



## **PRESS STATEMENT**

**16<sup>th</sup> May 2019**

### **Paralysing State Institutions with Intention to Create Crisis at Expense of an Ailing Economy and Rule of Law.**

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#### **Surprise Adjournment of Parliament**

The nation will recall that quite recently parliament of this country was unexpectedly adjourned *sine die*. This surprise adjournment seems to have been guided by standing orders which have never been approved by parliament. Hitherto the national assembly has two versions of standing orders that are used to guide the type of surprise adjournment: the first standing orders were approved in 2007 whilst the second standing orders were created and effected in 2012 exclusively by the office of the speaker of national assembly. The irony is that a significant number of members of parliament (MPs) are unaware of this phenomenon, hence the decision of the surprise adjournment without any motion tabled before parliament.

In spite of government desperation to white-wash this particular move, one of the justifications was that it was purposely done to give MPs an opportunity to participate in the execution of the Lesotho Council of NGOs and National Dialogue Planning Committee in-district public consultations. Although MPs had no leadership role in the consultations, the justification was not convincing enough to warrant such an abrupt closure without giving the national assembly an opportunity to make determination. Nevertheless, conspicuously few MPs did show up at gateway workshops while smallest figure also attended one or two public gatherings. Whilst we are still shocked by this surprise recess of the national assembly, the upper house-Senate had resumed its sessions and business as expected. The justification behind surprise recess is just a lame excuse in our view.

TRC is worried that in the midst of crushing poverty characterising this nation, increasing human rights violations and police brutality, persistent maladministration evidenced by wide-spread lack of access to basic needs like clean water, appalling health services, deep rooted corruption, massive unemployment and poor road infrastructure in both rural and urban areas, the government would grant the national assembly a holiday *sine die*. However, TRC noted a circular from the office of Clerk that Friday 24<sup>th</sup> May 2019 national assembly will resume its duties but TRC's position is that the closure was unjustified.

This is the time all eyes were looking forward with high expectation that parliament will hold executive branch accountable for the massive corruption that has been exposed by the Auditor General and Public Accounts Committee.

Members of the public will recall shocking revelations televised in the recent months by the latter and damning report by the former.

It is mind-boggling that a government which campaigned on fighting corruption today callously has the audacity to utilise state funds extravagantly to maintain cabinet members' lavish lifestyle at the cost of the poor. How can the government that preached intolerance towards the excesses of the previous regime today abandon the concerns of scarcity of funds as characterised, amongst others, in the institutions of higher learning? Instead of addressing financial challenges facing the country, priority is directed on buying prime minister and deputy prime minister a fleet of expensive cars which are estimated to have cost M12, million.

These are times when the country needs vigilance in both government and opposition to pay much attention and take actions and formulate clear policies against high levels of unemployment and rampant poverty among all vulnerable groups particularly most disadvantaged unemployed tertiary graduates, youth and women who are majority of our population. It is unacceptable that farmers and government service suppliers are rarely paid on time unless they have political connections with senior government official who also endlessly continue with their unnecessary international trips with a view of receiving per diem.

- TRC strongly urges the current administration to concentrate on preparing for the perennial food insecurity which most people are already experiencing. Holding dark corner meetings and political rallies in a desperate attempts to maintain status will not restore economic stability and growth of this country.
- TRC strongly condemns any unprincipled stand by some politicians and MPs who seek to justify their appetite for power and selfish ends at times calling for snap-election at the enormous expenses of our treasury. The previous elections had cost the country an unnecessary excess of M287 million. Despite that symptoms of regime collapse are obvious, money spent in three previous elections in less than a period of five years is more than the budget allocated to youth employment projects. Thus the country cannot afford to be spending on unnecessary politically induced elections. The patience of the citizens is fast running out and there is no appetite for return to another snap election in the period of less than five years.
- TRC calls upon all stakeholders to work together to protect this noble process of reforms, speak out in defence of stable democracy and good governance.
- We may not agree with one another but differences of opinion are what sustains our democracy, we need to have tolerance and a robust platform for competing ideas, we must not allow our legislature and judiciary to be used as rubber stamp to the wishes of the executive. This country needs constructive checks and balance for economic growth and stable governance.

### **The state of the Judiciary**

While TRC commends the government's efforts to operationalise the Court of Appeal which was in paralysis for a period of more than two years, TRC is however concerned that executive branch's shenanigans to capture this highest court in the land would take us back to the paralysis. Previously majority of members of public made calls that

government must urgently address enormous challenges of resource scarcity in judiciary and accountability of judges, of which are not new phenomena.

Hitherto the resource scarcity challenge has been degenerated into crisis characterised by dilapidation of infrastructures and unprecedented strikes of magistrates which are resultants of inadequate commitment of authorities. Some of the judges in our land have become so obsessed with concepts of judiciary independence without accountability because of the belief that judges are pious masters, infallible and sovereign, therefore, they cannot be questioned even when their conduct has become seriously political behind judicial benches. All these actions brought the independence of the judiciary into question.

The judiciary crisis escalated into vicious crisis because of appointment and removal of chief justices and presidents of court of appeal. There is no process of scrutiny to assess competencies of appointed judges as result some of them could easily become political proxies of prime minister who is the appointing authority. For instance the Acting Chief Justice (ACJ) has been embroiled in controversy through her judgements which always favoured the ruling ABC which however were always overturned by Court of Appeal which has foreign judges. This consistent overturning of the Acting Chief Justice's judgements by the Appeal Court raises serious concerns. This generated questions on the High Court by the general public while the Court of Appeal became highly popular.

The case involving Koro–Koro ABC Constituency Committee and the ABC executive Committee is a case in point. Most recently a shocking judgement has been delivered which nullified the ABC executive committee elections yet the same judge had refused to hand down judgement in four month similar case claiming protesters had insulted her. The Acting Chief Justice has since been labelled an ABC ally allegedly supporting the Prime Minister's camp, whereas the truth or otherwise of this stance is unknown to us, the TRC does conclude that the conduct of the Acting Chief Justice is unbecoming of a Judge of her calibre and indeed soils the integrity of the judiciary.

Until recently the Appeal of Court was said to lack financial resources to hold its April session hence allowing the High Court through the Acting Chief Justice to go on unchecked through questionable judgements. Despite the fact the Court of Appeal has begun its session this Monday after the impasse was resolved its closure impacted negatively on the rights of litigants and indeed administration of justice in Lesotho.

TRC further noted with concern government's lack of commitment in addressing issues raised by magistrates. Their grievances were based amongst others on poor working conditions, personal security and remuneration which the government was failing to address. This resulted in magistrates going on protest. This impacted negatively on suspects' right to access to justice and fair trial which requires, amongst others, that where a person is accused of committing a crime, must be heard within a reasonable time. The government does not seem to be giving this situation the necessary attention it deserves, it has gone for far too long and it has far-reaching consequences on the ordinary citizen of this country.

- The TRC calls upon the government to amend Judicial Service Commission and establishes an Act of parliament that will preserve the Judicial Service Commission from undue political influence of executive branch particularly the Prime Minister. The Act should stipulate the commission mandate to include recruitment and hiring of all judicial officers from the Magistrate Court up to the

Appeal Court. The Act should also must have annual budget ratio that must be allocated to judiciary and give the commission the power to monitor the conduct of all judicial officers, to discipline and or dismiss when the need arises. Such an Act is a crucial need where the independence of the judiciary has clearly been eroded.

- We urge all ABC factions particularly those led by new executive committee to refrain from irresponsible utterances of attacks on Acting Chief Justice, as that will create anarchy in already prevailing crisis. In the similar note we urge the leader of ABC and prime minister to desist attacks on Court of Appeal, it is his obligation to protect this highest court.
- The government must commit itself in addressing issues of magistrates to ensure proper administration of justice in Lesotho and protection of human rights.

### **Crisis in the IEC**

The Transformation Resource Centre has observed with shock the impasse between the IEC Commissioners and the government of Lesotho which has recently spilled into the courts of law wherein the commissioners seek five years contract renewal.

The TRC has learned that prior to the expiry of their contracts the IEC commissioners made a written submission that they had a desire to be appointed for a further five years, however their contracts were not renewed until they expired while they remained in office. The lack of renewed contracts led to their salaries being withheld by the Director of Elections and this in turn led to the commissioners suspending her. This chain of events leaves many questions;

Why did the government allow the commissioner's contracts come to an end without making a decision on whether to renew or vacate office? The inability of the government to act on such a critical matter has ultimately led to such a predicament.

This also brings in question what this stalemate means for Lesotho and its repercussions; considering the current turmoil inside the ruling party, it is not far-fetched to foresee snap elections as has been the trend in recent years. If snap elections were to be called, who would lead such elections seeing that the IEC and government are currently embroiled in a legal dispute? Whereas they are supposed to be exemplary in conduct and containment of conflict especially because they are institutions that must instil good governance ethics.

All these questions are integral to the proper functioning of government as IEC plays a crucial role in ensuring the realisation of one of the main ethos of democracy. A crisis inside IEC during such a turbulent time in Lesotho politics is a cause for concern, however, the government does not seem to be at pains to resolve this impasse.

- The appointment and removal of IEC commissioners are responsibility of council of state which is advised by government, the TRC therefore calls upon all the government to wake up from its slumber and rectify the current situation by amicably resolving the dispute with the commissioners. The TRC is of the opinion that if the two warring parties were to come to the table, an amicable and lasting solution will be reached.