



Court of Appeal on defence of alibi

In an appeal lodged where the two appellants had been convicted of attempted murder by the High Court, the Court of Appeal had a chance to discuss the defence of alibi in criminal law. In dismissing the appeal where one of the grounds was that the judgment had failed to take into consideration the arguments on alibi raised by the Appellants, the Court of Appeal stated that the law is well settled that where an accused person puts forward an alibi as an answer to a charge or information, he does not thereby assume a burden of proving the defence and the burden of proving his guilt beyond reasonable doubt remains throughout on the prosecution.

Court of Appeal: Court's duty to inform parties

In the case of Tanzania China Friendship Textile Co Ltd vs Charles Kabweza and Others, Civil Application Number 62 of 2015, the Court of Appeal confirmed that it is the duty of the Registrars to inform parties on the availability of documents which are ready to be collected. The Court of Appeal declared that the Court had the duty of notifying the applicant that the copies were ready for collection and if that is not done, it would be unjust to condemn the applicant for the delay in collecting the document.

The Court cited the case of *Birr Company Ltd v. C. Weed Corporation*, ZNZ Civil Application No. 7 of 2003 (unreported), whereby the learned counsel for the applicant had applied to the Court to strike out the notice of appeal. He asserted that the respondent had not taken essential steps despite the fact that a copy of the proceedings was ready for collection. There was however no evidence that the respondent was notified that the proceedings were ready for collection. The Court held as follows:

'He [the learned counsel for the applicant] has been unable to establish the date when the respondent became aware of the fact that the proceedings were ready for collection. This is when time starts to run for the institution of the appeal. [See Civil Reference No. 10 of 1993] *Tanzania Uniforms & Clothing Corporation vs Charles Mosses* (unreported)'

The Court of Appeal has thus cemented that it is the Court's duty to notify parties for document collection and any delays thereof cannot be blamed on the party intending to rely on any such document(s).

Around the World

UK court upholds plain packaging on cigarettes

The UK's High Court of Justice struck down a challenge by several cigarette companies against requiring plain packaging on cigarette packaging. In its almost 400-page decision the court upheld the Standardised Packaging of Tobacco Products Regulations 2015 against the tobacco companies' claims that this regulation would constitute an intellectual property rights violation.

US Senate approves bill allowing Saudi Arabia to be sued for 9/11 attacks

The US Senate unanimously approved a bill recently that would let the families of those killed in the September 11 attacks sue Saudi Arabia for any role it had in the terrorist plot. The Saudi government has warned that if such legislation passes it may begin selling off up to USD 750 billion in Treasury securities and other assets in the US. Questions about the role Saudi Arabia played in 9/11 have lingered for more than a decade.

South African court allows landmark silicosis suit against gold firms

South Africa's High Court have given the green light for class action suits seeking damages from gold firms, on behalf of up to half a million miners who contracted fatal lung diseases while working underground.

Apple loses 'iPhone' trademark case in China

The Beijing Municipal High People's Court ruled this month that Xintong Tiandi (XT), a local leather goods retailer, can continue to use the phrase "iPhone" on its leather goods.



Court of Appeal: DPP certificate binding on Court

In the case at the Court of Appeal between Director of Public Prosecution v Li Ling Ling, Criminal Appeal Number 508 of 2015, the respondent, Li Ling Ling and other four persons, were jointly charged in the Resident Magistrate's Court of Dar es Salaam at Kisutu, with four counts. Two of the counts were preferred under the Economic and Organized Crime Control Act (the Act). They were also charged with the offence of leading organized crime contrary to paragraph 4(1)(d) of the 1st schedule and section 57(1) and 60(2) of the Act. Another count was unlawful dealing in trophies contrary to sections 82(1) and 84(1) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14(b) of the 1st schedule and sections 57 and 60(2) of the Act.

Two issues arose during the hearing of the application for bail; first whether or not the certificate fettered the Court's discretion to entertain the application and second, whether or not under section 36(2) of the Act, the DPP is vested with power to file a certificate before an accused person is committed for trial by the Economic Crimes Court. The Court of Appeal held that once a certificate of the DPP is filed, the same is binding on the Court. The Court of Appeal also held that the certificate was properly filed and it was valid.

Parliament budget session convenes in Dodoma

The National Assembly kicked off last month and has started debating the Budget for 2016/2017. Apart from considering the budget estimates for the next financial year amounting to a record TZS 29.5 trillion, the sitting was also scheduled to debate the five-year National Development Plan and deliberate on a number of bills to be tabled for the first, second and third readings before enactment.

A number of other issues are likely to be raised including the issue of renovation of Parliament's main chamber, which has cost billions of shillings. Also the Government's blanket ban on live broadcasts from Parliament is another highly controversial issue.

There is also the issue of budget implementation vis-a-vis the government's imposition of cost-cutting measures and reallocating the money saved elsewhere.

Around the World

China passes law restricting NGOs

China passed a new law restricting non-governmental organizations (NGOs) and subjecting them to intense governmental scrutiny and other obligations such as reporting their sources of income and increasing the number of reasons for which their licenses will be revoked, including spreading rumors.

Bank of America \$1.27 billion U.S. mortgage penalty is voided

A U.S. appeals court threw out a jury's finding that Bank of America Corp was liable for mortgage fraud leading up to the 2008 financial crisis, voiding a \$1.27 billion penalty and dealing the U.S. Department of Justice a major setback.

SWIFT to unveil new security plan after hackers' heists

The Society for Worldwide Interbank Financial Telecommunication (SWIFT) secure messaging service that underpins international banking said it plans to launch a new security program as it fights to rebuild its reputation in the wake of the Bangladesh Bank heist.

EU regulators to conditionally clear AB Inbev, SABMiller deal - sources

Brewer Anheuser-Busch InBev is set to win conditional EU approval for its \$100 billion-plus takeover of SAB-Miller after agreeing to substantial asset sales. The takeover, one of the biggest in the corporate world, will give AB InBev a third of the global beer market.

UK Parliament Appoints Mufuruki to Lead Special Team to Africa

UK Parliament has appointed a Tanzanian businessman, Mr Ali Mufuruki, to be co-chair of its special team that is investigating efficiency of Britain's aid to Africa in expanding business, investment and international cooperation in the last five years.

Mr Mufuruki is currently the chairman of the CEO Roundtable of Tanzania, a policy dialogue forum that brings together more than 100 CEOs of leading companies in Tanzania. This group engages regularly with senior government leadership of Tanzania to find solutions for the country's economy. The other co-chair is Lord Stephen Green from the House of Lords. Others are Prof Myles Wickstead and Lord Paul Boateng from the UK and Ambassador Darlington Mwape from Zambia.

The committee started its task last month in London by listening to 17 stakeholders from different organisations, including the World Bank, DFID, UNCTAD/WTO, Trade Mark East Africa, ITC and others.

Tanzania's Inheritance Law Still Undermines Women's Rights – HRW

Human Rights Watch has urged the government to 'immediately' amend provisions of the inheritance law, saying it violates the rights of women.

Under the existing laws, women are often left with nothing when their husbands die and coerced to leave their land, which is against international agreements on women's rights.

In letters to Health Minister Ummy Mwalimu, Foreign Affairs minister Augustine Mahiga, minister for Constitutional and Legal Affairs Harrison Mwakyembe and Attorney General George Masaju, the organisation exhorted the government to comply with the UN Convention on the elimination of all forms of discrimination against Women (CEDAW).

The committee challenged the government to review the laws and give principle compensation to two women who were forced from their land when their husbands died.

But a year later, the law frame remains the same and the two women are yet to receive compensation, according to Human Rights Watch.

"Tanzania has not adequately complied with the CEDAW committee's decision. We understand that E.S. and S.C. (the two widows) have not received financial compensation or reparations from the courts, parliament or the executive," the international non-governmental organisation states.

It has asked the government to repay the widows and implement reforms that will guarantee equality for both women and men in questions of land and inheritance. Dr Mahiga acknowledged that women's inheritance rights was an important issue, and promised that the government would amend the legislation around it.

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