/publish or otherwise. Therefore, even the material that the RC claimed was "his programme", in principle, was not his, rather it was the CMG property.

The March 17 incident is a consequence of the CMG's close and friendly relationship with the RC. He was a regular visitor to the studios to the extent of being known by every member of staff. He literary became "part of the station" and that is why he had the courage to enter the studio and demand that "his programme" be aired.

This should serve as a lesson not only that to CMG, but to all media houses. This kind of relationship is likely to jeopardise press freedom and it goes against the editorial freedom and independence norms as agreed in the DEFIR.

12.2 To Tanzania Communications Regulatory Authority (TCRA)

It is unfortunate that after all these hassles, the TCRA as a regulator has kept mum. The TCRA says the law does not give it powers to intervene when a broadcasting station is wronged by a consumer, although the same laws give it powers to punish the stations when they either wrong a consumer or violate the law. Basically, if a station airs unbalanced, damaging content, TCRA penalises it. Why then should TCRA keep quite when someone tries to force the station to do that? We feel this is unfair; these shortcomings (*lacunae*) should be addressed. There must be a mechanism by which TCRA, as a regulator, should apply to protect the institutions which they regulate.

12.3 To Media fraternity

The office of the Regional Commissioner is created by the Constitution of the United Republic of Tanzania, 1977 and according to the Regional Administration Act of 1997, the RC has powers to cause to be arrested any person who in his presence, commits, or to his knowledge, has committed an offence. The same law gives the RC powers to detain the suspect for 48 hours. However, storming a broadcasting station and dictate terms is, to say the least, a blatant misuse of the powers bestowed on the Regional Commissioner and a threat to media freedom, a fundamental freedom of communication and expression through vehicles including various electronic media and published materials.

While such freedom mostly implies the absence of interference from an overreaching state, its preservation may be sought through constitutional or other legal protections. Unfortunately in Tanzania, that aspect is not enshrined in its Constitution.

It is, therefore, pertinent for media organisations and stakeholders to strive to see to it that all oppressive laws that infringe freedom of expression and media freedom are amended or repealed in order to have a free media that would play the watchdog role effectively for the development of the country.